Town of Milford
Zoning Board of Adjustment Minutes
November 3, 2011
Case #20-11
Leroy Barr
Special Exception

Present: Kevin Johnson, Chairman
Laura Horning
Fletcher Seagroves
Zach Tripp, Alternate

Absent: Steve Bonczar
Steve Winder

Secretary: Peg Ouellette

The applicant, Leroy Barr, owner of 247 Mile Slip Road, Map 50, Lot 1 in the Residence "R" District, is requesting a Special Exception from Article V, Section 5.04.2:A.1 to create an additional residential living unit with within the confines of the existing structure.

MINUTES FOR CASE #20-11 AT THE NOVEMBER 3, 2011 MEETING WERE APPROVED ON JAN 19, 2012.

K. Johnson reminded the applicant again that he has the right to be heard by a five-member Board and if he wants to be heard by the present four-member Board he must sign a waiver. The applicant signed the waiver.
K. Johnson read the list of abutters. The applicant, Leroy Barr was present. Bill Parker was present on behalf of the Town of Milford.
K. Johnson read the Notice of Hearing into the record. He stated there was no reason for the applicant to present his case again, as it is the same as the previous one just voted on [applicant wants to create a two-family dwelling within his existing home so that family members may live there].
K Johnson asked for questions from the Board.
F. Seagroves asked the applicant to go over the floor plan
The applicant did, pointing out the current walk-out basement and the proposed new living spaces, as well as the entrances.
F. Seagroves asked if there is any entrance to the applicant's portion of the house.
L. Barr said there is a mudroom being currently used, with a stairway up to the existing living space.
K. Johnson asked, in converting the basement into a second living space, is the plan to close off access to the applicant's portion of the home.
L. Barr said he is not familiar with the code.
K. Johnson said what the Board is considering is creating a two-family dwelling; how the applicant does that is up to the applicant-as many or as few square feet as he wants. The rules applying to an Accessory Dwelling Unit, which is a very specific type of living space within a dwelling, do not apply in this case. It can be closed off or left open.
L. Barr said there are no current plans to close if off. They are going to excavate the back yard. They turned the house around so the glass is facing the view so the front door is at the back of the property, but there is a hill that prevents driving up there. They will excavate that to flatten it and straighten the driveway with the excavated material and leave room to drive up to the door, so if they want they would be able to block it off.
There were no other questions from the Board, so K. Johnson opened the meeting for public comment. There were none so he closed the public portion of the meeting. He referred to the same letter from the abutters, Jobe and Mamie Miles, addressed to the Board which was read in the previous case for a variance, which stated that the abutters had no problem with the applicant creating an apartment within him home. K. Johnson noted that the letter applied to both of the cases.
K. Johnson asked the applicant to read his application into the record.

Description of the proposed use:
A separate living space within the confines of the existing structure.
Facts supporting this request:
1. The proposed use shall be similar to those permitted in the district:
Other home modifications of similar type exist on Mile Slip Road (212 Mile Slip, 164 Mile Slip).
2. The specific site is an appropriate location for the proposed use because:
The structure is large enough to fully incorporate the living space without any external additions to the structure, the parking space ample, private way much wider than required. A sprinkler system already installed in the home.
3. The use as developed will not adversely affect the adjacent area because:
The house sits back from and not visible from the road (Mile Slip) A minor amount of additional traffic on Mile Slip. [He pointed out he has three children who all drive and all have moved away; one is returning, so it will be negligible]
4. There will be no nuisance or serious hazard to vehicles or pedestrians.

The only difference a slight increase in traffic. Do not anticipate a nuisance or hazard to vehicles or pedestrians. [Applicant said they have had a very good relationship with neighbors and never had any conflict on the road and did not expect that to change]

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

Septic system has already been redesigned for the update. Water system is adequate; we are on a well. All electrical, plumbing, being redesigned and installed by licensed contractors for this purpose.

K. Johnson asked for any additional questions from the Board. There were none.

The Board discussed the criteria for a special exception.

K. Johnson said this case is a special exception, somewhat different from the variances which were the previous two cases this evening. Town of Milford Zoning Ordinance Article V, Section 5.04.2A Acceptable Uses and Yard Requirements by Special Exception A.1. One Two-Family Dwelling Per Lot.

K. Johnson said this Special Exception is allowed by the ordinance. The criteria that must be met are under Section 10.02.1: *The Board of Adjustment may In appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, grant permits for such special exceptions as allowed in the various zoning districts as set forth in Article II. The Board may refer all applications for special exceptions to the Planning Board for its review and recommendations prior to holding public hearings on the application. The Board of Adjustment, in acting on an application for a special exception shall take into consideration the following conditions: (1992) A. The proposed use shall be similar to those permitted in the district. B. The specific site is an appropriate location for the proposed use. C. The use as developed will not adversely affect the adjacent area. D. There will be no nuisance or serious hazard to vehicles or pedestrians. E. Adequate appropriate facilities will be provided for the proper operation of the proposed use.*

A. The proposed use shall be similar to those permitted in the district.

F. Seagroves said the applicant stated there are other two-family properties in the district.

Z. Tripp said similar uses are in the district.

L. Horning said this use is permitted in the district as outlined by the ordinance.

K. Johnson said it is specifically permitted under the ordinance as read earlier.

B. The specific site is an appropriate location for the proposed use.

F. Seagroves said applicant will not change the outside structure, so he said it is an appropriate location.

Z. Tripp said it is more appropriate since there is access off the back with a walk-out basement.

L. Horning said with 66 acres, two families, a rural setting not seen from the road, proper egress-this is an appropriate location.

K. Johnson said anywhere on the property would be an appropriate use.

C. The use as developed will not adversely affect the adjacent area.

F. Seagroves saw no affect on the adjacent areas, as the applicant stated there will be no changes made outside, and one child coming back after three will be no big change.

Z. Tripp said he did not believe it will affect the adjacent area; he did not believe any traffic from a one-bedroom second unit would have any impact.

L. Horning said many families have 8, 9 or 10 children in Milford so she did not see having a child coming home would have any adverse affect.

K. Johnson said a two-family dwelling on 66 acres is not going to affect the adjacent area.

D. There will be no nuisance or serious hazard to vehicles or pedestrians.

F. Seagroves said it appears to be a road without much traffic.

Z. Tripp said the applicant has testified he has a large driveway, the lot is large enough to accommodate the extra traffic.

L. Horning said she was not sure how much of the public would be accessing the applicant's driveway in a rural setting or how much of the public would use the driveway publicly to create any serious hazard for a public vehicle so the criteria is addressed by the location of the lot.
K. Johnson said the amount of traffic entering from two families in a dwelling is no worse than one large family so there would be no increase in any hazard to vehicles or pedestrians going in and out off the access road.

E. Adequate appropriate facilities will be provided for the proper operation of the proposed use.

F. Seagroves said it looks like facilities, i.e. septic system and well are being updated, and they had accommodated a much larger family.
Z. Tripp said it is evidenced that applicant has been working with the Community Development Office and the permitting process and he was confident this will be up to code and safe for the occupants.
L. Horning said reiterated what Z. Tripp stated, that applicant is working through the permitting process with town officials and she expressed confidence in those who are handling those issues and was confident that adequate facilities will be provided for proper operation of a two-family family dwelling.
K. Johnson said as L. Horning stated, the applicant is going through the permitting process.
K. Johnson wanted to make a point to the general public and to the applicant is that, should the Board grant the special exception, the Board is not saying that the applicant must convert his basement. If the applicant chose, if the special exception is granted, he could bulldoze his house and build a structure of whatever size he desires on this property. The Board is not limiting the applicant in any way as to how he places a two-family structure on his property. So, he wanted applicant to understand that in granting an exception, as long as it meets building codes and planning, he is free to do it however he chooses.

K. Johnson stated that after reviewing the petition and hearing all the evidence, and taking into consideration the personal knowledge of the property in question, this Board of Adjustment has determined the following findings of fact.

Is the exception allowed by the ordinance?

F. Seagroves – yes; L. Horning – yes; Z. Tripp – yes; K. Johnson- yes

Are the specific conditions present under which the application may be granted?

F. Seagroves – yes; L. Horning – yes; Z. Tripp – yes; K. Johnson – yes

K. Johnson asked for a motion to approve.
Z. Tripp made a motion to approve a special exception in Case #20-11.
L. Horning seconded the motion.

Final Vote:

F. Seagroves – yes
L. Horning – yes
Z. Tripp – yes
K. Johnson – yes

Case # 20-11 was unanimously. K. Johnson reminded the applicant of the 30-day appeal period.