

**Town of Milford
Zoning Board of Adjustment Minutes
August 6, 2015
Case #2015-11
William Kerr
Special Exception**

Present: Zach Tripp, Chairman
Fletcher Seagroves
Michael Thornton
Joan Dargie
Kevin Johnson
Len Harten, Alternate

Excused: Kathy Bauer, Board of Selectmen Representative

Secretary: Peg Ouellette

The applicant, William Kerr, owner of Map 36 Lot 114, 49 Briarcliff Dr, in the Residence “A” district, is requesting a special exception from Article V, Section 5.02.2.A:13 to allow an Accessory Dwelling Unit.

Minutes Approved on August 20, 2015

Zach Tripp, Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the applicable New Hampshire Statutes. He continued by informing all of the procedures of the Board; he then introduced the Board and read the notice of hearing into the record. He stated that this case had been tabled from the previous meeting, at which they heard testimony from the applicant. Applicant is asking for a Special Exception under Article V, Sec. 5.02.8:A.1 for an Accessory Dwelling Unit (ADU). The board was discussing the criteria for special exception. They had done A through D. They would now discuss E, Adequate appropriate facilities will be provided for proper operation of the proposed use. They needed clarification on calculation of the area of an accessory dwelling unit, the reason being that the ordinance allows uses for land for different things in a district. Things not allowed can be granted by special exception. If conditions are present the request needs to be granted. When the question was raised whether the ADU was under the 700 SF requirement, they needed clarification from Community Development. He read into the record an e-mail from Tim Herlihy to Bill Parker dated July 31 which stated how he determined allowable SF for the ADU, and gave his total of 665 SF and he stated this was how he would measure space for impact fees for a new dwelling unit.

The board commenced discussing criteria E.

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

K. Johnson – When taking 10.2.6 requirements as being adequate, he disagrees with the Community Development on calculation, which stated he calculated as for impact fees. Ordinance says it shall not exceed 700 SF total space, not impact space or living space. Still feels this ADU as drawn exceeds 700 SF and doesn't meet criteria.

F. Seagroves – facilities will be there. They were talking about lights.

Z. Tripp said appropriate facilities, being appropriate requirements for an ADU.

F. Seagroves goes along with what Community Development said.

L. Harten – agreed. As he stated at prior meeting, he felt Community Development, Building & Planning had done their homework and not a problem with what they put forward. Looking at new numbers that Tim put forward the total SF has been reduced by 11 ft. It is certainly under the allowed 700. He had no problem with that.

M. Thornton – Total SF, or allowable SF? He will go with lower of the two definitions, with the 665 SF and then answer yes.

Z. Tripp – agreed with the majority. The ADU has appropriate and adequate facilities in going through the permit process. 10.02.6A.1 using the 700 total ft. that Kevin might be a little over strict. The 665 SF is calculated by the Building Inspector is more in tune with the intent of the ordinance. Doesn't think boiler room should be included because it is not livable space.

Vote on Criteria:

1. The use is allowed by the Ordinance.

F. Seagroves – yes K. Johnson – yes M. Thornton – yes L. Harten – yes Z. Tripp – yes.

2. Are the specific conditions present under which the special exception may be granted?

K. Johnson – no M. Thornton – yes L. Harten – yes F. Seagroves –yes Z. Tripp – yes

Z. Tripp asked for a motion to approve.

L. Harten made a motion to approve Case #2015-11

F. Seagroves seconded.

Final Vote:

L. Harten – yes

F. Seagroves – yes

K. Johnson – no

M. Thornton – yes

Z. Tripp –yes

Z. Tripp informed applicant the case was approved and reminded him of the 30-day appeal period.