Town of Milford
Zoning Board of Adjustment Minutes
June 5, 2014
Case #2014-07
James Street Real Estate Investments
Special Exception

Present: Fletcher Seagroves, Pro Tem
Laura Horning
Michael Thornton
Joan Dargie
Len Harten

Excused: Zach Tripp

Secretary: Peg Ouellette

The applicant, James Street Real Estate Investments, owner of Map 30, Lot 7A and Map 30, Lot 7, located at 12 Vine St in the Residence A District, is requesting a Special Exception from Article II, Section 2.03.1:C.1 to replace an existing legal non-conforming manufactured home with a new 14' x 60' manufactured home with porch and associated land improvements.

MINUTES APPROVED ON JULY 17, 2014

F. Seagroves, acting 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 and he introduced the Board. He read the notice of hearing into the record. The list of abutters was read. Andrea Kokko of Kokko Realty appeared on behalf of the applicant.
Applicant's presentation:
Andrea Kokko presented pictures of the property to the Board. Picture 2 showed what was proposed. The land was purchased in the fall of last year by an investor who is interested in increasing the aesthetic appeal of the property.
F. Seagroves asked if it will have a slab and tie downs, etc. that are required.
A. Kokko said yes. She referred to an e-mail received from Dana at the Building Dept., they have provided all the information to Dana and it was her understanding it is only subject to Special Exception for the setback requirements.
F. Seagroves asked if the Board had questions.
L. Horning asked if it would run in the same direction.
A. Kokko said it would.

M. Thornton asked if the footprint overlay provided showed the exact location.
A. Kokko said that was correct.
L. Horning asked if they were limited to the design because it had to fit the right way.
A. Kokko said yes.
F. Seagroves asked if anybody was living in the old trailer.
A. Kokko said there was until recently.
J. Dargie asked if it was nonconforming because it was a lot that already has a structure. The person who bought it bought the mobile home behind it? She said it has two addresses. One house on Vine and the other is the mobile home.
A. Kokko said the mobile home does, in theory, rent from 7 Monson because the mobile home owns the land.
J. Dargie asked if the person who bought Monson is trying to update and rent this out.
A. Kokko said yes.
L. Harten said it was stated the setback from Monson is 19 ft?
A. Kokko said no, the 19 ft is from the easement that connects Vine St to Monson – the access road.
L. Horning said there will be an inspection by the building inspector once it is in there.
J. Dargie asked if there was any history on continuing nonconforming uses. Looking at the land cut in half. Does that make it nonconforming?
L. Horning said subdivide the lot?
F. Seagroves said as long as they continue on and they put size that is on there. Reason they need a Special Exception is they can't get that direct replacement.
A. Kokko said even a direct replacement would have been a problem because of setback.
L. Horning agreed.
J. Dargie asked where the direct replacement would have changed the setback.
A. Kokko said it wouldn't have but it is still inside the setback.
L. Horning explained what Ms. Kokko is saying is that it is nonconforming and replacing it wouldn't have addressed that. It is already nonconforming. Since, they can't find a current model the same size, it will be brought up to code.
M. Thornton felt that was not much of an issue with the small increase in footprint. The big issue is the setback and if the setback doesn't change.
F. Seagroves said the change in footprint was not in the setback area.
M. Thornton said only in the length.
J. Dargie asked if there were other nonconforming uses in that neighborhood.
A. Kokko said not like this, there are multiple multi-family residences.
M. Thornton said compared to others it is a double size parcel it seems lots going from Vine St halfway to Monson Place, this is a lot longer lot.
L. Horning agreed.
J. Dargie asked size of the lot.
A. Kokko said just over one-third of an acre, I'm not sure exactly.
L. Horning said the size is not on the lot map, but it is the largest lot.
J. Dargie asked if there was no way to make it conforming.
L. Horning said probably not because of the setback, the number of feet it would have to be back. She's not making it more nonconforming, because she's going into the lot. She's not breaching any surviving nonconformities.
M. Thornton said to make it conforming she would have to move all utilities.
L. Horning said she has a legal nonconforming lot and is trying to do improvements without making it more nonconforming.
L. Harten said she is making it more nonconforming because of the length.
L. Horning agreed it was the length but she understood applicant saying she's coming away from.

L. Harten didn't see that as an issue.
L. Horning said Joan's question was a good question – was there a way to manage the lot to address what is already going on with it. Looking at the requirements from the perspective of the town requirements, because of the size of mobile homes you are restricted in size and configuration of the mobile home and the way utilities are done through the base of the mobile home, with tie downs, etc. They have obviously done extensive research. This is not a simple fix for this lot.
F. Seagroves was not sure the mobile homes are allowed in that district.
L. Horning pointed out she is replacing with something that isn't already there.
F. Seagroves agreed. That may be why it is nonconforming.
J. Dargie stated the ordinance states "alteration, expansion and change." It doesn't say replacement,. Does that account for replacement?
F. Seagroves said he would think in the case of a mobile home it would be replacement because of the way it is built. With a house you would bring in lumber and replace a wall, etc. It's not that easy with a mobile home.
J. Dargie said that doesn't account for replacement.
L. Harten said the existing one was grandfathered so it's not an issue.
M. Thornton said it is an improvement from a 1965 to a 2014.
L. Horning said the ordinance is drawn to grant those graces based on those facts. Applicant can't get financing. They are allowed to continue the use. Joan's question is legitimate but that concern was addressed by Ms. Kokko saying they were going into the property. They worked to make sure they weren't obstructing the lot any more. None of the lots looks to be conforming. A mobile home will not be a detriment in that lot or concern to the neighborhood.
A. Kokko said re question about Bill Parker's notes. He wrote "Special Exception is for a change "replacement" of an existing legal nonconforming use which is a manufactured house in Residence A." It was her understanding that this falls under change by replacement.
F. Seagroves look at 19 ft. setback with 15 ft around. The only place is 27 ½ drain, which should be 30. The other side is within the setback.
L. Horning said, looking at density of the property this is almost moot.
F. Seagroves added they are going to put porches on which will be well within.
F. Seagroves opened the meeting for public comment.
Kathy Bauer of 247 North River Rd came forward. Looking at the aerial photo, on Lot 30-7 with a mobile home and a regular constructed home, is the mobile home going to be owned by the owner of the other house?
A. Kokko said yes.
K. Bauer asked if the town allows two residences on one lot. The notice talks about Map 30-7A and 30-7. There are no delineation between those two lots, which makes it confusing.
A. Kokko said that is how it is for taxes. The mobile home pay taxes like you would for a car. It doesn't pay land taxes but pays town taxes.
M. Thornton mentioned when he filed to build a garage it was understood there would be a residence above. When the garage was built he was told that since it was not connected to his house you could not have anybody living there full-time. That changed his plans. He stopped where he was and left it incomplete. However, this seemed to be grandfathered.
L. Horning agreed.
M. Thornton said he didn't know, if it wasn't addressed back when, can they address it now?
F. Seagroves said the trailer in 1965 was probably before zoning.
L. Horning agreed.
J. Dargie asked if there was a copy of Bill Parker's notes.
A. Kokko said she copied his notes verbatim if Joan wanted to see them.
F. Seagroves said Bill didn't put any notes in the packet.

F. Seagroves opened the meeting for public comment.
S. Fournier of 9 Woodward Dr came forward. She didn't know if it was discussed that manufactured housing now is not allowed in A. This is a very narrow, congested, dead end street. She drove both streets. This lot is .23 acres – under 1/3. The large house has three units in front and one in the trailer. She quoted from the ZBA Handbook, page II-20 which says "Because nonconforming uses violate the spirit of zoning laws, any enlargement or extension must be carefully limited to promote the purpose of reducing them to conformity as quickly as possible. .." and "Enlargement or expansion of a nonconforming use may not be substantial and may not render the property proportionally less adequate." The proposal increased square footage by 30 feet. There would be 30 ft more of manufactured unit sitting on the lot. It was all one lot, as mentioned by K. Bauer. She understood this was grandfathered. Proportionally less adequate proposal would increase what is seen of the mobile home from the Vine St side and 4 ft closer on the back to the house with the three-unit apartments. Together these increases make it proportionally less adequate with further congestion of this lot. It is less than 100 ft by 200 ft. She would suggest for this lot that it is time to become more conforming, not less and the older home should not be replaced with a 30 ft larger and newer one.
L. Horning said that was why the applicant was there. Zoning allows for those improvements. She is moving into the lot and not out. The view from the street is moot. The Board discussed these issues and addressed the concerns. Applicant is there to get relief, which is allowed by the ordinance.
Applicant read the application into the record, going over the required criteria.

Description of proposed use:
A change (replacement) of an existing legal nonconforming use (manufactured housing the Residence A District) and existing legal nonconforming structure (existing mobile home is nonconforming due to front and rear setbacks)

1. The proposed use shall be similar to those permitted in the district:
The current site has a grandfathered nonconforming 1965 manufactured home on the property, request is to replace in like kind with a new 14 x 60 manufactured home 12' wide manufactured homes are no longer available.

2. The specific site is an appropriate location for the proposed use because:
It is the same use that has always existed. The proposed replacement does not change the original use nor will it have a different effect on the neighborhood.

3. The use as developed will not adversely affect the adjacent area because:
The use is not changing from what currently exists.

4. There will be no nuisance or serious hazard to vehicles or pedestrians:
The use is not changing from what currently exists.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:
All appropriate facilities are already in place and only require hookup.

There was no further public comment.
F. Seagroves closed the public portion of the meeting.

F. Seagroves asked if there were any additional questions. There were none. The board proceeded to discuss whether the application met all the requirements.

A. The proposed use shall be similar to those permitted in the district:
L. Horning – looking at the handbook and administrative types of relationship, is a Special Exception permitted in this case? Yes. Similar to those permitted. This is a grandfathered use, replacing a structure with a like kind structure and is limited in choices. She believed it was similar. It is a residential property being replaced by residential property.

M. Thornton – It is not really permitted but they discussed this is grandfathered so it is moot.
J. Dargie struggling with this, having nonconforming use. There is nothing in the ordinance that states they should work toward getting all property into conformance? (there was brief discussion as to whether they would be considering this and that it would need to be a warrant Article before the voters to change it) She said it is not in the ordinance.
L. Harten – it is similar to those permitted. He didn't believe that was an issue.
F. Seagroves – as stated, this was grandfathered.

B. The specific site is an appropriate location for the proposed use:
It is a grandfathered mobile home site. It is appropriate for that location. Utilities are already there. Very little you work to be done. They have minimized impact to the best of their ability.
M. Thornton – it was appropriate before and it is now.
J. Dargie – only thing she saw is that looking at the list it is James St. Developers, sounds like they must have just bought the property. It is an issue whether a nonconforming use continues for more than a year. Has someone been living there the last 12 months?
A. Kokko said they decided to remove the mobile home from the property. If they removed it and it sat as a vacant lot for a year they would lose the right to put a mobile home there.
L. Horning said Board isn't allowed to adjust the zoning ordinance. As M. Thornton read, they are allowed under Special Exception to make adjustments to nonconforming use as long as it is like kind.
J. Dargie – It is a similar use, they are putting another mobile home in there. It is nonconforming and would not be allowed today but it is because it was there.
L. Harten – Replacing a mobile home with a mobile home and it's an appropriate location.
F. Seagroves – They are going back into the property where the old mobile home was. Increase in size from 12 to 14 is not near one of the setbacks. It is a little longer than 54 to 60 and that is not in the setback so the Board had no control over that. As far as changing the density in the lot, that is not what they were there for.
L. Horning commented it is less dense than others in the neighborhood.
C. The use developed will not adversely affect the adjacent area:
L. Horning -It is a mobile home but upgraded. It will have a good effect on the neighborhood.
M. Thornton – He didn't see any change in use, a small change in footprint. It is 30 ft. larger but 800 sq. ft is a very small dwelling.
J. Dargie – It will be a larger mobile home. Right now it is smaller, older, more compact. There probably won't be five people in there.
L. Harten – He doesn't believe it will. They are upgrading and it will be improving property values.
F. Seagroves – It will not adversely affect the area. He didn't see affect other than a nice new trailer.
D. There will be no nuisance or serious hazard to vehicles or pedestrians:
L. Horning - There will be no nuisance or serious hazard.
M. Thornton - No serious hazard – no change.
L. Harten – He didn't believe there was any nuisance or hazard to vehicles or pedestrians because the size won't impede anything drastically toward the street.
F. Seagroves – They have a driveway for two cars.
E. Adequate appropriate facilities will be provided for the proper operation of the proposed use:
It is a structure being replaced by a like kind structure utilities are already there.
Purchased home adequate to the lot and that can be married to the existing utilities. It is an appropriate location.

M. Thornton – Assuming they will meet all regulations before people move in. Under the article that relief is being requested from, it addresses alteration, expansion or change is not change of nature of original structure and no sudden effect on the neighborhood. The alteration and expansion is a positive.

J. Dargie – They addressed the facilities.

L. Harten –They have already discussed that. All the hookups are there. There will be a new slab and tie downs. He had no issue with that.

F. Seagroves – Utilities are all there.

The Board proceeded to vote on the criteria.

Is a special exception allowed by the ordinance?
L. Harten – yes; M. Thornton – yes; J. Dargie – yes; L. Horning – yes; F. Seagroves -yes
Are the specified conditions present under which a special exception may be granted?
L. Horning – yes; J. Dargie – yes; M. Thornton – yes; L. Harten – yes; F. Seagroves - yes
F. Seagroves asked if there was a motion to approve the application.
M. Thornton made a motion to approve Case #2014-07
J. Dargie seconded the motion to approve Case #2014-07.
Final Vote:
L. Horning – yes; J. Dargie – yes; L. Harten – yes; M. Thornton – yes; F. Seagroves - yes
Case #2014-07 was approved by unanimous vote.
F. Seagroves reminded the applicant of the 30 day appeal period.