

**Town of Milford
Zoning Board of Adjustment Minutes
August 20, 2015
Case #2015-14
Tammy & Craig Merrifield
Special Exception**

Present: Fletcher Seagroves
Michael Thornton
Joan Dargie
Kevin Johnson

Excused: Zach Tripp
Len Harten, Alternate
Kathy Bauer, Board of Selectmen Representative

Secretary: Peg Ouellette

The applicant, Tammy & Craig Merrifield, Owner of Map 30, Lot 33, 366 Nashua St., in the Residence "A" District, is requesting a special exception from Article V, Section 5.02.2.A:1 to allow a Home Occupation for a hair salon.

Minutes Approved on September 3, 2015

Fletcher Seagroves, Vice 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 and stated that there were three cases on the agenda. He then introduced the Board and invited the applicants forward and the list of abutters was read. The applicants, Tammy & Craig Merrifield were present. No other abutters were present. Tammy & Craig Merrifield came forward and requested that their daughter also help with the presentation.

T. Craig said she has a home at 366 Nashua St. and hair salon at 603 Nashua St. and wants to move the salon business because the current location is too large.

F. Seagroves asked for questions from the Board. There were none.

F. Seagroves opened the meeting for public comment. There were none. He closed the public portion of the meeting.

Applicants' daughter read the application into the record

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

The salon will be similar to other salons in Milford that are run out of homes in residential areas. The area of Nashua St. in which the salon would be located is highly populated with other businesses. Salon visits are primarily accepted by appointment only and the salon would be closed on all major holidays and Sundays. There will be only two chairs and one nonresident employee.

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

The landscaping is consistent with the neighboring lots. The site has ample space including off street parking. We plan to have a section of the front lawn paved to provide an additional four parking spaces, as well as a half circle which will allow for entering and exiting on both sides of the property. (K. Johnson asked about an additional curb cut. Applicant responded that the curb cut is already there. They will have to pave the front lawn)

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

Since only two haircuts can be done at a time, the traffic from the business should flow unnoticeably during the day. (Equally or less than other businesses and two family homes in the area. She added they think it will be even less than two-family homes in the area.

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

The salon will be a low profile family-run operation and will not create any nuisance such as loud noises, odors or extra traffic due to deliveries. The site will have ample off street parking and will not interfere with vehicular and/or pedestrian traffic. The creation of a paved half circle will make it much safer to exit the property than it currently is.

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

The site and personal are subject to inspection and licensing by the State of NH's Board of Barbering, Cosmetology, and Esthetics.

F. Seagroves then informed the applicants, before proceeding further, since there were only four Board members present and three affirmative votes are needed for approval, the applicants could request the case be tabled. Applicants decided to proceed with the four-member Board and signed the waiver.

F. Seagroves asked for questions from the Board. There were none.

F. Seagroves asked applicants how many cars were in their family.

Applicant said there were four cars among the three of them but not all in circulation. They have a large barn to accommodate two of them comfortably.

C. Merrifield said from the front where it would be paved he could put all four vehicles into the barn/garage. That would be done during business hours.

F. Seagroves said Code Enforcement said they needed four spaces.

C. Merrifield said those would be allotted to the front of the property and the family vehicles would be back.

T. Merrifield said they sit in the existing driveway, but once they pave in front, there will be four additional spaces.

F. Seagroves' concerned with people backing out onto Nashua St.

T. Merrifield said they won't have to back out because the curb is lowered on the other side.

F. Seagroves said they could drive in one and out the other.

T. Merrifield said they could do so easily.

M. Thornton asked if that was once four cars were parked there. None will be blocking the curb?

T. Merrifield said they were looking to pave the front lawn so it wouldn't interfere with the driveway.

F. Seagroves mentioned the Office said they'd like to keep some grass there if possible.

J. Dargie asked about hours of operation.

C. Merrifield said latest is Thursdays until 7 p.m. Saturdays 9 a.m. to 3 p.m. Fridays until 5 p.m. Closed Sundays.

K. Johnson said he looked, and there is a wide, long driveway along one side of the house that leads to the garage/barn in back. Right now there was enough room to park two and enough to turn around without backing out, without any modifications.

Miss. Craig pointed out that her father holds a full time job so his vehicle wouldn't be there during the day. And her mother will be cutting hair and not leaving.

F. Seagroves said safety is one of their concerns which will be addressed during discussion of home occupation criteria.

F. Seagroves read an e-mail received from abutter, Charles and Ruth Patterson, which stated that the character of the neighborhood is residential and their concern was maintaining that character. If the applicants could prove beyond a reasonable doubt that the residential character and the safety of those who travel on Nashua St. as well as those who would patronize the home occupation can be assured, then the Board should grant the applicant approval.

F. Seagroves stated concern with people backing out.

T. Merrifield said that is why they are paving.

F. Seagroves moved on to discussion of the criteria for Home Occupation. (Article X, Sec. 10.02.3)

1. The person conducting the home occupation shall reside in the dwelling unit, and there shall be no more than one (1) non-resident person employed in connection with such occupation.

F. Seagroves noted that applicants had stated they live in the home and have only one non-resident employee.

2. There shall be no evidence outside the dwelling, except permitted signs and required off-street parking, that the dwelling contains a home occupation.

K. Johnson asked if they were planning any other physical modifications to the front of the structure.

C. Merrifield said not to the front, but they will need to put in a side door. There will be nothing changed from the street view. F. Seagroves mentioned they will have to comply with certain things to get a license. T. Merrifield stated she currently has a license and is familiar with that.

3. The home occupation shall be confined to one (1) floor of the dwelling unit or accessory buildings and not more than twenty-five (25) percent of such floor shall be so used.

F. Seagroves said that Bill Parker, Community Development Director, addressed that and said that they will be using 21 percent.

4. Accessory finished goods may be provided for sale in conjunction with the home occupation, sold and stored in allowed home occupation space only.

F. Seagroves commented they could only store that in the extra five percent.

5. The home occupation and the conduct thereof shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other residential property in the neighborhood.

F. Seagroves said it was stated that the applicants are not doing any outside changes.

M. Thornton mentioned chemicals. T. Merrifield said they have ventilation.

K. Johnson read another stipulation that any Special Exception issued is automatically terminated when the owner no longer resides in the dwelling. If they leave, they cannot continue the salon's Occupation.

F. Seagroves said if they sell the building the buyers have to come back to reapply for a Home Occupation.

F. Seagroves then moved on to discussion of criteria for Special Exception.

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

K. Johnson – yes. This use is very similar. There is another salon across the street and as applicants stated, there are a number of businesses in residences in this immediate area. Using this as a residence with included salon is very similar to other permitted uses in the district.

J. Dargie agreed the use is similar to others in the district and the neighborhood.

M. Thornton – similar business in the district and competitive.

F. Seagroves – agreed. Lot of businesses up and down the street. As stated, at least two across the street.

2. The specific site is an appropriate location for the proposed use because:

J. Dargie – it is an appropriate location.

M. Thornton – location is appropriate. Doesn't see any problem with adaptations for meeting the other criteria

K. Johnson – agreed. Based on plan presented and Bill Parker's notes he feels the applicants have thought out appropriate use of the space within the structure so site is appropriate.

F. Seagroves –agreed. He referred to Residential A, Section 1, Home Occupation in accord with Sec. 10.02.3, which the Board just discussed.

3. The use as developed will not adversely affect the adjacent area because:

M. Thornton – no. He doesn't expect any characteristics of the neighborhood to be changed by a hair salon.

J. Dargie – agreed. It meets the requirements.

K. Johnson agreed – this use would not adversely affect area. It is two stylists, would not create significant traffic, no planned modifications to the appearance of the structure from the street, and a small amount of byproduct of use, would not affect neighborhood.

F. Seagroves – agreed. Doesn't think there will be a lot of traffic going in and out.

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

K. Johnson – He visited site to look at concerns re traffic. The location where parking would be would not create sight hazard along Nashua St. As it exists, there is room for vehicles to turn around and head out. There are clear sight lines up and down street. Nothing to prevent vehicle from seeing pedestrians on the sidewalk. This use would not present nuisance or hazard to pedestrians or vehicles.

J. Dargie – agreed with what Kevin said.

M. Thornton -no nuisance. Only thing he would encourage them to encourage customer not to back onto the street. It is hazard for them and for traffic on the street.

F. Seagroves agreed with rest of the board. One of his biggest concerns until he read they will have a turnaround. He went to police and learned it is not against the law to back out onto the street. C. Merrifield commented it would help them; it is dangerous for his family as well as customers. F. Seagroves said people have to stop and back in, which is dangerous. Applicants' daughter stated that people leaving will have ample room. F. Seagroves agreed.

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

K. Johnson said these criteria are fairly broad to cover a wide range of possibilities. They get to say they have confidence in the Code Enforcement that they will make sure all necessary codes are applied. Based on floor plan provided, adequate facilities appear to be adequate and he will let rest of the agencies worry about their aspects.

J. Dargie – agreed with Kevin.

M. Thornton – yes

F. Seagroves – agreed. Thinks everything will be taken care of.

Vote on criteria:

1. Is the special exception allowed in the district?

J. Dargie – yes; M. Thornton – yes; K. Johnson – yes; F. Seagroves –yes

2. Are the specific conditions present under which the Special Exception may be granted?

K. Johnson – yes; M. Thornton – yes; J. Dargie – yes; F. Seagroves – yes

F. Seagroves asked for a motion to approve Case #2015-14.

J. Dargie seconded.

Final Vote:

K. Johnson – yes

M. Thornton – yes

J. Dargie – yes

F. Seagroves –yes

Case #1015-14 was unanimously approved.

F. Seagroves informed the applicants they were approved and informed them of the 30-day wait period.

C. Merrifield asked what that was for. F. Seagroves and K. Johnson explained it was in case anyone appealed the decision and explained the appeal process; it wouldn't stop applicants from going ahead with planning process, but they should not do anything to the lot, etc.