

**Town of Milford  
Zoning Board of Adjustment Minutes  
April 19, 2012  
Case #2012-05  
Leona Bourgault  
Special Exception**

Present: Kevin Johnson, Chair  
Laura Horning  
Fletch Seagroves, Vice Chair  
Zach Tripp

Absent: Steve Winder  
Len Harten - Alternate

Secretary: Peg Ouellette

The applicant, Leona Bourgault, owner of 11 Trevor Ct, Map 47, Lot 27-26, in the Residence "R" district, is requesting a special exception from Article V, Section 5.02.2A:7 to construct a garage seven (7) ft +/- from the front property line.

**THE MINUTES FROM APR 19, 2012 WERE APPROVED ON AUG 16, 2012**

Kevin Johnson, 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. He read the notice of hearing into the record as well as the list of abutters. The applicant, Leona Bourgault, along with Dale Hewett, owner of 11 Trevor Court, was present.

Chairman Johnson stated there were only four Board members present and informed the applicant that she has the right to have her hearing postponed until there is a full Board. Regardless of the number of Board members present she must have an affirmative vote from three Board members for approval. If she is comfortable with four Board members, she must sign a waiver. If the application is denied, the applicant does not have the ability to use that as a basis for appeal for a rehearing. The applicants agreed and signed the waiver.

K. Johnson asked the applicant to state what they want to do.

Applicant stated they want to build a garage on the side of the house in the location of the existing driveway.

L. Horning asked about the dead abutment right next door and whether this is a landing for a prospective house?

Applicant stated it was but it cannot be used.

L. Horning asked whether it will never be another home.

Applicant stated it will not.

L. Horning showed the map of the outlined to the camera for the benefit of viewers.

Applicant stated the only thing there is access to the woods behind the house.

K. Johnson showed on the diagram the portion being discussed. He said 2/3 of it abuts the applicant's property. It appears to be approximately 27 ½ feet abuts the Ashley Commons. That is the portion they are questioning. It would be access to the much larger property behind the house.

L. Horning asked if that is where they want to be seven feet back.

Applicant said no.

K. Johnson said the application states the front line, but it appears to be the side because they have a corner lot. The setback requirement for a corner lot is the same.

Applicant stated that was one of their concerns.

K. Johnson said as the Board discussed it, they will make it clear that the property on the plot is that property. Since it is in essence a corner lot, the requirement is the same whether front or side.

Kevin Johnson asked the Board if there were any further questions; there were none. He opened the meeting for public comment.

John Stevens of 10 Ashley Drive, President of the Homeowners' Association, spoke, saying they have no objection as a Board. He clarified that there is another access to the common land on the other side of the house.

K. Johnson said what the Board has is just a plan showing the location of the applicant's house.

There were no further comments or questions and Kevin Johnson closed the public portion of the hearing. He stated there were no other communications received regarding this case.

Kevin Johnson asked the applicant to go through the criteria for a special exception.

**Description of proposed use:**

To build a 2-car garage 7' from front property line at the hammerhead.

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

To house owners' vehicles and yard maintenance tools similar to other garages in the area.

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

The location is where the original house plan but was never built and the driveway is existing already.

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

The adjacent house has a two-car garage already and building the proposed plan will only increase the property value. And there will be no effect on road plowing and maintenance.

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

The area that we are proposing to use has been used as a driveway and car parking for the last 12 ½ years of residence. There is limited number of people walking in the proposed area.

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

We will be following all rules and regulations according to state and town regulations.

Kevin Johnson asked if there were any additional questions. There were none.

Kevin Johnson read from the Town of Milford Zoning Ordinance; Section 5.04.0 Residence "R" District – INTENT: *The intent of the Residence "R" District is to provide for low-density residential and agricultural land uses, and other compatible land uses, that are sensitive to the rural character and environmental constraints existing in the district.* He read Section 5.04.2 A Acceptable Uses and Yard Requirements by Special Exception: 7. Reduced front, side and rear setbacks. He then read Section 5.04.5 Yard Requirements: *A. Each structure shall be set back at least thirty (30) feet from the front lot line. B. Each structure shall be at least fifteen (15) feet from side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way. C. Accessory Structures, one hundred-twenty (120) feet or less shall have a minimum setback from the side and rear property lines of six (6) feet.* He then read 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 hearing on the application. The Board of Adjustment, in acting on an application for a special exception shall take into consideration the following conditions: 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.*

Kevin asked the Board if they feel the application meets all the requirements.

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

F. Seagroves – yes. Most houses in that area have a garage.

L. Horning – yes – it is similar to those in the area. It is a residential area. There is a homeowners' association in place. It appears most of the homes in the area do show garages.

Z. Tripp – agreed. It is permitted in the area by special exception. Other houses have garages.

K. Johnson – agreed. Not only is it similar to those permitted in the district, this specific request for encroachment into the setback is allowed by special exception.

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

L. Horning – yes. It is an appropriate location. It was already planned to be there when the houses were constructed and for whatever reason it was not built.

Z. Tripp – it is an appropriate location next to the house and driveway. It is built right in the setback line, allowing 7 feet from the property line and 27 feet per 30 foot setback putting it in another location would not be appropriate.

F. Seagroves –yes. They are going to put it right where they are parking.

K. Johnson – yes, it is an appropriate location. As shown on the plan the hammerhead abuts their property, the smaller access point. If at some time that becomes access to that back property the garage would not be a hazard. The street will not be turned into a through street. Requesting any other location would not be beneficial to anyone.

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

Z. Tripp – it would not affect the adjacent area. Surrounding property is actually a street, a buffer between other lots.

L. Horning – it will be a major improvement to the current property. Referring back to the other criteria, the garage being close to, and attached to, the house could be an improvement.

F. Seagroves – agreed. If you look at the proposed garage the position of the garage does not meet the setback.

K. Johnson – as developed this will not adversely affect the adjacent area.

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

L. Horning – she didn't believe there will be any nuisance or serious hazard to vehicles or pedestrians; hopefully with cars in the garage there will be less hazard.

F. Seagroves – he didn't see any nuisance; it is not blocking the hammerhead.

Z. Tripp – agreed. The garage being that close to the property line in that location won't affect the traffic or vehicles or oncoming traffic. It is a dead end street.

K. Johnson – agreed with Z. Tripp. It was not clear from the overhead pictures, so he went out and viewed the site. The driveway exists, with vehicles in there. Based on the location of the neighborhood it will not be a high traffic area. The plan of the garage on that side of the setback will have no effect on traffic, no problem with pedestrians.

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

F. Seagroves – yes. They will have a building permit and everything built correctly.

Z. Tripp – agreed.

L. Horning – agreed.

K. Johnson – agreed. This specific criterion of the Special Exception is fairly broad because of the number of different types of special exceptions. In this case the fact that they will have a building permit and it will be constructed as expected. He trusts the Building Department will make sure all necessary standards are followed.

K. Johnson called for a vote on the criteria.

**After reviewing the petition and hearing all of the evidence and taking into consideration the personal knowledge of the property in question, this Board of Adjustment member has determined the following findings of fact:**

**Is this is Special Exception allowed by the Ordinance?**

Fletcher Seagroves - yes; Laura Horning – yes; Zach Tripp – yes; Kevin Johnson – yes

**Are the specific conditions present under which a Special Exception may be granted?**

Laura Horning– yes; Fletcher Seagroves – yes Zach Tripp- yes; Kevin Johnson – yes

K. Johnson asked if there was a motion to approve the application.

Zach Tripp made the motion to approve Case # 2012-05

L. Horning seconded the motion to approve Case #2012-05.

**Final Vote:**

**Fletcher Seagroves – yes; Laura Horning – yes; Zach Tripp – yes; Kevin Johnson – yes**

Case #2012-05 was approved by unanimous vote.

Kevin Johnson reminded the applicant of the 30 day appeal period.