

**Town of Milford
Zoning Board of Adjustment Minutes
June 7, 2012
Case #2012-07
Peter Dedousis
Special Exception**

Present: Kevin Johnson, Chairman
Laura Horning
Fletch Seagroves
Zach Tripp

Absent: Steve Winder
Len Harten, Alternate

Secretary: Peg Ouellette

The applicants, Diana Dedousis and Peter Dedousis, owners of 421 Osgood Rd, Map 46, Lot 4-1, in the Residence "R" district, are requesting a special exception from Article V, Section 5.04.2A:15 in accordance with Article X, Section 10.02.06 for an existing Accessory Dwelling Unit (ADU) (tabled from 5/17/12).

THE MINUTES FROM JUN 7, 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 explained the various terms used during the hearing and gave web sites where they can be found. He stated that there were seven cases on the agenda for this evening and explained that the rules of procedure allow for adjournment at 11 p.m. and tabling of any cases not heard; those cases would be considered at the next regularly-scheduled meeting of the ZBA, with no additional notification to either the applicant or abutters.

K. Johnson stated that the first case was tabled from the last meeting. He read the notice of hearing into the record as well as the list of abutters. Peter Dedousis and Diana Dedousis, owners of Map 46, Lot 4-1, 421 Osgood Road, were present.

K. Johnson stated there were only four Board members present and informed the applicants that they had the right to postpone the hearing until there was a full Board. He said they must have an affirmative vote from three Board members for approval to postpone. Lack of a full five-member Board was not grounds for a rehearing if denied. He said the applicants must sign a waiver if they are comfortable with four Board members. The applicants agreed and signed the waiver.

Applicant's presentation:

Diane Dedousis stated that she and her husband were requesting a Special Exception for an existing ADU within their recently-purchased home. She said when they purchased the home they were not aware it wasn't zoned.

K. Johnson asked the Board if there were any questions; there were none.

K. Johnson cited the Milford Zoning Ordinance for Residence R District, Section 5.04.2A:15 regarding Acceptable Uses and Yard Requirements by Special Exception, Accessory Dwelling Units. ADUs are also covered under Section X, specifically Section 10.02.6, which he read into the record, which specifies the specific criteria for an ADU.

K. Johnson addressed the applicants, asking questions as to whether they met the criteria:

Is there only one ADU on the property?

Applicants responded yes.

Is the ADU unit owner occupied and will not be rented out?

Applicants responded that is correct.

Is the ADU less than 700 square feet?

Applicants stated that it is 675 square feet.

The ADU shall include no more than one bedroom, no additional curb cuts, a doorway with a 32"width, be located within an existing single-family home and meet all criteria of the zoning district including lot size and frontages, yard requirements and height requirements.

Applicants stated that all of the requirements have been met.

K. Johnson added that the exterior would not be modified.

The ADU shall not be more non-conforming.

Applicants said it is not.

K. Johnson added that the Town will make sure all applicable codes are met upon issuance of a certificate.

The ADU shall be developed in a manner that does not alter the character or principle use as a single-family residence.

Applicants said it does not.

The ADU is intended to be secondary and accessory to the principle single family dwelling.

Applicants said it is.

The ADU shall not impair the residential character of the premise nor impair the reasonable use, enjoyment or value of other property in the neighborhood.

Applicants responded that you cannot tell it is there.

Adequate off-street parking must be provided.

Applicants stated there is.

Any additional entrances or exits?

Applicant stated there is one at the rear.

K. Johnson asked for any additional questions from the Board. There were none. He opened the meeting for public comment. There was none. He closed the public portion of the hearing. He stated there were communications received regarding this case, a memo from William McKinney, Code Enforcement Officer, addressed to the Milford Zoning Board of Adjustment dated April 12, 2012. The memo stated that the existing ADU constructed by the previous owner was discovered by building safety personnel who performed an initial code compliance inspection on March 16, 2012. Several items were noted for correction to comply with building, electrical and life safety codes; current homeowners are cooperating to comply with all code issues needed to be addressed if the ADU is approved. The space being used as an ADU is confirmed to be 677 SF and in the department's opinion will, if approved, comply with all aspects of the ADU requirements of Article 10.02.06:A and the remaining code issues will be resolved within 45 days as stipulated by Article 10.02.6C.3.b. K. Johnson asked the applicant to go through their application including the criteria for a special exception.

Description of proposed use:

An Accessory Dwelling Unit (ADU)

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

Primary dwelling is owner occupied and ADU is less than 700 sq. ft. It does not alter the character of the primary dwelling, impair the residential character of the premises or other property in the neighborhood.

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

ADU is located in basement of primary residence. It does not alter the character of the residence or neighborhood. No additional exits are needed. There are two points of egress already, and the primary exit is located at the rear of the building.

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

No changes will be made to affect the outside of the premises. The ADU is intended for adult son. Total number of residents in home is three adults.

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

Only 3 adults will occupy the residence. The residence has sufficient parking for 3 vehicles.

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

ADU is 675 sq. ft., has one bedroom, small kitchen and ¾ bath.

K. Johnson asked if there were any additional questions from the Board. There were none. He stated they would take an abbreviated version, due to the full agenda. He asked the Board if they felt the application met all the requirements and if this is a special exception allowed by the Ordinance.

F. Seagroves said yes. The ADU is allowed by special exception in Residence "R" District.

Z. Tripp said yes. The applicant has demonstrated all the criteria of 10.02.1 and 10.02.6.

L. Horning said yes. Special Exception is allowed by Ordinance.

K. Johnson agreed. It is specifically stated in the Ordinance that an ADU is allowed in residence zone "R". He asked if the specified five conditions for a general special exception and the further conditions specified under 10.02.6, were present.

F. Seagroves said yes. The ADU is less than 700 SF; there was ample parking and no need for curb cuts.

Z. Tripp agreed. The applicant answered all questions under 10.02.6. It is a pre-existing ADU, an appropriate proposed use and as F. Seagroves pointed out there was plenty of parking.

L. Horning agreed. The conditions were present under which the special exception may be granted by the Ordinance. The applicants carefully answered every question. She appreciated the memo from Mr. McKinney dealing with any code issues that might be present in the pre-existing ADU.

K. Johnson agreed for all of the reasons stated by other members of the Board. In going through all of the criteria he was satisfied with applicants' answers and Bill McKinney's letter. Except for a couple of minor things the applicants are working to correct, Mr. McKinney is comfortable this ADU will meet all necessary requirements. K. Johnson felt all the necessary conditions were present. He called for a vote by stating: "After reviewing the petition and hearing all of the evidence and taking into consideration personal knowledge of the property in question this Board of Adjustment member has determined the following findings of fact:"

Is the special exception allowed by the ordinance?

F. Seagroves – yes

L. Horning – yes

Z. Tripp – yes

K. Johnson –yes

Are the specified conditions present under which the exception may be granted?

F. Seagroves – yes

L. Horning – yes

Z. Tripp – yes

K. Johnson - yes

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

L. Horning made the motion to approve Case # 2012-07.

Z. Tripp seconded the motion to approve.

Final Vote:

F. Seagroves - yes

Z. Tripp – yes

L. Horning – yes

K. Johnson – yes

Case #2012-07 was approved by unanimous vote.

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