



ZONING BOARD OF ADJUSTMENT
AGENDA
February 18, 2021
7:00 PM

Present: Jason Plourde, Chair
Rob Costantino, Vice Chair
Karin Lagro, Member
Michael Thornton, Member
Tracy Steel, Member

Lincoln Daley, Director of Community Development

Absent: Paul Dargie, BOS Representative
Wade Campbell, Alternate
Joan Dargie, Alternate

Meeting Agenda

1. Call to Order

2. Public Hearings:

a. **Case #2021-04**

Glendale Homes, Inc. for the property located at 19 Wright Road, Milford Tax Map 20, Lot 2-5 is seeking a SPECIAL EXCEPTION from the Milford Zoning Ordinance, Article V, Section 5.02.2.A.8 to allow the construction of a single-family residence within the 15 foot side dimensional setback in the Residential 'A' District.

b. **Case #2021-05**

John Heaton, 106 Union Street, Milford Tax Map 29, Lot 10 is seeking a SPECIAL EXCEPTION from the Milford Zoning Ordinance, Article V, Section 5.02.2.A.8 to allow the construction of a 10'x16'square foot accessory structure (storage shed) within the 15 foot rear dimensional setback in the Residential 'A' District.

3. Review/Approval of Meeting Minutes: 12/3/20, 12/17/20

4. Other Business: TBD

5. Next Meeting:

- a. March 4, 2021
 - b. March 18, 2021
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1. CALL TO ORDER

Chair Jason Plourde welcomed everyone and declared a State of Emergency as a result of the COVID-19 pandemic and in accordance with the Governor’s Emergency Order #12 pursuant to Executive Order 2020-04, the Board of Adjustment is authorized to meet electronically. This meeting is held in accordance with the applicable New Hampshire State statutes, Town of Milford ordinances, and the Zoning Board of Adjustment Rules of Procedure. He stated that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor’s Emergency Order. However, in accordance with the Emergency Order, he confirmed that the Board is:

- a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means.
- b) Providing public notice of the necessary information for accessing the meeting.
- c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access.
- d) Adjourning the meeting if the public is unable to access the meeting.

Chair Plourde stated all votes taken during the meeting must be done by Roll Call vote. He started the meeting with a roll call attendance by asking each member to state their name, where they are located and if there was anyone in the room with them during the meeting. This is required under the Right-to-Know Law. Roll Call Attendance: Jason Plourde alone at home, Rob Costantino with Chris Costantino in the room on another computer, K. Lagro alone at home, T. Steel sister and husband in room, M. Thornton at home alone.

Chair Plourde continued the meeting by stating there are two new cases to be heard. J. Plourde then reviewed the hearing process, rules and procedures for Board Members, applicants, and the general public. He stated that questions and comments must be directed to him as the Chair. There is a full agenda, therefore, all cases may not be fully presented by the cut off time of 10 p.m. Should this happen, the remaining business will be carried over to the next meeting. Tonight there is a full Board present.

2. PUBLIC HEARINGS:

a. CASE #2021-04 Glendale Homes, Inc.

Glendale Homes, Inc. 19 Wright Road, Milford Tax Map 20, Lot 2-5 is seeking a SPECIAL EXCEPTION from the Milford Zoning Ordinance, Article V, Section 5.02.2.A.8 to allow for the construction of a single-family residence within the 15 foot side dimensional setback in the Residential ‘A’ District.

J. Plourde asked for a presentation of the application from a representative of Glendale Homes. Mike Ploof, Land Surveyor from Fieldstone Land Consultants acknowledged his presence as a representative for Glendale Homes.

J. Plourde asked him to explain why he is asking for a special exception. M.Ploof. then presented a power point of the lot in question. The lot is located at the end of Wright Road in the Spaulding Estates development. Article 5.02.2.A allows for reduced setbacks with special exception. The purpose of the application is to allow a small portion of a newly constructed porch on said lot to be within the side setback of the lot line. This was an unforeseen problem with the construction. Largest encroachment is 2.3 feet within the side dimensional setback

R. Costantino asked how the lot next door is situated in relation to the lot in question. M.Ploof stated the distance between the porch on said lot is 30 feet from the porch on neighboring lot.

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1 J. Plourde stated this subdivision was previously approved. He wants to make sure everyone on the Board
2 understands that the only item being discussed is the encroachment of the setback. He again emphasized, the
3 item being discussed for review is the Special Exception for the setback; an attached porch is not an accessory
4 use or structure, it is an extension of the primary use of the house. He then moved on to M.Plouf's presentation.
5 The facts supporting the special exception are:

- 6 1) The proposed use should be the use as described for the district; this is a residential use lot. The other lots
7 are all very close to the setback lines.
- 8 2) The specific site is in an appropriate location for the proposed use J. Plourde interjected a clarification that
9 there would be a minimum of 30 feet between the 2 structures Mike P. agreed with that statement. It is only
10 the southeast corner of the property that encroaches 2.3 feet on the setback, and it was not intentional. It
11 will not impact the other properties or the public.
- 12 3) The use as developed will not adversely affect the area because most of the properties in the subdivision
13 have front porches and this minor encroachment will not be seen. Feels this is a minor encroachment.
- 14 4) There will be no nuisance or serious hazard to vehicles or pedestrians.
- 15 5) Adequate appropriate facilities will be provided for operation of the proposed use within the development.

16 J. Plourde asked will there be stairs coming off the porch? Mike P. was not quite sure but, if so, the stairs will
17 be on the opposite side of the setback. J. Plourde asked Board members if there were any other questions.

18 R. Costantino no; K. Lagro no; T. Steel no, M. Thornton no. He asked L. Daley if any letters or emails had
19 been received; L. Daley no. J. Plourde then opened the meeting to the public. M.Plouf. had no further
20 information. No public comments. Hearing no further comments, Chairman Plourde moved to deliberations.

21 **Deliberations:**

22 Chair Plourde stated that under Sections 5.02.2.B and 5.02.2.A.8, they are looking at 15 ft. requirement
23 going down to 13 ft. distance; 2.3 encroachment, therefore, 12.7 feet to setback. Total distance from said
24 property to neighboring property will be at least 30 ft. Essentially, this is the minimum distance which is
25 the required amount of space between structures on abutting properties. The proposed use is similar to those
26 in the district. He stated the discussion would start with the five criteria under Section 10.2.1.

27 J. Plourde then turned the deliberations over to the Board.

28 a) Criteria: proposed use is as described for the district

29 T. Steel it is a residential area, porches are permitted in that area. K. Lagro I agree with Tracy similar to
30 other houses in the district. M. Thornton it appears due to the small size of the lot the porch was an
31 oversight. It appears this is within the first year. R. Costantino it is an observation that with the new
32 constructions the developers try to fit as many units into the space allotted. The house was just squeezed into
33 the setback limit. J. Plourde this development was previously approved. Believes the house construction
34 caused the problem of the porch location and the encroachment was unintentional.

35 b) Criteria: specific location for the proposed site

36 R. Costantino yes it is appropriate; T. Steel agrees it is customary to see a porch on a residential home; K.
37 Lagro standard design that has encroached a bit; M. Thornton agrees; J. Plourde agrees.

38 c) Criteria: the use will not adversely affect the area

39 M. Thornton stated that it is a fairly low use standard feature on the home that would encroach a little and
40 there is adequate space between the two houses; K. Lagro agrees; R. Costantino agrees; T. Steel agrees. J.
Plourde also agrees.

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d) Criteria: no nuisance or serious hazard to vehicles or pedestrians
M. Thornton minor encroachment will not cause a nuisance; R. Costantino agrees; T. Steel agrees; K. Lagro enough room for pedestrians and homeowners; agrees no problem; J. Plourde agrees with everything that has been stated on this issue; agrees no problem.

di) Criteria: adequate and appropriate facilities will be provided for the proposed use
M. Thornton it is a fixed structure; agrees; R. Costantino agrees;; T. Steel agrees; K. Lagro also agrees; J. Plourde as long as the stairs coming off the porch do not go into the setback area; agrees.

Voting Case #2020-04:

- 1) Is the Special Exception allowed by the Ordinance? R. Costantino; T Steel yes; K. Lagro yes; M. Thornton yes; the chair votes yes.
- 2) Are all the specified conditions present under which the Special Exception may be granted? T. Steel yes; K. Lagro yes; M. Thornton yes; R. Costantino yes; the chair votes yes.

The ZBA voted on the Special Exception, Section 10.2.1.a:

- a. K. Lagro yes; M. Thornton yes; R. Costantino yes; T. Steel yes the chair votes yes.
- b. M. Thornton yes; R. Costantino yes; K. Lagro yes;T Steel yes; the chair votes yes.
- c. R. Costantino yes; T. Steel yes; K. Lagro yes; M. Thornton; the chair votes yes.
- d. T. Steel yes; R. Costantino yes; K. Lagro yes;M. Thornton; the chair votes yes.
- e. K. Lagro yes; T. Steel yes; R. Costantino yes; M. Thornton; the chair votes yes.

Chair Plourde stated all of the criteria for the special exception had been satisfied. Chair Plourde asked if there is a motion to approve CASE #2021-04 Glendale Homes, Inc. 19 Wright Road, Milford Tax Map 20, Lot 2-5 seeking a SPECIAL EXCEPTION from the Milford Zoning Ordinance, Article V, Section 5.02.2.A.8 to allow for the construction of a single-family residence within the 15 foot side dimensional setback in the Residential ‘A’ District?

R. Costantino proposed a motion to approve; T. Steel seconded the motion. Chair Plourde presented the motion on the floor to the Board for approval: R. Costantino yes; T. Steel yes; K. Lagro yes; M. Thornton yes; the chair votes yes.

Chair Plourde stated criteria for the special exception request had been satisfied and application approved. There is a 30 day appeal process that can be filed with the Zoning Board. Suggested to M.Ploof to wait until the 30 day appeal period has expired.

b. CASE #2021-05 John Heaton

John Heaton, 106 Union Street, Milford Tax Map 29, Lot 10 is seeking a SPECIAL EXCEPTION from the Milford Zoning Ordinance, Article V, Section 5.02.2.A.8 to allow the construction of a 10 x 16 square foot accessory structure (storage shed) within the 15 foot rear dimensional setback in the Residential ‘A’ District.

Chair Plourde welcomed J.Heatonand thanked him for coming in for tonight instead of the last meeting. He asked J.Heatonto make his presentation about his project.

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1 J.Heaton stated that he recently moved to Milford. The home is older and there was a shed which was removed.
2 J.Heaton wants to replace the older torn down shed which will sit on the existing foundation. No utilities will
3 be added. It will be a basic 10x16 square foot storage shed for lawn and yard equipment.

4 Chair Plourde asked for questions from the Board. The Board had no questions. L. Daley stated that there is no
5 survey to ascertain the exact line between the properties. M. Thornton asked if there is a pre-existing survey
6 and if the pre-existing foundation grandfathered? L. Daley responded that that due to the age of the property
7 there is no survey or any information on the previous structure.

8 K. Lagro asked L. Daley what is the size limit for an accessory building? L. Daley responded 120 square feet
9 and went on to state that the structure being proposed is 160 square feet. K. Lagro then inquired if this is a
10 separate issue than being in the setback? L. Daley responded that if this was under the current ordinance which
11 the Planning Board is proposing to change, no. Currently, a structure of 120 square feet or less is allowed to be
12 within 6 feet of the rear and side setbacks. Since the proposed structure is greater than the 120 square feet, this
13 allowance does not apply. K. Lagro continued by stating that a Special Exception needed because it exceeds
14 the structure size and goes within the 6 foot setback? L. Daley stated yes and that we are treating it as a brand
15 new Special Exception for a structure; 160 square feet and within 4 ft. of the setback.

16 J. Plourde confirmed the interpretation of the Zoning Ordinance and understanding presented by L.Daley.

17 M. Thornton stated that even a 120 sq. ft. structure would be difficult to place. We should have some latitude
18 since this is a much older lot. K. Lagro since there is no survey could the structure be inadvertently placed on
19 the neighbors' property? J. Heaton responded by stating that he does not know where the line is and does not
20 know the neighbor; house is from 1920.

21 L. Daley stated that the fence has been there a long time, but he cannot ascertain because he does not know
22 the actual location of the lot line. The property deed confirms a separation between the properties. He is fairly
23 confident the fence is the divider between the properties. He also stated that the Board will need to decide if a
24 survey is needed, but a spot survey would not work and a survey of the entire property would be needed.

25 R. Costantino asked the applicant if he has spoken to the neighbor. J. Heaton stated no and that the neighbor
26 has a barn right next to the fence that is twice as large as the structure he is proposing.

27 J. Plourde asked about the height of the fence. L.Daley said it is approximately 6 ft. J. Heaton said he is
28 surrounded by multiple rental properties and the neighboring property is probably rentals. The location was
29 then pointed out. L. Daley said he would be concerned if there was not already a pre-existing foundation in
30 place, but there is one and has been there for a long period of time.

31 J. Plourde asked if there any further questions for Mr. Heaton. M. Thornton asked the applicant if the placement
32 give you enough room between the fence and the shed for you to maintain both structures? J. Heaton stated yes.
33 L. Daley further inquired if there will be any overhang associated the shed that would encroach? J. Heaton
34 stated it will be a gambrel shed approximately 8-10 feet tall.

35 J. Plourde asked if there are any further questions. R. Costantino stated no; K. Lagro stated no. J. Plourde
36 opened the meeting to the public. Seeing none and hearing no comments from the public, J. Plourde then asked
37 if there was enough information to make an informed decision. M. Thornton stated J. Heaton should not be
38 restricted to 6 ft. for the height of his structure.

39 J. Plourde asked members should the Board request more information? R. Costantino responded that no
40 further information was required and continued by stating that most of the houses in the district are in the
41 setbacks and the house next door will be higher than the shed in question. He has no issues and putting it on the
42 existing structure should be ok.

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1 J. Plourde asked L. Daley if the abutter was notified. He responded yes, abutter was notified. J. Plourde said
2 the abutter should have been in contact with the Town regarding any issues. M. Thornton stated that the abutter
3 may not be aware because it may be a rental property. Since the fence has been there for some time, it is safe to
4 assume placement of the structure should not be a problem.

5 L. Daley feels the Board has enough information to act on.

6 K. Lagro stated that if it is found in the future the structure is on the neighbor's property, then the problem
7 would be Mr. Heaton's; T. Steel then went on to describe the size of a 10 x 16 gambrel shed as being 7 foot
8 walls with a gambrel roof structure of 8-10 feet and would probably not look out of place in that location so
9 only the setback is the issue.

10 J. Plourde if everyone is ok with the application as presented, the Board could move ahead with deliberations:
11 M. Thornton - yes; R. Costantino - yes; K. Lagro - yes; T. Steel - yes. J. Plourde asked J.Heaton if there was
12 any more information they would like to present before going into deliberations. J. Heaton stated the shed will
13 not affect pedestrians or traffic since the shed is right on the side away from the driveway and sidewalk. J.
14 Plourde then closed the public portion of the meeting and explained the procedures that would follow moving
15 into deliberations.

16 Chair Plourde stated the discussion would start with the 5 criteria under Section 10.2.1. J. Plourde then
17 turned the deliberations over to the Board.

18 **Deliberations:**

19 a) Criteria: proposed use is as described for the district

20 R. Costantino stated that it is allowed and can be in the setback with a Special Exception. T. Steel, K. Lagro,
21 M. Thornton and Plourde agreed with R.Costantino.

22 b) Criteria: specific location for the proposed site

23 T. Steel stated yes because there is an existing foundation and it is permitted in the district; K. Lagro stated
24 yes since it is towards the back and will not block anyone else's view or site lines, and there is an existing
25 older foundation along with the fence; M. Thornton had no objection, but stated there are a number
26 of unknowns (property lines, ownership, etc.). He further stated that the case may not be before the Board
27 if the old structure was removed w/in 1 year, thus allowing us to view favorably upon the location.

28 R. Costantino said he reviewed Google Map to determine there are a number of sheds in the location and
29 the proposed shed is appropriate with other sheds in the area; J. Plourde stated that assuming the
30 information presented is accurate (the foundation is on the owner's property, the fence is the lot line
31 between the properties, information is correct given the age of the properties and how long the
32 foundation and fence have been there, the size of the previous shed which there is no information on) based
33 what has been presented it is in an appropriate location and he has no issue.

34 c) Criteria: the use will not adversely affect the area

35 K. Lagro agrees because the fence is there and noted if in the future there is a problem regarding the
36 property line, the structure is temporary and can be moved; M. Thornton because of the fence and location
37 of shed and other properties in the area are constrained in size there is no adverse effect; R. Costantino
38 agrees with what everyone has said; T. Steel also agrees with the good points that have been made; J.
Plourde agrees.

39 d) Criteria: no nuisance or serious hazard to vehicles or pedestrians

40 M. Thornton agrees as the location of the shed would not be accessible by vehicles or impact pedestrians;
41 R. Costantino agrees; T. Steel agrees; K. Lagro agrees because there is no access to pedestrians or
vehicles where shed will be; J. Plourde agrees.

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1 e) Criteria: adequate and appropriate facilities will be provided for the proposed use

2 R. Costantino shed is being purchased from a hardware store so no issue with this; T. Steel no issues it is
3 going to be a kit; K. Lagro agrees, pretty straightforward; M. Thornton agrees; J. Plourde no utilities part of
4 this so agrees, no issue.

5 **Voting Case #2020-05:**

6 Is the Special Exception allowed by the Ordinance? K. Lagro yes; M. Thornton yes; R. Costantino yes; T. Steel yes;
7 chair votes yes.

8 Are all the specified conditions present under which the Special Exception may be granted? M. Thornton yes; R.
9 Costantino yes; K. Lagro yes; T. Steel yes; chair votes yes.

10 The ZBA voted on the Special Exception 10.2.1.a:

11 a. R. Costantino yes; T. Steel yes; K. Lagro yes; M. Thornton yes; chair votes yes.

12 b. T. Steel yes; K. Lagro yes; M. Thornton; yes; R. Costantino yes; chair votes yes.

13 c. K. Lagro yes; M. Thornton yes; R. Costantino yes; T. Steel yes; chair votes yes.

14 d. M. Thornton yes; R. Costantino yes; T. Steel yes; K. Lagro yes; chair votes yes.

15 e. R. Costantino yes; T. Steel yes; K. Lagro yes; M. Thornton yes; chair votes yes.

16 Chair Plourde stated all of the criteria for the special exception had been satisfied. Chair Plourde then asked if
17 there is a motion to approve CASE #2021-05 John Heaton, 106 Union Street, Milford Tax Map 29, Lot 10
18 seeking a Special Exception from the Milford Zoning Ordinance, Article V, Section 5.02.2.A.8 to allow the
19 construction of a 10 x 16 square foot accessory structure (storage shed) within the 15 foot rear dimensional
20 setback in the Residential 'A' District.

21 M. Thornton proposed a motion to approve; seconded by R. Costantino. Chair Plourde presented the motion
22 on the floor to the Board for approval: M. Thornton yes; R. Costantino yes; T. Steel yes; K. Lagro yes; chair yes.

23 Chair Plourde stated criteria for the special exception request had been satisfied and application approved.
24 There is a 30 day appeal process that can be filed with the Zoning Board. He then suggested to J.Heaton that he
25 wait the 30 days.

26 J.Heaton thanked the Board and then asked if he would receive a permit in the mail because the shed store will
27 be looking that he has received permission to build. L.Daley stated, yes, a written decision will be sent in the
28 mail.

29 Chair Plourde continued the meeting stating this was the end of cases that needed to be heard. There 2 meeting
30 minutes to review.

31 **3. Review/Approval of Meeting Minutes: 12/3/20, 12/17/20**

32 **ZBA Meeting Minutes 12/3/20** - In attendance at that meeting were R. Costantino, K. Lagro, M. Thornton, J.
33 Plourde. Chair Plourde stated he had no changes and asked for a motion to approve these meeting minutes. K.
34 Lagro proposed a motion to approve the minutes; R. Costantino seconded the motion. Chair presented
35 the motion for approval: K. Lagro yes; R. Costantino yes; M. Thornton yes; Chair votes yes.

36 **ZBA Meeting Minutes 12/17/20** - In attendance at this meeting were R. Costantino, K. Lagro, J. Plourde,
37 Chair stated the following changes to be made: Title from December 15, 2020 to December 17, 2020; page
38 3 line 24 add "substantial difference to the adjacent area"; page 3 line 28 change "said no" to "agree that
39 the proposed expansion will not have a negative effect on pedestrians or vehicles". These were his only
40 changes. Chair Plourde asked for a motion to approve the minutes with the proposed changes; R. Costantino
proposed a

1 motion to approve the minutes; K. Lagro seconded. Chair presented the for approval: R. Costantino
2 motion yes; K. Lagro yes; Chair yes.

3 Chair Plourde said Board is caught up on cases and minutes. L.Daley asked to discuss one other issue.

4 **4. Other Business**

5 L.Daley talked about the joint Planning Board/ Zoning Board Meeting held to discuss converting the existing
6 Telegraph Building into an 18 unit structure. This will require a variance for density and open space, and a
7 special exception for a portion of the structure. Meeting was productive. They will maintain the existing
8 structure and add a structure to that structure. They will be filing an application.

9 L.Daley wanted to keep the Board up-to-date on this project. Density will be the biggest discussion. J. Plourde
10 agreed the joint meeting was productive, and for the Board as always to keep an open mind. The meeting was
11 to ensure the applicant was aware of items the Board will be looking for when the application is filed and
12 reviewed. L.Daley is confident the applicant will be presenting a very detailed package.

13 J. Plourde emphasized the applicant will be filing for at least two variances and a special exception, and
14 hardship will be part of the review. Right now this is not a decision being made. It is being presented only as
15 future business. R. Costantino brought up the concern about the issue of hardship. J. Plourde stated he and L.
16 Daley had discussed the idea of having a workshop for the Zoning Board to go over items such as hardship not
17 necessarily related to public hearings but to go over procedures and make sure everyone is on the same page. J.
18 Plourde stated it would be a good idea to set-up an agenda for a workshop and all Board members can
19 contribute to the items on the agenda.

20 **Motion to Adjourn**

21 J. Plourde asked if there was anything else. M. Thornton presented a motion to adjourn. T. Steel seconded. All
22 Board members were in agreement. Meeting adjourned.

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