

Town of Milford
Zoning Board of Adjustment
AUGUST 17, 2023
Public Hearings

Case #2023-02 689 North Main Street, LLC and Salt Creek Properties, LLC, VARIANCE
Case #2023-12 84 Prospect Street, SPECIAL EXCEPTION
Case #2023-14 72 Federal Hill Road, SPECIAL EXCEPTION
Case #2023-15 72 Federal Hill Road, VARIANCE

Present: Andrea Kokko Chappell, Chair
Joan Dargie, Vice Chair
Michael Thornton, Member
Dan Sadkowski, Member
Rich Elliott, Alternate
Terrey Dolan, Director of Community Development
David Freel, BOS Representative

Not Present: Tracy Steel, Member

Recording Clerk: Jane Hesketh, Community Development

Meeting Agenda

1. Call to Order

2. Public Hearing(s):

a. Case #2023-02 (Continued from June 20, 2023 Mtg) 689 North Main Street, LLC and Salt Creek Properties, LLC. for the property located at Tax Map 43, Lot 20-2 are seeking a Variance from Milford Zoning Ordinance, Article VI, Sections 6.01.3.B.7 to allow the retail sale of petroleum products in the Groundwater Protection District on a property located in the Commercial and Limited Commercial Zoning Districts. (Request by applicant to postpone the scheduled 8/17/23 Mtg. Continuance for the case, to the September 7, 2023 scheduled ZBA Mtg.)

b. Case #2023-12 The applicant is seeking a Special Exception for the creation of a single (1) Accessory Dwelling Unit (ADU) with two bedrooms; comprised of approximately 720 sq. feet. The existing single-family home is located at 84 Prospect Street, Map 30 Lot 84, in the Res "A" Zoning District. The proposal is to convert the existing detached garage into a two-level ADU, with the kitchen/living area on the lower level, and the two bedrooms on the upper level. A Special Exception from the Milford Zoning Ordinance, pursuant to Article X, Section 10.02.6, is required for this request.

c. Case #2023-14 The applicant is seeking a required Special Exception for an existing, previously un-permitted Accessory Dwelling Unit (ADU), pursuant to Article X, Section 10.02.6.C. The single-family residential property is located at 72 Federal Hill Road, and is zoned Residence 'A'. This existing ADU also requires Special Exception Approval under Article V, Section 5.02.2.A.13.

d. Case #2023-15 The applicant (for the same single-family residential property in Case #2023-14, located @ 72 Federal Hill Rd.) is also seeking a required Variance due to the existing ADU's overall floor area (1,100 sq. ft.) exceeding the current 750 sq. ft. maximum floor area allowed for ADU's, pursuant to requirements under Article X, Section 10.02.6.A1.c.

3. Meeting Minutes: None

4. Other Business: TBD

5. Next Meeting(s): September 7th & September 21st

6. Adjournment

1 **MINUTES OF THE ZBA MEETING AUGUST 17, 2023**

2
3 **1. CALL TO ORDER**

4
5 Chair Andrea Kokko Chappell opened the meeting by welcoming everyone and introducing herself. The Chair welcomed
6 those attending in person and electronically.

7
8 The Chair stated you may also attend this meeting in person at the Milford Town Hall, Board of Selectmen’s Meeting
9 Room.

10
11 If you would like to participate in the public meeting, please call this number from home: +1 646-558-8656 and enter the
12 Meeting ID: 851 6407 7601 and Password: 269952 or log in via www.zoom.com using the Meeting ID and Password
13 previously stated.

14
15 A digital copy of the meeting materials can be found on the Town website at: [https://www.milford.nh.gov/zoning-board-](https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda)
16 [adjustment/agenda/zba-agenda](https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda). We will also be live streaming the meeting on Granite Town Media, Government Channel
17 21: <http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2>.

18
19 Roll call attendance with all present at Milford Town Hall: D. Sadkowski present; R. Elliott present; J. Dargie present;
20 M. Thornton present; A. Kokko Chappell present.

21
22 Chair then stated Alternate Rich Elliott will be seated as a full voting member in order to allow for a 5 member board due to
23 Member Tracy Steel being unable to attend.

24
25 Chair Kokko Chappell continued by saying 4 cases are to be heard, and explained the process of the case hearings for the
26 applicant and the public. The Chair said a full agenda may not allow all cases to be heard and that at 10:00 p.m. the meeting
27 will end. The Chair explained how the meeting would proceed for the cases that may not be heard in that they would be
28 continued or tabled to another agreed upon meeting and the public notification process for a continued case.

29
30 A. Kokko Chappell moved on to the cases to be heard.

31
32 **2. PUBLIC HEARINGS**

33
34 **a. Case #2023-02 (Continued from June 20, 2023 Mtg) 689 North Main Street, LLC and Salt Creek Properties, LLC.**
35 **for the property located at Tax Map 43, Lot 20-2 are seeking a Variance** from Milford Zoning Ordinance, Article VI,
36 Sections 6.01.3.B.7 to allow the retail sale of petroleum products in the Groundwater Protection District on a property
37 located in the Commercial and Limited Commercial Zoning Districts. (Request by applicant to postpone the scheduled
38 8/17/23 Mtg. Continuance for the case, to the September 7, 2023 scheduled ZBA Mtg.)

39
40 Chair Kokko Chappell asked for a motion to continue **Case #2023-02** to September 7, 2023. M. Thornton made a motion to
41 continue and J. Dargie seconded. All were in favor.

42
43
44 **b. Case #2023-12 The applicant is seeking a Special Exception** for the creation of a single (1) Accessory Dwelling Unit
45 (ADU) with two bedrooms; comprised of approximately 720 sq. feet. The existing single-family home is located at **84**
46 **Prospect Street, Map 30 Lot 84, in the Res “A” Zoning District.** The proposal is to convert the existing detached garage
47 into a two-level ADU, with the kitchen/living area on the lower level, and the two bedrooms on the upper level. A Special
48 Exception from the Milford Zoning Ordinance, pursuant to Article X, Section 10.02.6, is required for this request.

49
50 Chair Kokko Chappell needed to recuse herself from the hearing for this case. In view of that, Vice Chair Joan Dargie took
51 over the meeting. There would now be only 4 voting members. Vice Chair Dargie explained to the applicant that to be
52 approved there would need to be 3 votes for approval and if the decision were split then the case would not be approved.

53
54 She asked the applicant if they wanted to proceed. The applicant said they would proceed.

55
56 Chris Guida, Soil Scientist from Fieldstone Land Consultants stepped forward to make the presentation for the applicant.
57 He handed out plans (already included in the application packet) that were a larger view; there was a picture he handed out
58 that was not included in the packet but is from a different perspective.

1 MINUTES OF THE ZBA MEETING AUGUST 17, 2023

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4 He used the schematic drawing to point out the location of the existing garage where the ADU will be built. It will be one
5 story unit that will be expanded but will be within the 15 ft. setback. He continued by say it does meet the special exception
6 criteria. Mr. Guida proceeded by reading from the application the special exception criteria.
7

8 **Special Exception Criteria under 10.02.1:**

9
10 **a. Criteria: proposed use is similar to those permitted in the district**

11 “The existing lot and dwelling has access off both Prospect Street and Glenn Drive. This lot is located within the
12 Residence “A” District of the Town of Milford Zoning Ordinance. The proposed use is permitted and similar to
13 others in the district. This request is to allow construction within the existing garage on-site to be utilized as an
14 Accessory Dwelling Unit (ADU). The existing dwelling is a single family residential use which is the same as
15 other homes in the area; ADU is to encompass less than 750 square feet of the garage and will be utilized as an
16 ADU for an extended member of same family occupying the primary residence. Proposed primary dwelling and
17 ADU meet all requirements as outlined in Section 10.02.6 of Milford Zoning Ordinance.”
18

19 **b. Criteria: specific site is in an appropriate location for the proposed use because**

20 “The proposed single family residence and associated ADU is located in a residential subdivision in a residential
21 area of the town.”
22

23 **c. Criteria: the use as developed will not adversely affect the adjacent area because**

24 “The proposed ADU utilizes the garage, and existing structure on the site. It has similar building size and
25 appearance of other dwellings in the area and meets all other criteria as outlined in Section 10.02.6 of the
26 Ordinance.”
27

28 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

29 The proposed primary residence and ADU will meet all local regulations and have no difference from other similar
30 dwellings and uses in the area and will not create any nuisance or serious hazard to vehicles or pedestrians.”
31

32 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the proposed use**

33 “The proposed use of the existing garage on site is to be utilized as an ADU. The design will meet all local
34 regulations and will utilize existing site services.”
35

36 **ADU Criteria 10.02.6**

37
38 **A. In all cases involving an Accessory Dwelling Unit:**

39 **1. An ADU shall meet the following minimum requirements:**

40
41 **a. Only one (1) ADU shall be allowed per property.**

42 “Only one ADU proposed.”
43

44 **b. Either the principal dwelling unit or the ADU must be owner occupied.**

45 “Dwelling(s) to be owner occupied.”
46

47 **c. The size of an ADU shall be no more than 750 SF gross floor area.**

48 “Proposed ADU is less than 750 SF (672 SF proposed).”
49

50 **d. The ADU shall include no more than two (2) bedrooms.**

51 “Proposed ADU is one bedroom.”
52

53 **e. No additional curb cuts shall be allowed.**

54 “Proposed ADU utilizes an existing curb cut.”
55

56 **f. An attached ADU shall have and maintain at least one common interior access between the principal**
57 **dwelling unit and the ADU consisting of a connector that is a minimum of 36:in width or a doorway a**
58 **minimum of 32” in width.**

59 “Proposed ADU is detached.”
60
61

1 MINUTES OF THE ZBA MEETING AUGUST 17, 2023

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4 ADU Criteria 10.02.6

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6 **A. In all cases involving an Accessory Dwelling Unit:**

7 **1. An ADU shall meet the following minimum requirements:**

8
9 **g. The ADU shall be located in an existing or proposed single family dwelling, its detached accessory structure (s), or as a stand-alone dwelling unit subordinate to the single family dwelling.**

10 "Proposed ADU is an expansion of the detached garage."
11

12
13 **h. Deleted 2013**

14
15 **i. An existing, nonconforming, single family residential structure or its detached accessory structure shall not be made more nonconforming.**

16 "Proposed ADU is part of new construction utilizing the footprint of the existing garage. The portion of the garage
17 that encroaches in the side setback is an existing non-conforming structure, and will not be made more
18 non-conforming."
19

20
21 **j. An ADU shall meet all applicable local and State Building, Fire and Health Safety Codes.**

22 "Proposed ADU will comply with all codes and get all the necessary permits during the building process."
23

24 **k. Must have adequate provisions for a water supply and sewerage disposal method for the ADU, in accordance with NH RSA 485-a:38 Approval to Increase Load on a Sewage Disposal System.**

25 "Proposed ADU is located within the existing garage and will utilize both a municipal sewer and water
26 connection."
27

28
29 **2. The Board of Adjustment, prior to granting a Special Exception, shall conduct a hearing to determine if the proposed ADU complies with the following criteria:**

30
31
32 **a. The ADU must be developed in a manner which does not alter the character or appearance of the principal use as a single family dwelling.**

33 "Proposed ADU will not alter the character or appearance of principal use as a single family dwelling or the
34 property. The ADU is proposed to be a single story building placed, expanding the footprint of the existing
35 detached garage. The character of the land and appearance of the property will be unaltered."
36

37
38 **b. The ADU is intended to be secondary and accessory to a principal single family dwelling unit.**

39 "Proposed ADU is secondary to principal."
40

41 **c. The ADU shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other property in the neighborhood.**

42 "Proposed ADU will not impair residential character or premises nor impair reasonable use or value of other
43 properties."
44

45
46 **d. Adequate off street parking must be provided.**

47 "Proposed ADU will have adequate off street parking – 2 spots are shown on the exhibit."
48

49 **e. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.**

50 "Two proposed entrances on the side and the gable end of the building."
51

52
53 **B. All ADU's must apply for a compliance inspection when a change of ownership occurs, to ensure compliance with Section 10.02.6:A.**

54 "Proposed ADU will apply for compliance inspection when change of ownership occurs."
55

56
57 Vice Chair Dargie asked if there were any questions.

58
59 Member Mike Thornton to Mr. Guida: the rendering shows the parking spaces; do they exist or are they already there?

60 Mr. Guida: they do not exist but will be added. M. Thornton asked about the location shown on the rendering and if it is
61 actually located on the property. Mr. Guida stated that is on the property near Glenn St.

1 **MINUTES OF THE ZBA MEETING AUGUST 17, 2023**

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4 There was a question raised about the additional curb cut. Director Dolan informed the committee the applicant went to the
5 DPW Director in January 2023 to request a second curb cut. The curb cut is for an elderly resident to exit and enter the
6 property in the winter. The second curb cut on Glenn Drive, T. Dolan stated, cannot be the primary access for the ADU.
7 T. Dolan continued by saying the 2 parking spaces shown on the rendering are to be entered from Prospect Street and not
8 Glenn Drive; the additional cut for spaces on Glenn Drive are not intended for daily use. This is due to the topography of
9 the driveway off Prospect; it is at an incline that does level out. The secondary access was allowed for a need by the
10 resident.

11
12 Joan Dargie asked about the steps and how far they are away from the parking spaces. Mr. Guida pointed out the area for
13 the entrance and it is a concrete slab about 2 ft. from the parking area.

14
15 Vice Chair asked for more questions.

16
17 Member Rich Elliott: is the driveway off Glenn Drive intended for the owner of the home or resident of the ADU? Joan
18 Dargie confirmed only one person can access that driveway.

19
20 Vice Chair asked if the committee had any more questions. Hearing none, she opened the meeting to the public.

21
22 Susan Clark, 28 Glenn Drive stepped forward. Her concern is about the driveway on Glenn Drive; it is where snow is
23 usually left during plowing and now there will be nowhere to put it. Also, there are children that play in that circle. Even
24 though the use is only for the elderly resident during the winter, who will actually monitor that access in and out of the
25 ADU; especially in view of the children who ride their bikes there.

26
27 Vice Chair asked if there was anyone online and there wasn't. She asked Director Dolan to read the email received from
28 another abutter who was unable to attend. Daniel Burke, 24 Glenn Drive wrote:

29
30 *"I'm writing in regards to case #2023-12. I would like to object to the passing approval of the aforementioned case of*
31 *building an ADU at 84 Prospect Street. We as a neighborhood on adjacent Glenn Drive have discussed the issue this*
32 *creates. We all seem to be in agreement to stopping the building. When we moved to our home on Glenn Drive in 2009*
33 *there were 4 residents on a quiet cul-de-sac. This was important to us in starting a family as it was quiet with minimal*
34 *traffic. My wife and I now have 4 small boys who frequently ride bikes and play basketball in the cul-de-sac. I think the*
35 *concern here is obvious that the small kids playing in the area as this will essentially cause a 20% increase in traffic in the*
36 *area where they frequently play. The plan for this building to build on an existing garage area and to utilize Glenn Drive as*
37 *the primary entrance for the unit; this requires cutting into the existing curb on a road where owners are not residents of. I*
38 *do not know all the ins and outs of Zoning Ordinances but I was under the assumption you cannot cut into an existing curb*
39 *on a road you are not a resident of. It is my personal belief that the current resident knows some of the process of how to go*
40 *about making this happen. The approval of a driveway on another road I believe was the same way. We are finding a*
41 *sneaky loophole in order to get the approval of having the unit built. Again, I do not know all the ins and outs of the*
42 *process but I feel it was done in poor taste as none of the adjacent properties were made aware of the changes until the*
43 *driveway plan was already underway. Please take into consideration the families of Glenn Drive and how this affects them*
44 *and their safety. That being said, I am not absolutely opposed to the building of an ADU at this residence as I am*
45 *supporting the idea of families supporting each other and living close by. I do, however, object essentially to this becoming*
46 *another resident of Glenn Drive which it is not zoned for and with the increase of traffic backing in and out of cars we will*
47 *see on our street. Since this drive has already been cleared, we have already seen multiple different cars utilizing it as a*
48 *primary driveway which was supposed to not ever have existed. Thank you for your time. I ask that a thoughtful and fair*
49 *decision is made."*

50
51 Since there were no more public comments that portion of the meeting was closed. The public portion was re-opened.

52
53 At that time, Mr. Guida approached the microphone to respond to the public concerns. Mr. Guida cited the memo to
54 Terrance Dolan from Leo Lessard dated August 11, 2023 addressing the second entrance on Glenn Drive for 84 Prospect
55 Street. Joan Dargie interjected by saying the DPW may have approved this, but an ADU is only allowed one driveway.
56 J. Dargie emphasized the meaning the DPW Director had in this was to facilitate the *one* elderly woman easier access and
57 not to allow just anyone to use this driveway; especially in view of the ADU being built. She added that a condition can be
58 placed on the approval for the ADU.

59
60 She re-closed the public portion of the meeting and moved ahead to deliberations.

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5 **Deliberations:**

6
7 **Special Exception criteria under 10.02.1:**

8
9 **a. Criteria: proposed use is similar to those permitted in the district**

10 R. Elliott: yes because they are allowed with special exception

11 D. Sadkowski: yes permitted in the district

12 M. Thornton: similar to other ADU's in the area

13 J. Dargie: agrees; you can have an ADU in most residential districts

14
15 **b. Criteria: specific site is in an appropriate location for the proposed use**

16 M. Thornton: the site has an existing building to be demolished but only using the same footprint

17 D. Sadkowski: agrees

18 R. Elliott: agrees; using the garage footprint and following all the setback requirements (grandfathered)

19 J. Dargie: agrees

20
21 **c. Criteria: the use as developed will not adversely affect the adjacent area**

22 D. Sadkowski: there will not be any additional parking; will not affect adjacent area

23 R. Elliott: agrees

24 M. Thornton: not changing the lot as it is, just the use

25 J. Dargie: she is not sure she agrees it will not affect the adjacent area because of the Glenn Drive access

26
27 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians due to the proposed use**

28 M. Thornton: vehicles or pedestrians are not supposed to be in your yard

29 J. Dargie: disagrees with M. Thornton; Prospect St. is a very steep driveway where 2 additional parking spaces
30 will be added. Looking at the photo, the parking will be at an angle and backing out of that driveway with one lane
31 can be hazardous. She feels this driveway can be a hazard especially with the addition of 2 spaces.

32 M. Thornton added: if this driveway is a steep and dangerous driveway, what can be done about it.

33 R. Elliott: feels the driveway cannot accommodate additional vehicles and it will be dangerous

34
35 M. Thornton brought up the idea of designating Glenn Drive as the primary entrance to alleviate the hazardous
36 driveway at 84 Prospect St. This topic as addressed. The main point brought up is that this driveway has been this
37 way since the home was built in 1920.

38
39 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the proposed use**

40 D. Sadkowski: it is an existing driveway

41 R. Elliott: electric, water and sewer will be available to operate

42 M. Thornton: yes, will be available.

43 J. Dargie: agrees

44
45 Mr. Guida asked if the owner could speak since she was unaware she was able to during the public portion. Vice Chair re-
46 opened the public portion of the meeting to allow the applicant to address questions or concerns.

47
48 Linda Ledger 84 Prospect Street stepped forward. She said she would like to clear up some things. She began by saying she
49 has a very large family, a number of children and her parents are both in their late 80's. The driveway she explained at the
50 house is very steep. She also explained the driveway off Glenn Drive will have a turnaround so they can drive out; not back
51 out. Also, the driveway off Glenn Drive is to the side and not in the middle of the cul-de-sac.

52
53 Mr. Guida then cited the permit regulations, Section V Residential Access Points, from the Town of Milford Driveway
54 Permit Regulations. He read:

55
56 *"A second cut may be granted under the following conditions: 1. A second curb cut is necessary for access to a secondary
57 use or structure, or if the physical constraints of the lot, including natural features, unusual lot shape, size or elevation
58 change necessitates the second access. 2. A second curb cut is necessary to allow handicapped access for an individual
59 who is a permanent resident of the property."*

1 **MINUTES OF THE ZBA MEETING AUGUST 17, 2023**

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4 He went on to say he feels those conditions fit this property perfectly. He understands only one curb cut is allowed,
5 however, the DPW can grant a second one.
6

7 He continued by saying this was something that has been discussed with the DPW and the Office of Community
8 Development. J. Dargie added there is set of rules that state you can only have one curb cut for an ADU and a residence;
9 perhaps the DPW was not aware of the changes that were being made.
10

11 On the rendering, Chris Guida pointed out the 2 spaces to be added and explained the area to park will be fairly level and it
12 is not anticipated drivers will back out. He explained there can be other areas besides what is shown to allow for vehicles to
13 turn around before exiting the driveway.
14

15 Discussion continued about the location of the back door in relation to the driveway. Usually the driving pattern on a
16 property is not evaluated unless there is a situation that could cause a hazard.
17

18 J. Dargie to C. Guida: did you look at placing the structure into the setback so it would not be non-conforming; since the
19 footprint is non-conforming it has to stay in that location. Chris Guida explained this. J. Dargie asked if he had considered
20 shifting the structure back. C. Guida said they can; they were trying to stay within the regulations. If the board feels and
21 agrees moving the structure back 7-8 feet is something that is agreeable, then he has no problem with this.
22

23 M. Thornton pointed out that doing this there would be better parking spaces made available. C. Guida stated he has no
24 problem making changes to the plans to accommodate better and safer parking and bringing those plans back to the board
25 for approval. M. Thornton added if the board agrees to the changes there would be no need to come back to the board. T.
26 Dolan: it would be made a condition for approval. T. Dolan added to clarify: shifting the structure to the east and not
27 making it any more non-conforming into the side set back, giving 7.5 feet of margin would facilitate forward movement of
28 vehicles out of the driveway onto Prospect St. M. Thornton said that is correct and continued to describe how this change
29 would affect the driveway safety especially with people exiting the back door. The idea of moving the structure continued
30 to be discussed and examples given for doing it this way. The need to have the applicant return with an updated plan was
31 discussed and it was felt a condition should be added which would negate have the applicant re-submit a plan. The 2nd curb
32 cut was brought up. Director Dolan pointed out that the owner has a valid permit from the DPW to allow this. T. Dolan
33 added that as part of the special exception it should be noted this 2nd cut is not for the ADU. This would mean 2 conditions
34 be placed on the special exception.
35

36 The owner, Linda Ledger, then spoke up to express her concerns for what her neighbors have expressed. She is not sure
37 about how she wants to go about this for her parents. Therefore, the case will be continued to the meeting of September 21,
38 2023.
39

40 J. Dargie asked for a motion to continue **Case #2023-12** to September 21, 2023. M. Thornton made a motion to continue
41 and R. Elliott seconded. All were in favor.
42

43 Chair Kokko Chappell rejoined the meeting and proceeded to the next case.
44
45

46 **c. Case #2023-14 The applicant is seeking a required Special Exception** for an existing, previously un-permitted
47 Accessory Dwelling Unit (ADU), pursuant to Article X, Section 10.02.6.C. The single-family residential property is located
48 at **72 Federal Hill Road**, and is zoned Residence 'A'. This existing ADU also requires Special Exception Approval under
49 Article V, Section 5.02.2.A.13.
50

51 Raymond Nichols, 72 Federal Hill Rd, the applicant, came forward to make a presentation; lived at this address for 19
52 years. This request is be retroactive with no changes being made. In 2006 he consulted with Jeff Lyttle about adding to the
53 existing home to make a space for his in-laws. The home at that time had a stairway that went up to an unfinished attic.
54 The work done at that time there was no ADU ordinance in place; the building inspector did inspect all parts of the
55 structure being built. Two additional doors were built at the request of the inspection; one to the front porch and one that
56 enters the dining room in the house. The certificate of occupancy was received in 2007 and his in-laws have lived there ever
57 since. Currently, the house is under contract for sale. The new owners will be using the property in the same way; it will not
58 be used as a separate rental unit. Mr. Nichols continued by clarifying that this unit was never used as a rental property and
59 he is requesting a special exception for an ADU; in addition, the building inspectors have viewed the property and found no
60 code violations.
61

1 MINUTES OF THE ZBA MEETING AUGUST 17, 2023

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4 Mr. Nichols then presented from the application the criteria.

5
6 **Special Exception Criteria under 10.02.1:**

7
8 **a. Criteria: proposed use is similar to those permitted in the district**

9 “This neighborhood has a mix of multi-family, multi-generational, commercial and condominium properties. Our
10 abutters to the North have used their property in a similar manner for years.”

11
12 **b. Criteria: specific site is in an appropriate location for the proposed use because**

13 “This home is located in the Residence “A” district. After this work was completed the Residence “A” Ordinance
14 was adjusted to allow for this type of use of property to accommodate multi-generational living.”

15
16 **c. Criteria: the use as developed will not adversely affect the adjacent area because**

17 “This work was completed over 15 years ago and there have been no reported adverse effects on the area by our
18 neighbors. Additionally, the approximate \$250,000 investment modernized the structure adding to its and the
19 neighboring properties value. Moreover, before the construction began, we had conversations with the primary
20 abutters (Doris Fay and John and Katherine Kendall) to ensure that they did not have concerns with us making this
21 change.”

22
23 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

24 “Since this work was completed there have been no incidents involving vehicles or pedestrians entering or exiting
25 this location. The driveway is double wide and has plenty of sit lines and parking for all occupants.”

26
27 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the proposed use**

28 “The property has town water. The septic system was recently updated and was over engineered to ensure there
29 would be no issues. However, Meridian Land Services has developed and the state has approved an alternative 4.5
30 bedroom septic plan in the event that an issue does arise.”

31
32 D. Sadkowski asked when the septic was replaced. R. Nichols said 2008. Chair Kokko Chappell asked how many bedrooms
33 the septic was built for. R. Nichols noted 3 bedrooms in the house. He continued by saying it was suggested by the Office
34 of Community Development a plan be in place just in case there should be a problem; he noted no problems have occurred.
35 Director Dolan: Last June he was approached by Mr. Nichols to explain his situation with the ADU. At that time, T. Dolan
36 provided Mr. Nichols with a detailed letter of requirements. One concerned the septic system. DES responded to this
37 request for the inspection of the septic. Mr. Nichols has done everything that was asked of him. Director Dolan continued
38 by saying he located the original Certificate of Occupancy which shows only specific items at that time were inspected and
39 signed off on. This is why Director Dolan had a building inspection performed, now, in order to determine if there were any
40 code violations and none were found. Therefore, the unit is up to current code. M. Thornton, to confirm, then this new
41 septic plan is just in case. T. Dolan: That is correct. The new septic plan takes into account the extra ADU bedroom.

42
43 **ADU Criteria 10.02.6**

44
45 **1. Only one (1) ADU shall be allowed per property.**

46 Yes

47
48 **2. Either the principal dwelling unit or the ADU must be owner occupied.**

49 Yes

50
51 **3. The size of an ADU shall be no more than 750 SF gross floor area.**

52 No; this will be addressed with the variance request.

53
54 **4. The ADU shall include no more than two (2) bedrooms.**

55 Yes; only one

56
57 **5. No additional curb cuts shall be allowed.**

58 Only one curb cut

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4 ADU Criteria 10.02.6

5
6 **6. An attached ADU shall have and maintain at least one common interior access between the principal dwelling unit and the ADU consisting of a connector that is a minimum of 36:in width or a doorway a minimum of 32” in width.**

7
8
9 Yes

10
11 **7. An existing, nonconforming, single family residential structure or its detached accessory structure shall not be made more nonconforming.**

12
13 Not applicable; it was conforming and is still conforming.

14
15 **8. The ADU shall be located in an existing or proposed single family dwelling, its detached accessory structure (s), or as a stand-alone dwelling unit subordinate to the single family dwelling.**

16
17 Yes

18
19 **9. Must have adequate provisions for a water supply and sewerage disposal method for the ADU, in accordance with NH RSA 485-a:38 Approval to Increase Load on a Sewage Disposal System.**

20
21 Yes, this was discussed.

22
23 **10. The ADU must be developed in a manner which does not alter the character or appearance of the principal use as a single family dwelling.**

24
25 Yes; pictures were submitted for review

26
27 **11. The ADU is intended to be secondary and accessory to a principal single family dwelling unit.**

28
29 Yes

30
31 **12. The ADU shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other property in the neighborhood.**

32
33 It will not impair the residential character.

34
35 **13. Adequate off street parking must be provided.**

36
37 Yes; a third garage bay is available and parking at the top of the driveway for 3 additional cars. Potentially 8 cars can be parked in the driveway.

38
39 **14. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.**

40
41 There is an entrance on the side to the porch.

42 The list of abutters was looked at and T. Dolan noted there were no questions or letters from neighbors. Chair Kokko
43 Chappell then asked if there was anyone from the public that would like to speak and there were none. She asked the board
44 if there were any questions.

45
46 M. Thornton asked if the new owners need to come to the ZBA. Director Dolan said they will not have to.

47
48 Mark Bailey the buyer of the home came forward. He has no comments except for full disclosure.

49
50 The public portion of the meeting was closed and Chair moved to deliberations.

51
52 **Deliberations:**

53
54 **Special Exception criteria under 10.02.1:**

55
56 **a. Criteria: proposed use is similar to those permitted in the district**

57 J. Dargie: the applicant stated there are other properties with ADU’s and it is a multi-use area.

58 D. Sadkowski: agrees

59 M. Thornton: it is allowed

60 R. Elliott: it is allowed in this district

61 A. Kokko Chappell: agrees; it is allowed and there are others in the district surrounding it.

1 MINUTES OF THE ZBA MEETING AUGUST 17, 2023

2
3
4 **Deliberations:**

5
6 **Special Exception criteria under 10.02.1:**

7
8 **b. Criteria: specific site is in an appropriate location for the proposed use**

- 9 R. Elliott: it is ideally located within the house
- 10 M. Thornton: it has been like this a number of years
- 11 D. Sadkowski: 16 years it has been there with no conflicts
- 12 J. Dargie: agrees
- 13 A. Kokko Chappell: agrees; when driving by the house you cannot tell there is an ADU in the home

14
15 **c. Criteria: the use as developed will not adversely affect the adjacent area**

- 16 M. Thornton: it hasn't
- 17 D. Sadkowski: two primary abutters have no issues
- 18 J. Dargie: agrees; no change to the area
- 19 R. Elliott: no changes
- 20 A. Kokko Chappell: agrees; no changes to the property and existed for a while with no problems

21
22 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians due to the proposed use**

- 23 M. Thornton: they don't belong in your backyard
- 24 R. Elliott: private property
- 25 D. Sadkowski: double wide driveway; no hazards
- 26 J. Dargie: perfectly fine
- 27 A. Kokko Chappell: agrees

28
29 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the proposed use**

- 30 J. Dargie: there are adequate and appropriate facilities and it has been inspected
- 31 D. Sadkowski: septic was replaced in 2008
- 32 M. Thornton: septic has proven to be adequate
- 33 R. Elliott: plenty of facilities on site and willing to expand it if necessary
- 34 A. Kokko Chappell: on town water and septic design has proven to be adequate; the owner is aware of the current septic but there is an approved plan in place if the system fails.

35
36
37 **ADU Criteria 10.02.6**

38
39 **1. Is the ADU going to be owner occupied?**

40 Yes; all agreed.

41
42 **2. Has a building permit application been made?**

43 Yes; all agreed.

44
45 **3. Has the ADU been developed in a manner which does not alter the character or appearance of the principal use as a single family residence?**

46 Yes; all agreed.

47
48
49 **4. Is the ADU intended to be secondary and accessory to a principal single family dwelling unit?**

50 Yes; all agreed.

51
52 **5. Does the ADU not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other property in the neighborhood?**

53 Yes; all agreed.

54
55
56 **6. Is there adequate off street parking?**

57 Yes; all agreed.

58
59 **7. Will there be additional curb cuts?**

60 No; all agreed.

1 MINUTES OF THE ZBA MEETING AUGUST 17, 2023

2
3
4 **Deliberations:**

5
6 **ADU Criteria 10.02.6**

7
8 **8. Will there be additional entrances or exits located to the side or rear of the building?**

9 Yes; all agreed.

10
11 **9. Is there adequate sewer/septic and water for the additional inhabitants in accordance with RSA 45:38?**

12 Yes; all agreed.

13
14 **10. Is there only one (1) ADU on the property?**

15 Yes; all agreed.

16
17 **11. Is the ADU no more than 750 square feet gross floor area?**

18 No: all agreed

19
20 **12. Does the ADU have no more than two (2) bedrooms?**

21 Yes; all agreed.

22
23 **14. Is there at least one common wall with a door between the two spaces at least 32 inches wide?**

24 Yes; all agreed.

25
26 **15. Has a Code Compliance Inspection been conducted by the Building Inspector?**

27 Yes; all agreed.

28
29 **16. Is the ADU in compliance with Section 10.02.6:A of the Milford Zoning Ordinance?**

30 No: all agreed

31
32 **17. Has a Variance from Section 10.02.6:A been granted by the ZBA?**

33 No: all agreed

34
35
36 **Voting:**

37
38 **Special Exception criteria under 10.02.1:**

39
40 **a. Criteria: proposed use is similar to those permitted in the district**

41 D. Sadkowski yes; M. Thornton yes; R. Elliott yes; J. Dargie yes; Chair votes yes.

42
43 **b. Criteria: specific site is in an appropriate location for the proposed use**

44 J. Dargie yes; D. Sadkowski yes; M. Thornton yes; R. Elliott yes; Chair votes yes.

45
46 **c. Criteria: the use as developed will not adversely affect the adjacent area**

47 M. Thornton yes; R. Elliott yes; J. Dargie yes; D. Sadkowski yes; Chair votes yes.

48
49 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians due to the proposed use**

50 R. Elliott yes; J. Dargie yes; D. Sadkowski yes; M. Thornton yes; Chair votes yes.

51
52 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the proposed use**

53 J. Dargie yes; D. Sadkowski yes; M. Thornton yes; R. Elliott yes; Chair votes yes.

54
55 **Is the Special Exception allowed by the Ordinance?**

56 D. Sadkowski yes; M. Thornton yes; R. Elliott yes; J. Dargie yes; Chair votes yes.

57
58 **Are all the specified conditions present under which the Special Exception may be granted?**

59 J. Dargie yes; D. Sadkowski yes; M. Thornton yes; R. Elliott yes; Chair votes yes.

1 **MINUTES OF THE ZBA MEETING AUGUST 17, 2023**

2
3
4 Chair Andrea Kokko Chappell then stated the attached conditions for the special exception; the approval is subject to an
5 approved variance for the square footage.
6

7 Chair asked for a motion to approve **Case #2023-14 The applicant is seeking a required Special Exception** for an
8 existing, previously un-permitted Accessory Dwelling Unit (ADU), pursuant to Article X, Section 10.02.6.C. The single-
9 family residential property is located at **72 Federal Hill Road**, and is zoned Residence 'A'. This existing ADU also
10 requires Special Exception Approval under Article V, Section 5.02.2.A.13.
11

12 Member J. Dargie made a motion to approve and it was seconded by Member D. Sadkowski. Chair Kokko Chappell stated
13 a motion was made to approve **Case #2023-14**. Chair Kokko Chappell asked for a vote; all were in favor and the
14 application approved. There is a 30 day appeal period that can be filed with the Zoning Board.
15

16
17 **d. Case #2023-15** The applicant (for the same single-family residential property in Case #2023-14, located @ **72 Federal**
18 **Hill Rd.) is also seeking a required Variance** due to the existing ADU's overall floor area (1,100 sq. ft.) exceeding the
19 current 750 sq. ft. maximum floor area allowed for ADU's, pursuant to requirements under Article X, Section 10.02.6.A1.c.
20

21 Chair stated it would not be necessary to review the background on the residence since it was just covered with the special
22 exception.
23

24 Ray Nichols, 72 Federal Hill Rd. Milford came forward to present the application. He stated the application is being
25 submitted for an equitable waiver. Director Dolan interjected by saying an equitable waiver, unless the committee feels this
26 is the appropriate way to go, is not necessary and this can be handled as a variance. The variance is to allow an ADU that is
27 more than the maximum 750 sq. ft. In addition, this has not been advertised as an equitable waiver but a variance.
28

29 **Variance Criteria per New Hampshire RSA 674:33.I:**
30

31 **1. This will not be contrary to the public interest.**

32 "ADU's are now explicitly permitted by special exception in Residence "A" This ADU has only 1 bedroom and meets
33 all of the other current criteria except the size limitation."
34

35 **2. The spirit of the Ordinance is observed.**

36 "The ADU was added at the same time that a third bay was added to the garage. No issues have been raised due to this
37 added garage bay. The space that exceeds the limit is in previously unused space on the second floor of the existing
38 home. The home has the look and feel of a single family craftsman style home with dormers."
39

40 **3. Substantial Justice is done.**

41 "The owners and their contractor, Jeff Lyttle, believed that the space that was added was consistent with Milford
42 building requirements in 2006/07. Although records do not exist, the applicants and their contractor recall at least 4
43 inspections by at least 2 town inspectors. This work was completed over 10 years ago and meets the standards for an
44 equitable waiver."
45

46 **4. The Values of Surrounding Properties will not be diminished.**

47 "This home is located in a unique area of town where several zoning districts come together. There is a mix of
48 agricultural, commercial, multi-family, condominium and residential homes. Many of the newer residences appear
49 significantly larger than this residence. The owners frequently receive compliments on the appearance of the
50 residence."
51

52 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

53 A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of the
54 variance would result in unnecessary hardship because:
55

56 **i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and**
57 **the specific application of that provision to the property because:**

58 "To limit this ADU to 750 sq. ft. would require that the kitchen and dining area be relocated and a new wall be created.
59 This relocation would involve removing and moving electrical, plumbing and heating systems and is estimated at a
60 minimum to cost \$100,000. However, this change would not impact the exterior appearance of the home nor decrease
61 the number of people living in this space."

1 **MINUTES OF THE ZBA MEETING AUGUST 17, 2023**

2
3 **Variance Criteria per New Hampshire RSA 674:33.I:**

4
5 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

6 A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of the
7 variance would result in unnecessary hardship because:

8
9 **ii. The proposed use is a reasonable one because:**

10 “This ADU has been used and the proposed buyers have stated that it will only be used for multi-generational living. In
11 the 16 years since it has been completed the owners have received no complaints from neighbors regarding its use, look
12 and feel or impact on the neighborhood.”

13
14 Chair asked if there were any questions. Member Elliott asked how the figure of \$100,000 was obtained. Mr. Nichols stated
15 they had a quote given to upgrade the kitchen in the main house so they estimated based on that figure.

16
17 Chair asked if there was any one from the public. Hearing none this part was closed and the meeting moved to
18 deliberations.

19
20 **Deliberations:**

21
22 **1. This will not be contrary to the public interest.**

23 J. Dargie: would not be contrary because there is no gain to the public by not granting the variance; the public is
24 not affected.

25 R. Elliott: there is nothing visible from the outside and basically the public has gotten use to the ADU being there

26 D. Sadkowski: the special exception has been approved; the size will not affect the public

27 M. Thornton: there is no public interest in the ADU and the change is mute

28 A. Kokko Chappell: agrees; there is no public interest and has not been.

29
30 **2. The spirit of the Ordinance is observed.**

31 M. Thornton: it is allowed by the ordinance; another point is that 750 sq. ft. is the maximum but an increase is
32 allowed as long it is not more than 25% of the existing home.

33 R. Elliott: agrees; basically everything is in compliance

34 D. Sadkowski: agrees

35 J. Dargie: agrees

36 A. Kokko Chappell: agrees

37
38 **3. Substantial Justice is done.**

39 D. Sadkowski: it has already been developed

40 J. Dargie: denying this doesn't provide substantial justice; nothing is gained by not allowing it

41 R. Elliott: there no gain to anyone to reduce it to 750 sq. ft.

42 M. Thornton: this would affect the applicant in a negative way

43 A. Kokko Chappell: agrees; negative impact would not be beneficial

44
45 **4. The Values of Surrounding Properties will not be diminished.**

46 R. Elliott: since it has already been around for 16 years any diminish in value would already have occurred

47 M. Thornton: adjacent property values will increase if the property nearby increases its value

48 D. Sadkowski: agrees

49 J. Dargie: agrees

50 A. Kokko Chappell: she feels the property is well built and the ADU when it was done was done well; would
51 absolutely not diminish the values

52
53 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

54 M. Thornton: the hardship he sees is it will simply redo history; with a new structure it would be limited but this is
55 an existing structure so limiting it would be a hardship

56 J. Dargie: denying this would be a hardship

57 R. Elliott: agrees

58 M. Thornton added if a request were submitted like this (an already built ADU greater than 750 sq. ft.) but the
59 ADU was created after the Zoning Ordinance was established; this would be a different situation.

60 A. Kokko Chappell: agrees with what has been said
61

1 **MINUTES OF THE ZBA MEETING AUGUST 17, 2023**

2
3 **Voting:**

4
5 **1. This will not be contrary to the public interest.**

6 J. Dargie yes; D. Sadkowski yes; R. Elliott yes; M. Thornton yes; Chair votes yes.

7
8 **2. The spirit of the Ordinance is observed by creating affordable housing in keeping with the area.**

9 D. Sadkowski yes; M. Thornton yes; R. Elliott yes; J. Dargie yes; Chair votes yes.

10
11 **3. Substantial Justice is done.**

12 M. Thornton yes; R. Elliott yes; J. Dargie yes; D. Sadkowski yes; Chair votes yes.

13
14 **4. The Values of Surrounding Properties will not be diminished.**

15 R. Elliott yes; D. Sadkowski yes; J. Dargie yes; M. Thornton yes; Chair votes yes.

16
17 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

18 D. Sadkowski yes; M. Thornton yes; R. Elliott yes; J. Dargie yes; Chair votes yes.

19
20
21 **Has the criteria been met for which this variance can be granted?**

22 R. Elliott yes; J. Dargie yes; D. Sadkowski yes; M. Thornton yes; Chair votes yes.

23
24
25 Chair asked for a motion to approve **Case #2023-15** The applicant (for the same single-family residential property in Case
26 #2023-14, located @ **72 Federal Hill Rd.) is also seeking a required Variance** due to the existing ADU's overall floor
27 area (1,100 sq. ft.) exceeding the current 750 sq. ft. maximum floor area allowed for ADU's, pursuant to requirements
28 under Article X, Section 10.02.6.A1.c.

29
30 Member M. Thornton made a motion to approve and it was seconded by Member J. Dargie. Chair Kokko Chappell stated a
31 motion was made to approve **Case #2023-15**. Chair Kokko Chappell asked for a vote; all were in favor and the application
32 approved. There is a 30 day appeal period that can be filed with the Zoning Board.

33
34
35 **3. MEETING MINUTES**

36
37 None.

38
39 **4. OTHER BUSINESS**

40
41 No other business.

42
43
44 **Motion to Adjourn**

45
46 Chair Andrea Kokko Chappell asked for a motion to adjourn. R. Elliott made a motion to adjourn and D. Sadkowski
47 seconded. All Board Members were in agreement. Meeting adjourned.

48
49
50
51
52
53
54
55 **Motion to Approve:** _____

56 **Seconded:** _____

57 **Signed** _____

58
59
60
61 **Date:** _____