

**Town of Milford
Zoning Board of Adjustment
April 20, 2017
Case #2017-09
John and Barbara Donato
Special Exception**

Present: Steven Bonczar , Chair
Jason Plourde, Vice Chair
Joan Dargie
Michael Thornton
Rob Costantino
Wade Scott Campbell (not voting)
Laura Dudziak, Board of Selectman Representative

Absent: Kevin Johnson, Chair
Tracy Steel, Alternate
Robin Lunn, Zoning Administrator

Secretary: Peg Ouellette

Case #2017-09

John and Barbara Donato, for the property located at 312 Mason Road, Milford, NH, Tax Map 41, Lot 83, in the Residence R district, is seeking a Special Exception of the Milford Zoning Ordinances per Article II, Section 2.03.1.C to allow the expansion of a pre-existing nonconforming structure by replacing an existing 14’x52’ mobile home with a 14’x70’ mobile home.

Minutes Approved on May 4, 2017

Michael Thornton, Acting Chair, opened the meeting and introduced the Board members. He informed all of the procedures of the Board. Following election of officers, the Board proceeded to New Business.

New Business:

S. Bonczar, newly elected Chairman, read the notice of hearing into the record.

John Donato, applicant, of 307 Mason Road said the property in question was at 314 Mason Rd.

M. Thornton asked if it wasn’t 312 Mason.

J. Donato said 312 was in front, and 314 in the rear.

S. Bonczar noted the Special Exception requested was for the property at 314 Mason Rd.

J. Donato said he purchased it in 1994. On 314 Mason there was a 14x70 mobile home. He checked with the Town. Paperwork there for 1974 to approve a 14x76 mobile home with sewer, electric and all proper hookups. Original owner sold that to someone else and he moved it to

Greenfield NH. Applicant had 14x50 of his own to put on it. Now his friend, who is a Vietnam veteran, needed a place to live. He removed the old one and put a bigger unit there. Was told by original owner you could only have two bedrooms. He complied with that. He submitted application for permit and didn't hear anything until Jan. 2017. He was in Florida and someone called and said he needed a special exception before granting the permit. He questioned it. It was a bigger unit there to begin with. Caller said he had to go through the motions with the town.

S. Bonczar asked if it was a new unit going on same pad, same septic, water utilities, etc. as old unit.

J. Donato said correct. Pad was bigger than this one. Septic was over 1,000 gal. tank. Never a problem in twenty-something years. Was concerned when told he needed a special exception.

S. Bonczar read Art. II Sec. 2.02.0 re nonconforming uses and structures –continuance, discontinuance and change. And Par. 2.02.1, intent. The issue here was the original structure was nonconforming and sort of grandfathered. Looking to continue that nonconforming use with a new mobile home. Re change of size, he read from Paragraph C re Alteration, Expansion or Change. He said part 2 re home occupations, accessory dwelling units, didn't apply in this case. He then asked for questions from the Board.

R. Costantino wasn't sure he understood. Applicant was living in one mobile home?

J. Donato said no, he lived across the street in a permanent structure.

R. Costantino said there were two mobile homes. One living there was a veteran and now applicant was going to replace it.

J. Donato said no, he was putting a new one there for him. You might say he was living there now.

R. Costantino said the new one was for him; who was the other for?

J. Donato said Gordon Taylor at 312 Mason Rd. Employee of his.

R. Costantino asked if they had families.

J. Donato said no. Gordon Taylor was by himself.

R. Costantino asked if they live there year-round.

J. Donato said yes.

J. Dargie said the new one was on his property at 312-314 Mason Rd. Was there another old 50 ft. one there?

J. Donato said he was waiting for this hearing and that one will go to the dump.

S. Bonczar said there were two homes on the property. One remaining and one being replaced in the back – 314 Mason Rd. These mobile homes had been there for some time prior to the specific zoning ordinances.

J. Donato said since 1974.

S. Bonczar said currently it was nonconforming because it didn't conform to the existing zoning ordinances. Applicant was basically making a change to a nonconforming use by replacing existing mobile home with a slightly larger one.

R. Constantino asked if there would be an issue if he were replacing it with one the same size.

S. Bonczar wasn't sure. A change in size would, because structure not the same. He'd have to look into whether removing an existing mobile home and replacing it would trigger a change in nonconforming use.

R. Costantino asked if it was being replaced because it was damaged.

J. Donato said the old one had mold from a leak in kitchen and bath. It will go to the junkyard.

J. Plourde asked if having two mobile homes would be considered an ADU.

S. Bonczar said no. Two mobile homes are legal at the moment. If you looked at criteria in Res. R. where the intent is low density residential, agricultural land, single-family dwellings, etc. But this mobile home was prior to the ordinance.

J. Plourde asked how many structures were on the property.

J. Donato said two mobile homes and a garage.

J. Plourde asked if there were people living in the garage.

J. Donato said that garage was where a driver lays over. That had been going on for 25 years. That was connected with 312 Mason – water & sewer.

J. Plourde asked if that was on the 314 property.

J. Donato said it was on 312.

M. Thornton asked, since part of Robin Lunn’s comments were specifically directed toward the garage and the dwelling there, did they need another special exception?

S. Bonczar said that wasn’t the Bd.’s decision. They were there for 314 Mason for special exception for nonconforming use for replacement of that mobile home. If there were other issues with the property that wasn’t part of this discussion. It would be determined by the office; if any further action needed they would have to identify it and inform the applicant. They were there for discussion of nonconforming use.

J. Donato said he brought it before the Board and they granted him an extra bedroom. Because it was his employee and he wasn’t getting money for it. He wasn’t getting money for this one. Just letting tenant pay his taxes.

S. Bonczar asked for any further questions from the Board. None.

S. Bonczar opened meeting for public comment.

Nathaniel Wheeler of 302 Mason Rd. came forward. He said he lived right next door. He said he was the only abutting neighbor who could see the structure. He saw no reason not to grant the special exception.

David Wheeler who had a mortgage interest on 302 Mason Rd. They support this mobile home. It was new and nice. They were only ones in neighborhood that could see it. They were happy to have John next door. Evidenced by no other abutters being present, didn’t think they had a problem with it either. He spoke to some of them and they were fine with it.

S. Bonczar, since there were no other people in the audience, closed the public comment.

He proceeded, saying this was not the vote; they were gathering information on how they felt about the criteria for special exception in this case:

1. Is the proposed use similar to those permitted in the district?

J. Dargie – yes, it was similar to those permitted in the district.

J. Plourde agreed with Joan. Res. R as a district was primarily for low density residential land use. A mobile home was low density residential use.

R. Costantino mostly agreed. Going from an existing 50 ft. to 70 ft. will not make any difference to what was going on. Based on it being grandfathered being the only thing. Otherwise, didn’t think it was permitted because you had two residences on one place. But it was grandfathered.

M. Thornton said it met the criteria to be considered similar.

S. Bonczar agreed. He referred to intent of 2.02.1 re change, alteration, expansion which said it will not change the nature of the use and unduly impact the neighborhood. There was currently a mobile home there. Basically, he was improving the situation there.

2. Is the specific site an appropriate location for the proposed use?

J. Plourde – yes. As mentioned, there were already two mobile homes on the property. Just replacing one. As long as the intent was to remove the existing 50 ft. one totally to replace it with the 75 ft. one and they were not talking about three mobile homes on the property.

M. Thornton – yes. It was, because it was the same site being used by existing trailer.
J. Dargie agreed. It was a 4-acre lot. What Jason said, as long as there were not three mobile homes on the lot. There will only be two and the old 50 ft. gets taken to the dump.
R. Costantino agreed.
S. Bonczar agreed with replacing one with a bigger one.

3. Would the use as developed not adversely affect the adjacent area?

R. Costantino – it will not change anything.
J. Dargie – as the neighbors mentioned, they were the only ones that can see it.
M. Thornton – yes, it will not. Adversely affect the adjacent area.
J. Plourde – agreed with Joan. There were already two mobile homes there. Will not generate more traffic. It was about the aesthetics. Replacing an older one with a newer one. The gentlemen who spoke had no problem.
S. Bonczar agreed. It was replacement. Not much would change.

4. Will there be any nuisance or serious hazard to vehicles or pedestrians?

M. Thornton – yes, no nuisance. Same situation as existed.
J. Dargie – no nuisance or serious hazard. Will not really change.
J. Plourde – didn't see any issue
R. Costantino – no issue
S. Bonczar – not really changing except for replacing. Didn't think there would be any additional nuisance.

5. Are adequate appropriate facilities provided for the proper operation of the proposed use?

R. Costantino – If the old one was adequate, this one will be too.
J. Dargie – owner mentioned a good septic system that was more than adequate.
J. Plourde – as testified by applicant, existing mobile home they will be replacing already had adequate supply for septic and water, so didn't see an issue.
M. Thornton asked applicant if electrical system will be the same or replaced? J. Donato said the same. It was 100 amps. M. Thornton said, then, yes. It met all the facilities required.
S. Bonczar agreed, based on applicant's testimony that the existing mobile home and existing septic and electrical utilities, there were adequate appropriate facilities provided for proper operation of the structure.

J. Dargie asked about placing a condition re removing the old structure.

S. Bonczar said he would if she wanted to.

J. Dargie asked if new one would sit with the old one there.

J. Donato said the old one would have been gone a long time ago.

J. Dargie wanted to make a condition.

J. Plourde said he would support it.

J. Dargie made a motion that they state that the old mobile home be removed.

J. Plourde seconded.

That the old mobile home be removed from the property within a reasonable amount of time. Discussion followed regarding what would be reasonable amount of time. M. Thornton suggested a date certain. J. Dargie said to ask owner. S. Bonczar didn't know how hard it was to take to the junk yard. Didn't want to make a condition that was hard to meet. J. Donato said he moves mobile homes for his business.

J. Dargie said within 60 days. R. Costantino asked 60 days from what date? S. Bonczar said after the 30 day appeal period. That was for the existing 14 x 52. J. Donato said correct.

S. Bonczar said to remove within 60 days after the 30-day appeal. That was effectively 90 days from this date, April 20.

Vote on condition that the existing 14 x 32 mobile home on the property be removed within 60 days after the 30-day appeal period: S. Bonczar said if this condition passed it would be part of the final vote.

- J. Dargie – yes
- M. Thornton – yes
- R. Costantino – yes
- J. Plourde – yes
- S. Bonczar – yes

Condition approved – will be part of the final vote on this application

Vote on additional criteria:

1. Is the special exception allowed by the ordinance?

J. Dargie – yes ; J. Plourde – yes; R. Costantino – yes; M. Thornton – yes; S. Bonczar - yes

2. Are all the specific conditions present under this the special exception may be granted?

M. Thornton – yes; R. Costantino – yes; J. Plourde - yes; J. Dargie - yes; S. Bonczar – yes

S. Bonczar asked for a motion to approve Case #2017-09 for Special Exception at 314 Mason Rd.

J. Dargie made motion to approve Case #2017-09 with the condition.

M. Thornton seconded.

Final Vote:

- J. Dargie – yes**
- M. Thornton – yes**
- J. Plourde – yes**
- R. Costantino – yes**
- S. Bonczar – yes**

S. Bonczar said Case #2017-09 was unanimously approved and reminded the applicant of the 30-day appeal period; at that point the applicant knew he was free and clear to remove the old mobile home. There being no other cases on the agenda, the Board proceeded to Other Business.