

**Town of Milford
Zoning Board of Adjustment
April 6, 2017
Case #2017-04
Premier Home Concepts, LLC
Special Exception**

Present: Michael Thornton, Vice Chair
Joan Dargie
Jason Plourde
Steven Bonczar
Tracy Steel, Alternate
Robin Lunn, Zoning Administrator
Wade Scott Campbell (not voting)

Absent: Kevin Johnson, Chair
Rob Costantino, Alternate

Secretary: Peg Ouellette

Case #2017-04

Premier Home Concepts, LLC, for property located at 38 Summer Street, Milford, NH, Tax Map 22, Lot 95-1 in the Residence A District, is seeking a Special Exception per the Milford Zoning Ordinances Article V, Section 5.02.2 to allow the reduction of the front and side yard setbacks for the proposed single family dwelling.

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. The Board agreed to table approval of Minutes. There was one old case and four new cases on the agenda. Since rules allowed for 10 p.m. adjournment, all cases might not be reached and would be tabled to the next regularly scheduled meeting, with no additional notice to applicant or abutters.

OLD BUSINESS:

Case #2017-04, which was continued from March 2:

Applicant John Wollen of Premier Home Concepts, LLC was present.

M. Thornton read the notice of hearing into the record.

J. Wollen came forward to explain new plan, done by Meridian, to move setback on each roadside.

Instead of 30 ft., it was now 24 ft. on front and 23 ft. with stairs off front of house. No closer than 17 ft.

That eliminated proposed setback for proposed original bulkhead and stairs.

M. Thornton asked about parking.

J. Wollen said it gave 39 Highland more room on their side. Driveway pretty much same.

S. Bonczar said on other plan house was closer to that lot line and garage. That was where encroachment of setback in that side and in the back. Those don't exist now. They are encroaching on setback on Summer St. and Spring St.- 22 ft. from Summer St. and house, 23 ft. from Spring St., with stairs 17 ft. This was in line with setbacks of existing houses in neighborhood, which range from 17 to 24 ft. They had questions about easement on side of garage.

J. Wollen said it was 2 ft.

J. Dargie noted it was 2 ft. from property, not the garage. Only 1 ft. left for those people.

S. Bonczar said, saw why property line there. Block was symmetrical.

J. Dargie asked if lot ended before the lot it was put over.

J. Wollen said on 39.

J. Dargie said lot 22-92 shared garage.

J. Wollen said it was almost into his property. J.Dargie asked if that was his property. He said it was.

J. Dargie said the line was drawn straight across. Looking at 2 -4 ft for garage. Was the over line of 22-93 behind it?

J. Wollen said almost a gap. Common land?

J. Dargie didn't see how it could be common land.

S. Bonczar said it was probably the original subdivision.

J. Dargie said original subdivision showed from 1911 with all the lots, down the middle.

S. Bonczar said hash line must be previous lot line.

J. Dargie said somehow it was moved to 22-94. Now even more an issue with that garage.

S. Bonczar said lot line was what it was.

J. Dargie concerned if he sold the house and somebody put up a fence – only 1 ft. away from the garage.

J. Wollen said it was 2 ft.

J. Dargie said it was 2 ft from lot line, leaving 2 ft. for somebody.

S. Bonczar said they were dealing with the setback.

J. Dargie asked if they could do something with easement. Will give him setback alteration but need to allow 4 ft for somebody to maintain garage.

R. Lunn said Bd. didn't have that authority.

S. Bonczar said last time they had a variance of that easement. Wanted clarification. This showed it was 2 ft from lot line, giving that person 1 ft. easement.

J. Dargie it made situation just as bad.

M. Thornton said it was building in a problem but that was beyond the Bd.'s scope.

J. Plourde said he drove around. Property seemed to drop there from Summer St. Will it impact grading by pushing house closer to the street?

J. Wollen – no. Pretty level. Knew it had to be graded.

J. Plourde asked about need for retaining wall.

J. Dargie wanted legal clarification that the Bd. couldn't suggest or couldn't allow for 1 ft. in exchange for allowing setback. Didn't find out until after it was split that garage was on his property.

S. Bonczar said applicant was within setback. How can you put a stipulation on? What was done was done.

J. Dargie said she'd find out later.

S. Bonczar said that should have been brought up when making the lot lines.

M. Thornton opened meeting up for public comment. None. He closed public comment and proceeded on to deliberation.

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

J. Dargie – yes. It was how it was done 100 years ago.

J. Plourde – referred to S. Bonczar's points. Is it similar? As far as setbacks. It was about 17 ft from Summer St., very similar to those in that corridor.

J. Dargie commented that zoning was put in to stop those particular instances. In order not to perpetuate it. Some of those houses were right on the street.

J. Plourde said it was different elevation than road. If it was same there might be sight line and other issues. Because it dropped off, he didn't see much of concern.

J. Dargie asked if they would fill in the drive and make it higher to meet the road.

J. Wollen said side on Spring St. Summer St. was higher.

J. Dargie asked if foundation would be raised a bit so steps raised up. It dipped down from Spring St.

S. Bonczar said it was similar to those permitted in the district; single family house. Setbacks proposed were about same within that establishment.

T. Steel – yes

M. Thornton agreed. Use similar to those permitted in the district. A lot better this way than last proposal.

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

S. Bonczar – yes. Single family house in neighborhood with existing single family houses.

J. Plourde said it was a single family home in a residential area. House not bigger than others in the area. Other way to get around setback was to build a smaller house. Looking at it as a similar size house.

J. Dargie asked square footage of house. J. Wollen said 1756 ft. J. Dargie said yes, it was similar.

T. Steel agreed.

M. Thornton agreed. House's relative size and site were appropriate.

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

J. Dargie said she'd brought up her problem. S. Bonczar said whether there was a house or not; you could have an empty lot and somebody could put up a fence. J. Dargie said she'd think about it.

J. Plourde said yes. Based on this plan it was better than the first time. With this plan it would not. Other plan was a lot closer to the other house. At last meeting it was recommended they move the house closer to the road away from the others. Had achieved that. Answer was yes.

S. Bonczar agreed. This plan, with changes, changed any impact they were worried about at the last meeting, being into the setback to the properties with houses on them already as opposed to the street, had been eliminated. It was a single family house in neighborhood with single family houses.

T. Steel agreed it would not have adverse effect.

M. Thornton said yes. It would not adversely affect adjacent area. It was home typical of others in area.

J. Dargie felt there was something else they could do for the easement for garage. Felt it would adversely impact adjacent area.

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

J. Dargie didn't see pedestrian hazard. Driveway was in a good spot,

T. Steel agreed.

J. Plourde said, looking at ordinance for yard requirements in this district, Sec. 5.02.5, structure should be at least 15 ft. from the side and rear line unless it was a corner lot. That was where 30 ft. came into play. On road side, 17 ft. He brought this up because once you get closer to the road, in some cases, you are unable to accommodate pedestrians. In this case, however, didn't feel there would be nuisance or serious hazard because there would still be space for pedestrians to walk without being restricted by structures 17 ft. off the road.

S. Bonczar said drive was on Spring St, a side street which wasn't as main a road as Summer. Didn't see hazard for pedestrians or vehicles.

M. Thornton agreed because situation of the house would be better than before and he believed grading would allow for better sight lines going around the corner.

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

J. Plourde – yes. There will be separation from the other property line and drive will be in appropriate location.

T. Steel – there will be adequate facilities.

J. Dargie – yes

S. Bonczar – yes. Public utilities, etc. No issue.

M. Thornton agreed. Nothing inappropriate provided for the use as proposed.

Vote:

1. Is the use similar to those permitted in the area?

J. Plourde – yes; T. Steel – yes; J. Dargie – yes; S. Bonczar – yes; Thornton – yes

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

T. Steel – yes; J. Plourde – yes; S. Bonczar – yes; J. Dargie – yes; Thornton – yes

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

J. Dargie – no; S. Bonczar – yes; J. Plourde – yes; T. Steel – yes; M. Thornton – yes

4. Will there be no nuisance or serious hazard to vehicles or pedestrians?

J. Dargie – yes; J. Plourde – yes; T. Steel – yes; S. Bonczar – yes; M. Thornton – yes

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

S. Bonczar – yes; J. Dargie – yes; T. Steel – yes; J. Plourde – yes; M. Thornton – yes

Vote on additional criteria:

1. Is the Special Exception allowed by the ordinance?

S. Bonczar – yes; J. Plourde – yes; T. Steel – yes; J. Dargie – yes; M. Thornton – yes

2. Are all the specific conditions present under which the Special Exception may be granted?

J. Dargie – no; S. Bonczar – yes; J. Plourde – yes; T. Steel – yes; M. Thornton – yes

M. Thornton asked for a motion to approve.

S. Bonczar moved to approve Case # 2017-04, Premier Homes, for a special exception under Sec. 5.02.2.

T. Steel seconded.

FINAL VOTE:

J. Dargie – no

S. Bonczar – yes

J. Plourde – yes

T. Steel – yes

M. Thornton – yes

Case # 2017-04 approved by 4 to 1 vote.

M. Thornton told applicant he was approved and reminded him of 30-day appeal period.