

**Town of Milford
Zoning Board of Adjustment
October 5, 2017
Case #2017-23
David Zona
Special Exception**

Present: Steven Bonczar, Chair
Joan Dargie
Rob Costantino
Tracy Steel, Alternate
Wade Scott Campbell, Alternate

Robin Lunn, Zoning Administrator

Absent: J. Plourde, Vice Chair
Michael Thornton
Karin Lagro, Alternate
Laura Dudziak, Board of Selectmen Representative

Secretary: Peg Ouellette

Case #2017-23

David Zona, for property located at 686 Rte 13 South, Milford, NH, Tax Map 52, Lot 79, in the Residential R district, is seeking a Special Exception of the Milford Zoning Ordinances per Article X, Section 10.02.6 to allow an Accessory Dwelling Unit above a proposed garage.

MINUTES APPROVED DECEMBER 7, 2017

Steven Bonczar, Chair, opened the meeting and introduced the Board members. The Chair seated Wade Scott Campbell and Tracy Steel as voting alternates for this case, with no objection. The Chair introduced the Board members. He stated that there was one new case and no minutes or old cases on the agenda. He informed all of the procedures of the Board. He read the notice of hearing.

D. Zona explained what they wanted to do. He stated that when he bought the property there was an old house there that had been ignored for some time. It was torn down and in the process of putting up a new house they realized it was in the Residential R zone and they were allowed an ADU, so they decided to do that. It will be a two-bedroom house, so having an ADU seemed like a good idea.

S. Bonczar asked him to go over the answers to the questions in the application and anything he would like to add.

D. Zona said, re how it met the criteria, it was allowed there. He said the specific site was appropriate because it included ample parking, water and sewer to accommodate the community in a way that will be attractive to the community. It won't show because it will be in an empty space over the two-car garage. The use will not adversely affect the adjacent area because there will be no more impact than building a single-family. There will be no nuisance or hazard because the existing drive was suitable for any new vehicle traffic. Given that it was on a state highway with no sidewalks, pedestrian traffic would be minimal. Re adequate facilities, no special facilities were necessary other than water and sewer already there.

R. Costantino asked if he planned to live there.

D. Zona said his brother was the owner and was coming back from California. He stated it wasn't clear if his brother was going to live in the house or the ADU.

S. Bonczar said it was required to be owner occupied. Thought the applicant was aware of that. He asked about entrance to the unit.

D. Zona referred to an outside door.

S. Bonczar said that was on the outside from upper floor to the unit; any other entrances?

D. Zona responded that somewhere it said there had to be an entrance from the house to the ADU.

S. Bonczar said it was "shall," not "will" or "may."

D. Zona said they would do it if they had to.

J. Dargie said because it was an ADU.

D. Zona commented, so it was not an apartment.

S. Bonczar read from the Ordinance, Sec. 10.02.6.A.1.f that an attached ADU shall have and maintain at least one common interior access between the principal dwelling and the ADU consisting of a connector a minimum of 36" in width or a doorway a minimum of 32" in width. Either an open area to the unit or a door in between. His question was that there was a solid wall at the top of the stairs by the den and the stairs to that hallway to the ADU. Would be a door there?

D. Zona said it could.

S. Bonczar couldn't tell exact measurements. Looked like it would, but not going to guess.

D. Zona said usually with the architect he comes up with idea and they say no.

S. Bonczar said other than that it looked like a good plan. Only thing missing was that entrance door.

Other members agreed.

S. Bonczar said they were starting to see developers coming in wanting in-law apartments and in a previous case it was on the first floor and connection off the kitchen. Only way that didn't work if it was above a detached garage.

D. Zona asked what happened in that case.

S. Bonczar said in that case you didn't have an entrance door.

D. Zona asked if it could be from the garage to the ADU or from the interior of the house.

J. Dargie said it was a common door or wall. Common area where you can get into the main house.

S. Bonczar said it was the principal access. It must be a common. Reason for the ADU – otherwise this type of thing would not be allowed. Would be considered an apartment or two-family which were not allowed in this district. They want to promote children coming back from college and elderly. In order to

distinguish it from an apartment and duplex you need to have that common area access. Applicant met the special exception and everything else. That was what was missing.

D. Zona said he could make that happen.

S. Bonczar said this evening they could put a condition, if they decided it was an approval and everybody agreed. Didn't know if they had to have this looked at to make sure there was feasible way to put a door there.

J. Dargie said they didn't know what was on the other side.

D. Zona said he was pretty sure.

S. Bonczar said they didn't want to table to the next meeting if he had concerns?

D. Zona wasn't sure they had to. Hadn't thought a door was necessary, but they were wrong.

S. Bonczar said it looked like between the den and the hallway.

D. Zona said there was slight difference in elevation. Would have to do something with the roof, but not really a problem.

S. Bonczar asked if board members had any other questions. They had looked at the application and prints and good with what was presented to the board. All agreed.

S. Bonczar asked if they had other questions for the applicant. None. He opened the meeting for public comment. None. S. Bonczar read a note received from Marcus Bailey of 34 Berkeley St., Milford, supporting what the applicant was doing, dated 9/13/17. He closed public comment.

The Board proceeded to deliberation.

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

T. Steel said yes

J. Dargie said it was.

W. Campbell said it fell within

S. Bonczar said it was a single-family with proposed ADU

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

W. Campbell said it was an existing structure.

S. Bonczar said it seemed well designed. Access to the outside only if you have the common entrance.

R. Costantino said the only minor thing was it went right out onto Rt. 13, a highway. S. Bonczar said there was a house there before. R. Costantino said it didn't bother him that much. He agreed it had been.

J. Dargie said not another curb cut.

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

S. Bonczar said, based on what was there, this was an improvement.

J. Dargie said they were talking about an ADU – one, or maybe two more cars.

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

J. Dargie it was the same thing.

W. Campbell said there were no sidewalks out that far anyway.

S. Bonczar said an ADU wasn't going to impact it any more than what was there previously.

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

All agreed there were.

S. Bonczar said they had to have a condition on this. Others agreed. Will first vote on wording of the condition and then on the whole application.

J. Dargie said at least one common wall between the two spaces be at least 32" in width.

S. Bonczar said applicant must revise the presented plan to meet the requirement of at least one common wall with a door between the two spaces at least 32" in width. He referred to section 10.2.6.A.1.f referencing a common interior access between the principal unit and the ADU; details were in that paragraph. He then suggested "Applicant must revise the proposed and presented plan to meet requirements stated in Sec. 10.02.6.a.1.f referencing a common interior access between the principal unit and the ADU.

J. Dargie made a motion for that condition.

T. Steel seconded.

All in favor.

S. Bonczar said it was unanimous that they would vote with that condition in mind.

VOTE:

1. Is the Special Exception allowed by the ordinance?

W. Campbell – yes; R. Costantino – yes; J. Dargie – yes; T. Steel – yes; S. Bonczar – yes

2. Are all the specified conditions present, under which the Special Exception may be granted, taking into consideration the condition placed on this application?

T. Steel – yes; J. Dargie – yes; R. Costantino – yes; W. Campbell – yes; S. Bonczar - yes

S. Bonczar said the criteria for Special Exception had been approved with the condition as stated. He reread the condition and informed the applicant that he must meet that paragraph to the letter.

R. Costantino asked who it was being submitted to.

S. Bonczar said the Community Development Office. J. Dargie asked R. Lunn to provide a copy to the Board members. R. Lunn agreed.

S. Bonczar reminded applicant of the 30-day appeal period.

There being no further business, J. Dargie moved to adjourn.

T. Steel seconded.

All in favor.

Meeting adjourned at 7:25 p.m.