

Town of Milford
Zoning Board of Adjustment
April 16, 2020

Case 2020-03

Francis Kling Sr/Mengyan Property Management LLC
Variance

Present: Joan Dargie, Vice Chair
Rob Costantino
Tracy Steel
Wade Campbell
Michael Thornton
Jason Plourde
Karin Lagro (Alternate)
Paul Dargie, BOS Representative
Lincoln Daley, Director of Community Development
Darlene Bouffard, Recording Secretary

Vice Chairman Dargie 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. She 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, she 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.

Vice Chairman Dargie stated that all votes that are taken during this meeting must be done by Roll Call vote. She started the meeting by taking roll call attendance. She asked each member to state their name and state whether there was anyone in the room with them during this meeting, which is required under the Right-to-Know law: Rob Costantino at home alone, Tracy Steel at home with her sister; Wade Campbell at home alone, Karin Lagro at home alone, Mike Thornton at home with his wife, Joan Dargie at Town Hall in her office alone.

Case 2020-03

Francis Kling, Sr. on behalf of Mengyan Property Management LLC, for the property located at 159 Elm Street, Milford NH, Tax Map 19, Lot 5, is seeking a VARIANCE from the Milford Zoning Ordinance, Article V, Sections 5.03.04 and 5.05.1.P to allow the construction of a six-unit multi-family dwelling on a 51,836 sf parcel of land where 52,272 sf is required .

Attorney Thomas Quinn, representing the applicant and owner, Francis Kling, Sr. / Mangyan Property Management LLC, for the property located at 159 Elm Street, Map 19 Lot 5 is seeking a Variance to allow the construction of a six unit multi-family dwelling on a 51,836 sf parcel of land where 52,272 sf is required. Attorney Quinn began by thanking the Town of Milford, the ZBA and Community Development Department for figuring out a way to hold these public meetings; the Governor's orders have made these

**MINUTES OF THE ZBA MEETING APRIL 16, 2020 VARIANCE CASE #2020-03
KLING / MENGYAN PROPERTY – VIA ZOOM**

meeting difficult and some towns have stopped holding them. Tom Quinn appreciates the town taking the steps it has to figure it out how to hold these meetings.

The staff memo provided summarizes the case very well. The applicant bought this property in April 2018 which has 1.9 acres and 230' of frontage serviced by town water and sewer. This lot is in the Commercial zone, in which there are many multi-family units. The acreage is so close to what would be required for a six unit multi-family, as was bought up in July 2019 with the Planning Board at a Conceptual discussion. At that meeting the Planning Board recommended the applicant to seek a variance for one additional unit. An analysis was done on the Elm Street neighborhood in order to understand the other properties in the area. There are five tests for the Variance, Items 1 and 2 are related and state that granting the variance will not be contrary to the public interest – the neighborhood consists of a mix of multi-family and commercial uses. On the North side of the lot, there are 15 neighborhood lots that are residential. Of those 15, ten multi-family, none of which meet the zoning acreage. On the south side of the Elm Street lot, 4 of the 6 multi-family properties do not meet the acreage requirement. Granting the variance will not change the character of the neighborhood. Will the variance affect the value of the surrounding properties? The building that was on this lot had been neglected for many year and back taxes had to be paid by the buyer.

Tom Quinn continued that the existing building was in such a condition of disrepair, it was considered for renovation, but it was in such poor condition that was not possible and was demolished. The application meets the hardship, the conditions of the property is that because we are so close to meeting the ordinance acreage requirements for six units, it will be much less developed than most properties on the street and it is believed we are meeting the hardship requirement. This ended the presentation, T. Quinn asked for questions or comments.

J. Dargie asked for questions from the Board. M. Thornton asked the acreage? T. Quinn stated it is 1.19 acres. T. Steel asked how many parking spaces will there be per unit? T. Quinn said each unit will have four spaces because of the grade, the backside falls off steeply but the proposal is to have a garage under each unit for two cars; additionally each unit will have two parking spaces for guests in the rear parking area. Because garages will be in the back (under the unit) T. Quinn explained because the garages will be in the back of the building, the front of the building will be nicely landscaped and will not be paved. The plan shows the two car garage and the lower driveway road where the rear parking for guests is available.

R. Costantino asked where emergency vehicles can turn around, how is that addressed? T. Quinn said that will be addressed at the Planning Board meeting as it is their decision. One way to address the ambulance access is by having pavers in the front of the building for ambulance access so that the ambulance can get access without using stairs. There are different options to consider for emergency access which will be discussed at the Planning Board meeting. The applicant is very aware of the emergency access requirements. M. Thornton asked if the Fire Department has any problems or comments or are there no concerns and do they have sufficient access. Lincoln Daley, Zoning Administrator, stated he has talked to the Fire Department personnel and has received e-mail that they have no issue with access to the rear of building. That will be further vetted at Planning Board review.

T. Quinn said the intent is to have sprinklers in this building as well. In reviewing the files and meeting minutes, the Fire Department had been asked at that time and there were no comments provided.

J. Dargie asked for further comments or questions. There were none. L. Daley asked if any concerns were raised by abutters? T. Quinn answered the only abutter that contacted him was Aaron Kaplan, abutter, who had concern about how close the driveway was to his property, but in talking and reviewing the plan, T. Quinn indicated the location and there was no further concerns from him other than a request for landscaping between the two properties for a buffer. J. Plourde asked about any threat to the health, safety and general public regarding emergency vehicle access and turn around, would the ZBA want to wait on a

**MINUTES OF THE ZBA MEETING APRIL 16, 2020 VARIANCE CASE #2020-03
KLING / MENGYAN PROPERTY – VIA ZOOM**

1 Planning Board decision prior to a ZBA decision? J. Dargie stated the Planning Board has already com-
2 ments on that concern at the conceptual review, so she feels comfortable they will address that at the Plan-
3 ning Board meeting. R. Costantino also stated the ZBA can make a conditional decision. L. Daley said
4 these issues will be addressed at the Planning Board meeting, the ZBA decision can be conditional based on
5 any Planning Board decision. T. Quinn noted that the client plans to show the ambulance access in the
6 front of the building because that is where the people will be and not up a set of stairs, that will be ad-
7 dressed at the Planning Board meeting. Seeing no further questions or comments from the Board, J. Dargie
8 opened the meeting to the public. L. Daley indicated there were no people in the waiting room to speak. J.
9 Dargie closed the public meeting.

10
11 R. Costantino feels that T. Quinn went through all the criteria. J. Dargie asked for further Board input. R.
12 Costantino has no problems with this but after looking at the plan, most of this land is not usable. R. Cos-
13 tantino is satisfied on the emergency access and agrees with T. Quinn. J. Dargie noted that the existing
14 building was in bad shape but could have been renovated, the access will be addressed for emergency vehi-
15 cles at Planning Board, the lot size is pretty close to the requirement. M. Thornton commented that the
16 presentation was great and he is glad the building will have sprinklers, asking if the building will be handi-
17 cap accessible? T. Quinn answered yes in the front of building. W. Campbell feels T. Quinn covered the
18 application very well. Tracy said her concern was parking and is satisfied with the explanation. J. Dargie
19 feels this meets the hardship criteria. M. Thornton suggested any reasons for denial would not be defendable.
20 Karin Lagro said emergency access in the front could create another problem with people thinking
21 they can park in the front on the pavers. L. Daley said yes, that would be discussed at Planning Board and
22 the access would be off the driveway, not the road. T. Quinn said it could be made to accommodate an
23 ambulance and could be marked as handicapped parking to discourage other people from parking there. J.
24 Dargie asked for a vote

- 25
26 1) Would granting the variance not be contrary to the public interest? R. Costantino yes; T. Steel
27 yes; W. Campbell yes; M. Thornton yes; J. Dargie yes
28 2) Could the variance be granted without violating the spirit of the ordinance? M. Thornton yes;
29 T. Steel yes; R. Costantino yes; W. Campbell yes; J. Dargie yes
30 3) Would granting the variance do substantial justice? T. Steel yes; W. Campbell yes, M.
31 Thornton yes, R. Costantino, yes, J. Dargie yes
32 4) Could the variance be granted without diminishing the value of abutting property? M.
33 Thornton yes; R. Costantino yes, T. Steel yes, W. Campbell yes, J. Dargie yes
34 5) Would denial of the variance result in unnecessary hardship? W. Campbell yes, M. Thornton
35 yes, R. Costantino yes, T. Steel yes, J. Dargie yes
36

37 W. Campbell moved to grant the Variance, R. Costantino seconded. W. Campbell yes, R. Costantino yes,
38 J. Dargie yes, M. Thornton yes, T. Steel yes. Motion passed, variance granted.

39
40 At this point J. Dargie indicated the Board must reconfigure for the 2020-2021 year for ZBA positions. J.
41 Dargie nominated J. Plourde as Chair. M. Thornton seconded. R. Costantino yes; T. Steel yes; W. Camp-
42 bell yes, M. Thornton yes; J. Dargie yes.

43
44 J. Dargie nominated R. Costantino as Vice Chair. W. Campbell seconded. J. Dargie yes; W. Campbell
45 yes; R. Costantino yes, T. Steel yes; M. Thornton yes; J. Plourde yes.

46
47 W. Campbell nominated J. Dargie to be an alternate member. T. Steel seconded. W. Campbell yes, T.
48 Steel yes; J. Plourde yes, M. Thornton yes, J. Dargie yes, R. Costantino yes.

49
50 J. Dargie indicated the next ZBA meeting will be Chaired by J. Plourde with Vice Chair R. Costantino on
51 April 30, 2020.

**MINUTES OF THE ZBA MEETING APRIL 16, 2020 VARIANCE CASE #2020-03
KLING / MENG YAN PROPERTY – VIA ZOOM**

Adjournment: M. Thornton moved to adjourn at 8:04 p.m. T. Steel seconded. A poll was taken: M. Thornton yes; T. Steel yes; W. Campbell yes; J. Dargie yes; R. Costantino yes.

Motion to Approve: _____

Seconded: _____

Signed: _____

Date: _____

MINUTES OF 4-16-2020 CASE 2020-03 APPROVED 5-21-2020