

**Town of Milford  
Zoning Board of Adjustment  
September 19, 2019  
Case #2019-24  
Corey Arbogast  
Variance**

Present: Joan Dargie, Vice Chair  
Michael Thornton  
Rob Costantino  
Tracy Steel  
Karin Lagro, Alternate

Lincoln Daley, Director of Community Development  
Paul Dargie, Board of Selectmen Representative

Absent: Steve Bonczar, Chair  
Wade Scott Campbell, Alternate

Secretary: Peg Ouellette

Corey Arbogast, Tax Map 26, Lot 136, 37 High Street, Milford, NH, Variance Application from the Milford Zoning Ordinance, Article V, Section 5.05.1.P to create a two-family residence by converting an existing first floor office into a 2<sup>nd</sup> residential unit on a lot requiring a minimum of 20,000 square feet and 150 linear feet of frontage within the Commercial "C" district.

**ZBA MINUTES OF 9/19/19 CASE #2019-24 WERE APPROVED 11/7/19**

1 J. Dargie, Vice Chair, opened the meeting and introduced the Board members. She informed all of the  
2 procedures of the Board. She read the notice of hearing.

3  
4 Tammy Arbogast appeared on behalf of the applicant, Corey Arbogast who was unable to attend meeting.  
5 She said when he purchased the property it was a two-family and an office. Person operating the office  
6 has retired. Applicant would like to convert the lower level into an apartment. Property surrounded by  
7 all single and multi-family housing.

8  
9 He was applying for a variance because the property was constructed before the zoning ordinance existed.  
10 It was not 20,000 SF and didn't have necessary road frontage. He believed that the proposal fit into the  
11 surrounding area.

12 There was ample parking. Changes will be only to the interior. No changes to exterior. It will fit in the  
13 neighborhood. It was accepted use in the area except for the non-conforming. Other non-conforming lots  
14 surrounding because they were constructed prior to the zoning ordinance. At the request of the Chair, she  
15 read into the record the responses to the criteria from the application.

16  
17 L. Daley, during her reading, stated that a two-family was allowed in the district, but required a minimum  
18 of 20,000 square feet, 150 feet of frontage, and serviced by municipal water and sewer. He continued by  
19 stating that th lot was in existence since the 1800's. In researching assessment records it had been a two-  
20 family, but one of the units was converted to office in the 80s.

21  
22 M. Thornton said he'd had an image of a smaller office space. This was the entire first floor.

23  
24 T. Arbogast said she (the tenant) had office where she made it a conference room. The tenant was an  
25 attorney who used the space for files.

26  
27 L. Daley said it was his understanding that the exterior of the house would not be altered as a result of  
28 proposal.. All changes would be done internally to convert back into a two-family.

29  
30 J. Dargie asked if they came to the Planning Board when it became an attorney's office.

31  
32 L Daley said they didn't have to.

33  
34 J. Dargie asked when the two-family got taken off. There was an office, but it was really a residence. It  
35 still had a kitchen and bath.

36  
37 L. Daley said the use was converted to an office / mixed use.

38  
39 J. Dargie asked if the owner came in to Zoning.

40  
41 L. Daley said it was an allowed use. When it was converted to office space. For tax purposes it was an  
42 office space.

43  
44 J. Dargie said that was when the two-family went away.

45  
46 L. Daley pointed out the property on the map and then summarized the surrounding single, two-, and  
47 multi-family uses and lots sizes of the neighboring properties. The proposed use appeared to be very  
48 similar to what was there currently.

1 M. Thornton said his ignorance was based on the fact that he didn't see a floor plan. He assumed it was  
2 like an office in his room and couldn't understand how that could be a restriction. He could understand  
3 the entire first floor being a dwelling.

4  
5 T. Arbogast said she used the front for an office and whole of the back for files, etc.

6  
7 L. Daley pointed out on picture one parking area for the office.

8  
9 T. Arbogast said they could fit up to six.

10  
11 L. Daley said that the property appeared to have ample space to support the required four parking spaces.

12  
13 J. Dargie asked for any other questions from the Board.

14  
15 R. Costantino said the annotated map was excellent to be able to figure out whether it was similar to  
16 others in the area.

17  
18 T. Arbogast then continued to read responses to the criteria. Regarding #4, she said they specifically felt  
19 there would be less impact because of a two-family rather than an office with people coming and going all  
20 day.

21  
22 T. Steel said, re unnecessary hardship, would he not be able to rent it if it stayed an office? Difference  
23 between rental price of office or residence.

24  
25 T. Arbogast said how quickly he could. He would not be able to go to the abutters to make it more  
26 nonconforming. Regarding commercial rental of the lower level as an office or apartment, she thought  
27 the market right now was for apartments.

28  
29 T. Steel asked if that would go with the land.

30  
31 L. Daley said the property.

32  
33 M. Thornton said for applicant to become conforming his abutter would have to become more  
34 nonconforming.

35  
36 T. Arbogast agreed.

37  
38 J. Dargie opened up public comment. None. She closed the public comment.

39  
40 J. Dargie proceeded to discussion of the criteria for a variance.

41  
42 R. Costantino said he was going to say something about the hardship. Couldn't consider it a hardship in  
43 that if you compared it to the other properties. They were all doing the same thing. The (applicants)  
44 provided a map showing a lot of multifamily residences in the area. Would not consider it hardship in  
45 that sense.

46  
47 M. Thornton said the intent back then was to build residence areas so people could walk and that meant  
48 small lots in the center of town.

49  
50 J. Dargie said now they were going back to that. This was existing in the 1800's. It was a two-family.  
51 She didn't understand how you relinquish a two-family, but mixed use was allowed.

1 K. Lagro said once you relinquish it you can't go back.

2  
3 L. Daley said, hence the variance.

4  
5 J. Dargie said mixed use was allowed so you couldn't need to ask.

6  
7 K. Lagro said mixed-use was more than size of the land.

8  
9 R. Costantino said somebody had mentioned there seemed to be different need for residences now. For  
10 public benefit that would help. Also liked that was the first time a residence was going to a two-family.  
11 They were going to make that one floor for a residence. Seemed like a nice size apartment.

12  
13 M. Thornton said from a historic point, no modification of the exterior of the residence.

14  
15 L. Daley said there may have been. But the general character was the same.

16  
17 J. Dargie asked if the Board wanted to discuss each of the variance criteria or just vote on them.

18  
19 R. Costantino read all of them. He said the one that caused an issue was #3. At one time Steve Bonczar  
20 said if you turn it around another way to look at it, was it substantial gain to the public to deny it. If you  
21 looked at it that way there was no gain to the public.

22  
23 M. Thornton agreed. It said with there being a residence there would be less traffic.

24  
25 T. Steel agreed.

26  
27 R. Costantino said it didn't differ from the abutting property.

28  
29 J. Dargie referred to the question on unnecessary hardship. Which part of the hardship?

30  
31 R. Costantino said A.

32  
33 J. Dargie read A. She commented if A applied, there was no need to discuss B.

34  
35 **Vote on Variance Criteria:**

36  
37 **1. Would Granting the variance would not be contrary to the public interest?**

38  
39 R. Costantino asked if he had to say it was allowed. When they do a Special Exception they asked if it  
40 is allowed. That would not apply.

41  
42 L. Daley said it was a variance question.

43  
44 R. Costantino – yes

45  
46 M. Thornton - yes

47  
48 T. Steel – yes

1 K. Lagro – yes

2  
3 J. Dargie – yes

4  
5 **2. Could the variance be granted without violating the spirit of the ordinance?**

6  
7 T. Steel – yes

8  
9 M. Thornton - yes

10  
11 R. Costantino – yes

12  
13 K. Lagro – yes

14  
15 J. Dargie – yes

16  
17 **3. Would granting the variance would do substantial justice?**

18  
19 K. Lagro – yes

20  
21 R. Costantino – yes

22  
23 M. Thornton – yes

24  
25 T. Steel – yes

26  
27 J. Dargie - yes

28  
29 **4. Could the variance be granted without diminishing the value of abutting property?**

30  
31 **K. Lagro – yes**

32  
33 **R. Costantino – yes**

34  
35 **M. Thornton – yes**

36  
37 **T. Steel – yes**

38  
39 **J. Dargie – yes**

40  
41 **5. Would denial of the variance result in unnecessary hardship?**

42  
43 M. Thornton - yes

44  
45 R. Costantino – yes

1 T. Steel – yes  
2  
3 K. Lagro – yes  
4  
5 J. Dargie – yes  
6  
7 J. Dargie said the Variance application was approved and informed applicant of the 30-day period for  
8 abutters to appeal.  
9  
10 L. Daley said, like any application this evening, if the applicant approved went on with construction, it  
11 was at their own risk.  
12  
13 There being no other business, T. Steel made motion to adjourn. All seconded.  
14  
15 Meeting adjourned at 8:40 p.m.