

Town of Milford
Zoning Board of Adjustment
June 4, 2020
Case 2020-11
Glendale Homes (Wright Road)
Special Exception

Present: Jason Plourde, Chair
Rob Costantino, Vice Chair
Karin Lagro
Paul Dargie, BOS Representative
Tracy Steel
Michael Thornton
Lincoln Daley, Director of Community Development

Absent: Wade Campbell
Joan Dargie

Chairman Plourde 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. He 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, he 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.

Chairman Plourde stated that all votes that are taken during this meeting must be done by Roll Call vote. He started the meeting by taking roll call attendance. He 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. Roll Call Attendance: Jason Plourde in the Community Development conference room at Town Hall adjacent to Lincoln Daley's office; Rob Costantino at home alone, T. Steel at home alone, K. Lagro at home alone, M. Thornton at home alone.

Chairman Plourde continued by stating that there were four new cases to be heard, with no old cases and minutes of April 30, 2020 for review. He then proceeded to summarize the hearing process, rules, and procedures for Board Members, applicants, and the general public.

Case 2020-11

Glendale Homes LLC / Gerry Tanguay, Milford Tax Map 20, Lot 2-3, is seeking a SPECIAL EXCEPTION from the Milford Zoning Ordinance Article X, Section 10.2.6. to allow the construction of a 748 sq ft accessory dwelling unit located in the basement of a single-family residence within the Residential "A" district.

Chris Guida, Meridian Land Services, representing the applicant will present the application. L. Daley asked Mr. Guida if he is representing Glendale Homes LLC? C. Guida responded that he is, to which L.

**MINUTES OF THE ZBA MEETING JUNE 4, 2020 VARIANCE CASE #2020-11
GLENDALE HOMES – VIA ZOOM**

Daley asked if an authorization letter was sent to the Community Development office? C. Guida believes there was. L. Daley does not see it in the file anywhere. C. Guida said he has information to provide on the application for ADU if the Board wishes for him to proceed. M. Thornton asked if the Board can hear the presentation and any decision would be contingent on the submission of an authorization letter from Glendale Homes, or does the Board need the authorization first? L. Daley said it is up to the ZBA and what they want to do. R. Costantino is willing to hear the presentation. K. Lagro asked if the lack of an authorization letter has been an issue in the past? J. Plourde has not had that come up in his experience on the ZBA. M. Thornton said the only thing is that whatever decision is made, it would be contingent on the submission and receipt of that authorization letter giving authorization to Chris Guida to represent the applicant. T. Steel agreed with M. Thornton that the authorization should be submitted after the ZBA hears the presentation. J. Plourde also looked to see if anything was submitted to the Board giving authorization to Chris Guida, but found nothing. J. Plourde does not have a problem with having any decision made contingent on the documentation being provided by the applicant that C. Guida can represent the applicant and the project.

M. Thornton moved to hear the case and that any decision is contingent on the submission of said authorization for C. Guida to represent the applicant. T. Steel seconded. A poll was taken: R. Costantino yes; K. Lagro yes; T. Steel yes, M. Thornton yes; J. Plourde yes.

C. Guida apologized for not having that documentation. C. Guida presented the plan for an Accessory Dwelling Unit (ADU) on an undeveloped road in the Glendale Homes development off Spaulding Street called Wright Road. This is for an in-law apartment with one bedroom and is less than the limit of 750 square feet. There is no encroachment to wetlands and is a permitted use and meets all the requirements. It has town water and sewer. The footprint of the home will not change. C. Guida asked for questions from the Board.

J. Plourde said there are criteria that must be met in the application, asking that C. Guida review those. J. Plourde noted that this particular ADU is attached, as it is in the basement of the home. C. Guida indicated this ADU meets the criteria and has the required doorway to the main house. R. Costantino said he only sees one door on the provided plan, on the left side, is that the only doorway? C. Guida noted there is one door to the outside. R. Costantino does not see another doorway to the ADU. C. Guida explained there is a door on the side and a door accessing the main house. R. Costantino asked about the stairway in the center of the plan, does that access the ADU? C. Guida explained that stairway leads to a door that goes into the ADU. R. Costantino asked about the other stairway? C. Guida explained that is the bulkhead stairway. R. Costantino said so there is only one entrance into the ADU? M. Thornton asked if the ADU would require an egress window if there is only one entrance in case of emergency? M. Thornton's understanding is that you have to have two entrances / exits for an ADU. C. Guida said there is an egress window noted on the plan if it is needed it can be incorporated. The plan does show only one entrance. C. Guida would welcome a condition for another egress. M. Thornton said the bulkhead would count as an emergency egress if it goes directly into the ADU.

L. Daley said there is an egress window noted on the plan. K. Lagro said there is no direct door to the outside, the ADU does not have a direct access; it is either a bulkhead or a stairway but not directly into the ADU. C. Guida noted this ADU is for a family member so the stairs would go up through the main body of the house. L. Daley said this will be used by a family member, but when new people come into the house (a future owner) the intension for the ADU might be different and they might want to rent it out, the long term use has to be considered. M. Thornton agreed and if the foundation would allow an exterior access door directly into the ADU plus the required internal door, that would be the best possible outcome.

C. Guida is not sure if the physical construction with the elevations would allow for that. If the use were to change, that would come to the Board for a change of use. L. Daley said when this comes to the ZBA,

**MINUTES OF THE ZBA MEETING JUNE 4, 2020 VARIANCE CASE #2020-11
GLENDALE HOMES – VIA ZOOM**

1 it is for an ADU and the ADU is meant to be a separate space from the primary use. An ADU is an ADU
2 whether a family member or someone else is using it. L. Daley said that must be considered. C. Guida
3 said he can look at the site access to the outside. That is something that can be addressed. R. Costantino
4 said the bulkhead could also be a stairway with a doghouse instead of a bulkhead; the entrance to the
5 ADU must be in the back and that bulkhead is already on the side. M. Thornton said any door must not
6 be visible from the front. R. Costantino agreed, that is one of the criteria. C. Guida said that is some-
7 thing we can incorporate if the ZBA would be willing to have a conditional approval and we can come to
8 the next meeting if the Board would want to see that plan. M. Thornton does not think the meeting
9 would need to be continued for that, it would just be required to be a condition of the approval. R. Cos-
10 tantino agreed.

11
12 J. Plourde asked if we go into deliberations, a condition may be placed that would require a second
13 means of access into the ADU from the side or rear of the structure for the ADU. J. Plourde asked if it
14 is possible to have a doorway off the living room? C. Guida responded he is not sure. R. Costantino is
15 concerned that the ADU should be a separate living space that you do not have to go through the main
16 house to get into. This can be handled inside the house. K. Lagro said the bulkhead is not sufficient ac-
17 cess to the outside. C. Guida responded the stairs will not be in a bulkhead, it will be a doghouse access
18 and will have a regular door. L. Daley said access to the ADU must be ADA compliant and that will be
19 worked out with the Building Inspector and Fire Department at that time. M. Thornton said ADA com-
20 pliance states that stairs are not adequate. J. Plourde asked if there were any other questions from the
21 Board.

22
23 L. Daley suggested the board may want to touch on the other criteria. J. Plourde wanted to talk about the
24 ten criteria for ADU minimum requirements. 1-There is only one ADU proposed for this property; 2-will
25 the owner be living in the primary property? C. Guida answered yes; 3-the size must be less than 750
26 square feet; C. Guida said it is 740 sf; 4-does the ADU have no more than two bedrooms? C. Guida re-
27 sponded yes it has one bedroom; 5-curbcuts – are there any additional? C. Guida there are no additional
28 curb cuts; 6-the attached ADU must have one common interior access between the ADU and the primary
29 property with an entry of at least 46”, C. Guida said it has that; 7- is the ADU located in a single family
30 residence? C. Guida responded yes; 8-are there any other Special Exceptions or variances being request-
31 ed as part of this ADU application? C. Guida said there are not, it meets the requirements; 9-will all lo-
32 cal and State safety codes be met? C. Guida said they will and 10-is there adequate provisions for water
33 and sewer? C. Guida said this is on town water and sewer.

34
35 J. Plourde reviewed the ADU criteria and asked if it is met: 1-does this alter the appearance of the single
36 family residence? C. Guida it does not; 2- is this use secondary to the principle single family residence?
37 C. Guida yes it is in the basement; 3-this shall not affect the value of properties in the neighborhood? C.
38 Guida said it will not; 4-is there adequate off street parking? C. Guida said there is ample off street park-
39 ing. M. Thornton asked how many bedrooms are in the primary residence? C. Guida said three bedrooms
40 plus the one in the ADU, and there is a two car garage. 5-any additional entrance shall be to the side or
41 rear of the primary residence. C. Guida said it is currently proposed to be a side entrance. J. Plourde
42 noted a lot of ADUs are coming before the ZBA for elderly family members or for adult children that
43 need their own space. C. Guida said the separate entrance will be studied and the final design will com-
44 ply with that requirement. J. Plourde asked if there were any further questions from the Board, taking a
45 poll: K. Lagro no, T. Steel no; R. Costantino no, M. Thornton no, P. Dargie no. J. Plourde opened the
46 meeting to the public, noting if anyone has questions or comments on this application, press *9. There
47 were no questions from the public.

48
49 L. Daley had not further questions. C. Guida indicated he will be happy to comply with the conditions
50 set forth. J. closed the public portion of the meeting.

MINUTES OF THE ZBA MEETING JUNE 4, 2020 VARIANCE CASE #2020-11
GLENDALE HOMES – VIA ZOOM

Deliberations:

J. Plourde indicated most questions have been addressed, there is one ADU allowed per property and that is what they are proposing. It meets the required square footage, the owner will be living in the main house. It is one bedroom and there are no additional curb cuts. R. Costantino noted the criteria was reviewed with the applicant, why were they read again? J. Plourde feels it is a good practice for all applications that you have solid records in the file in case someone appeals the decision. M. Thornton said that is protection for the ZBA, if the ADU is consistent with the requirements it is easy to track it. R. Costantino is still concerned with the connection to the primary dwelling unit. He wants that to be a condition. J. Plourde said after the checklist is reviewed, we can talk about conditions to add before going into voting. The conditions he has: 1-separate entrance for ADU; 2-provide documentation from applicant that Chris Guida can represent him for this application. This is proposed to be in the basement of the single family residence, this meets all zoning ordinances and criteria other than this Special Exception and shall meet all local and State buildings codes. This is proposed to have a total of four bedrooms including the basement ADU.

The criteria were reviewed: 1-this does not alter the characteristics of a single family residence, this is a proposed use and is not an expansion; 2-the ADU is secondary to the single family residence; 3-this shall not impair or affect the values of surrounding properties; 4-off street parking is available, and there is a two car garage and the driveway can accommodate four cars; 5-the additional entrance will be on the side or the rear of the building. J. Plourde suggested talking about conditions and then get into voting. M. Thornton moved that 1-the documentation authorizing that Chris Guida can represent the applicant is received by the Community Development office; 2-the outside door to access the ADU directly be designed and an updated plan be submitted to Community Development to show that door. R. Costantino does not need to see those plans, he just wants the plan submitted to the office. T. Steel seconded the motion. A poll was taken: R. Costantino yes; K. Lagro yes; T. Steel yes; M. Thornton yes; J. Plourde yes.

R. Costantino moved that the ADU provide its own entrance (internal or external) and that those plans be submitted to the Community Development office. L. Daley agrees with what R. Costantino and J. Plourde are trying to come up with being a separate access for the ADU, but let's not design it. M. Thornton noted there must be two methods of access to a structure. J. Plourde said that one access was a window that was noted on the plan. M. Thornton indicated if we accept the window as an egress instead of a standalone entrance for the ADU, that is not ADA compliant. For future use, are stairs ADA compliant? It is in the basement with stairs. R. Costantino stated if an apartment building does not have an elevator, they have that same problem. T. Steel responded that is true and there would be ground level apartments that would be designated as the ADA compliant units. M. Thornton said his house has two steps to the inside and that is not ADA compliant. T. Steel asked if it was built before the ADA requirement was there?

L. Daley suggested the ordinance states the ADU shall meet building, fire, health and safety codes, the fire and building departments will work with the builders to make sure the ADU is built to those codes. Those departments will work with the applicant. J. Plourde questioned if that needs to be stated? L. Daley said a separate access into and out of the ADU is what the ZBA needs to look for. M. Thornton said if it must be ADA compliant an egress window would not be okay. L. Daley said it must meet local building codes so they will make sure it gets done, that is part of the building process. K. Lagro said the issue is that the plans we see do not look like they meet those requirements. J. Plourde said that is why the condition includes the revised plans will be submitted to Community Development in compliance with the local and state fire and safety codes. Without that stated, it looks to K. Lagro that it does not meet ADA requirements. J. Plourde said the separate entrance and the revised plans could be in the same condition.

MINUTES OF THE ZBA MEETING JUNE 4, 2020 VARIANCE CASE #2020-11
GLENDALE HOMES – VIA ZOOM

R. Costantino moved to have a condition that the plan provides a separate entrance for the ADU either on the outside or the interior of residence and submit associated revised plans to the Community Development Department that would be in compliance with state and local fire, safety and health codes. M. Thornton seconded. A poll was taken: T. Steel yes; K. Lagro yes; M. Thornton yes; R. Costantino yes; J. Plourde yes.

Voting:

The ZBA voted on the Special Exception 10.2.1:

- A. R. Costantino yes; T. Steel yes; M. Thornton yes; K. Lagro yes; J. Plourde
- B. K. Lagro yes; M. Thornton yes; T. Steel yes; R. Costantino yes; J. Plourde yes.
- C. M. Thornton yes; K. Lagro yes; R. Costantino yes, T. Steel yes; J. Plourde yes
- D. K. Lagro yes; M. Thornton yes; T. Steel yes; R. Costantino yes, J. Plourde yes
- E. R. Costantino yes; T. Steel yes; M. Thornton yes; K. Lagro yes; J. Plourde yes

The ZBA voted on the ADU SPECIAL EXCEPTION 10.2.6:

- A. R. Costantino yes; T. Steel yes; M. Thornton yes; K. Lagro yes; J. Plourde yes.
- B. K. Lagro yes; T. Steel yes; M. Thornton yes; R. Costantino yes; J. Plourde yes
- C. R. Costantino yes; K. Lagro yes; M. Thornton yes; T. Steel yes; J. Plourde yes.
- D. R. Costantino yes, T. Steel yes; M. Thornton yes; K. Lagro yes; J. Plourde yes.
- E. R. Costantino yes, K. Lagro yes; T. Steel yes; M. Thornton yes; J. Plourde yes.

Is the Special Exception allowed by the Ordinance? R. Costantino yes; T. Steel yes; K. Lagro yes; M. Thornton yes; J. Plourde yes.

Are all the specified conditions present under which the Special Exception may be granted? R. Costantino yes; M. Thornton yes; K. Lagro yes, T. Steel yes; J. Plourde yes.

M. Thornton moved to grant Special Exception 2020-11 with the conditions that were voted on. R. Costantino seconded. R. Costantino yes; K. Lagro yes; M. Thornton yes; T. Steel yes; J. Plourde yes.

Chair J. Plourde stated that the criteria of Special Exception have been satisfied and Case 2020-11 has been approved; there is a 30 day appeal process, end date for that is July 4, 2020. J. Plourde thanked the applicant for attending this ZBA virtual meeting.

Review of Minutes: The minutes of April 30, 2020 were reviewed. Minor corrections were made to the minutes of 2020-04, 2020-05, 2020-06 and 2020-07. J. Plourde indicated that a quorum is not available for those that were in attendance at this meeting, therefore a vote cannot be taken. P. Dargie explained that the minutes can be approved even without a quorum of attendees. M. Thornton does not know how he can approve minutes for a meeting he did not attend. R. Costantino said as long as we have three people that were in attendance we can approve the minutes. P. Dargie said it is not legally required. J. Plourde said when he was previously on the ZBA as long as there were 3 people, the minutes could be approved. M. Thornton said it would expedite the minute approvals, by not waiting until everyone at the meeting was here. L. Daley noted the Board can consider minutes and vote even if members are not in attendance. Minutes would never be approved if they were always waiting for a quorum of attendees. R. Costantino said some people might not have reviewed and commented so we should give them an opportunity to do that. M. Thornton did not read the minutes. J. Plourde does not have a problem waiting, at the next meeting the 4/30/2020 minutes will be voted on.

**MINUTES OF THE ZBA MEETING JUNE 4, 2020 VARIANCE CASE #2020-11
GLENDALE HOMES – VIA ZOOM**

R. Costantino asked if a meeting with Attorney Drescher has been set up? L. Daley anticipates getting an answer next week on the issue of hardship. He will not tell the Board what to decide, he will just help the Board to interpret the definition. J. Plourde said it will be helpful to the Board, as much information that we can get is great.

Motion to Approve: _____

Seconded: _____

Signed: _____

Date: _____

THE MINUTES OF 2020-11 DATED 6/4/2020 WERE APPROVED 7/16/2020