

**Town of Milford
Zoning Board of Adjustment
November 7, 2019
Case #2019-27
Derek Kuhn and Laura Maris
Variance Request**

Present: Joan Dargie, Vice Chair
Michael Thornton
Rob Costantino
Wade Scott Campbell, Alternate
Karin Lagro, Alternate

Paul Dargie, Board of Selectmen Representative

Absent: Steve Bonczar, Chair
Tracy Steel, Member
Lincoln Daley, Director of Community Development

APPROVED 3/5/2020

Case #2019-27

Derek Kuhn and Laura Maris, 351 Nashua Street, Milford, NH, Tax Map 30 Lot 49. Variance Application from the Milford Zoning Ordinance, Article V, Section 5.07.1.H to create a two-family residence by converting the rear office section of the mixed-used building into a 2nd residential unit on a lot requiring a minimum of 20,000 square feet and 150 linear feet of frontage within the Limited Commercial-Business 'LCB' district.

J. Dargie, Vice Chair acting as Chair, opened the meeting. She informed all of the procedures of the Board. She stated that there were four cases on the agenda but expected they would be able to hear all of them. She then introduced the Board members. Alternates K. Lagro and Wade Campbell were seated as a voting member.

J. Dargie read the notice of hearing into the record.

J. Dargie reviewed the meeting minutes with members for the September 19, 2019 Board of Adjustment Meeting for Case #2019-21, Case #2019-23, and Case #2019-24. After a briefly discussion, members had

1 no comments of changes to the minutes as drafted. Motion by M.Thorton and seconded by
2 R.Constantino. All in favor. W.Campbell abstained.

3
4 The applicant and owner of 351 Nashua Street, Derek Kuhn presented the Variance application to create a
5 two-family to the Board members. He then proceeded to read through the submitted application and
6 supporting Variance criteria.

7
8 Following the presentation of the application and supporting information by the applicant, J.Dargie
9 opened the discussion to the Board members.

10
11 R.Costantino inquired about the location of the parking and number of spaces on the property. D.Kuhn
12 responded that some of the parking would be located in the rear. He continued by stating that the site
13 contains approximately 6,000 square feet devoted to parking, which is ample to support the residential
14 use. A portion of the rear of the property would be converted to a yard space.

15
16 A general discussion then ensued regarding the use of the secondary driveway for parking and overflow
17 parking. Members raised concerns about using the secondary driveway for parking and egress onto
18 Nashua Street. The applicant agreed with the safety/egress issues raised by the Board and would consider
19 alternative uses such a green space. Members agreed with the statements of the applicant that the site
20 provided sufficient parking for the residential uses.

21
22 R.Costantino then asked the reason for the discontinuing the commercial use within the building. D.Kuhn
23 responded that he and his wife intend to live in one of the units and convert the rear portion of the
24 property to yard space. By maintaining a commercial use, it would require more parking and may impact
25 the ability to create the desired yard space. He cited that the commercial use would increase the level of
26 traffic onsite.

27
28 J.Dargie asked about total area of the each proposed unit. D. Kuhn stated that the rear unit would be
29 approximately 792 square feet and the front unit would be approximately 1,028 square feet. He the
30 reviewed the building layout, location of each unit, and future potential use of the attached barn for living
31 space. D.Kuhn stated that the barn was not part of the current application.

32
33 R.Costantino asked if the any exterior changes were being proposed. The applicant responded no.
34 D.Kuhn stated that they intend to eventually renovate the barn structure for living space to be added to the
35 proposed second residential unit. However, there will be no exterior changes to the barn and no intention
36 to create a third residential unit (multi-family).

37
38 D.Kuhn then proceeded to provide additional details of the floor plan for both units. The discussion then
39 turned towards the number of bedrooms and the cited number of parking spaces in the application.

40 K.Largo asked if there is sufficient parking for the eight (8) total bedrooms (four bedrooms per unit) if
41 only four (4) parking spaces are required. D.Kuhn responded that the site will have eight (8) spaces
42 available. After a brief discussion, members concluded that the site contained sufficient parking to
43 support the 8 bedrooms.

44
45 A general discussion then ensued regarding the proposed use, size of the property, and dimensional
46 frontage when compared to the surrounding properties. D.Kuhn stated the six (6) of the neighboring
47 properties on the same side of the street are both undersized and have less than the require 150 linear feet
48 of frontage.

49
50 R.Costantino stated properties on the opposite side of the Nashua Street contain a mixture of single and
51 multi-family, and commercial uses. He also pointed out that a number of businesses exist on same side.

1
2 J.Dargie opened the public hearing to the public. Seeing no public comment, J.Dargie closed the hearing
3 to the public.
4

5 J.Dargie then went through the Variance criteria with the Board.
6

7 **Vote on Variance Criteria:**
8

9 1. Would Granting the variance would not be contrary to the public interest?
10

11 R. Costantino stated the use is not contrary to public interest for the reasons that the proposal doesn't change
12 the character of the neighborhood and doesn't increase traffic. M.Thornton followed by stating that traffic
13 would comparatively increase if maintained as a commercial use compared to a residential use and the
14 exterior would not change. J.Dargie clarified that the second driveway would not be used for parking and
15 egress onto Nashua Street.
16

17 R. Costantino – yes
18 M. Thornton - yes
19 T. Campbell – yes
20 K. Lagro – yes
21 J. Dargie – yes
22

23 2. Could the variance be granted without violating the spirit of the ordinance?
24

25 R. Costantino stated granted the variance would not violate the spirit of the ordinance because two-families
26 are permitted by the ordinance (granted by Special Exception) and the proposed use will not change the
27 character of the building. J.Dargie added that lot was created prior to the adoption of the zoning ordinance
28 and the building was constructed in 1880.
29

30 R. Costantino – yes
31 M. Thornton - yes
32 T. Campbell – yes
33 K. Lagro – yes
34 J. Dargie – yes
35

36 3. Would granting the variance would do substantial justice?
37

38 R. Costantino stated that there is no gain to the public by not granting the variance.
39

40 R. Costantino – yes
41 M. Thornton - yes
42 T. Campbell – yes
43 K. Lagro – yes
44 J. Dargie – yes
45

46 4. Could the variance be granted without diminishing the value of abutting property?
47

48 Board members concurred that the value of the abutting properties would not diminish as the exterior of the
49 building and property would not be changed.
50

51 R. Costantino – yes

1 M. Thornton - yes

2 T. Campbell – yes

3 K. Lagro – yes

4 J. Dargie – yes

5
6 5. Would denial of the variance result in unnecessary hardship?

7
8 J.Dargie stated that there is nothing that distinguishes this property from the surrounding properties.

9 R.Costantino explained that the 150 linear foot frontage requirement was put established to maintain a
10 sufficient level of vehicular and pedestrian safety and density. In this instance, the proposed use would not
11 impact safety or density. M.Thornton stated the pre-existing, non-confirming conditions of the property and
12 building create the unnecessary hardship.

13
14 A general discussion then ensued regarding the variance question of what distinguishing this property from
15 others. R.Costantino stated that the hardship is due to not being able to use the property in compliance with
16 dimensional requirements. The pre-existing, non-conforming lot and use will not negatively impact the level
17 of vehicular and pedestrian safety and density.

18
19 R. Costantino – yes

20 M. Thornton – yes

21 T. Campbell – yes

22 K. Lagro – yes

23 J. Dargie – yes

24
25 J. Dargie said the Variance application was approved and informed applicant of the 30-day period for abutters
26 to appeal.

27
28 There being no other business, M.Thornton made motion to adjourn and seconded by R.Costantino. All in
29 favor.

30
31 Meeting adjourned at 7:40 p.m.