

**Town of Milford
Zoning Board of Adjustment
April 19, 2018
Case #2018-14
Monson Place RE Investments, LLC
Variance**

Present: Steven Bonczar, Chair
Michael Thornton
Rob Costantino
Wade Scott Campbell, Alternate
Tracy Steel, Alternate
Robin Lunn, Zoning Administrator

Absent: Jason Plourde, Vice Chair
Joan Dargie
Karin Lagro, Alternate
Laura Dudziak, Board of Selectmen Representative

Secretary: Peg Ouellette

Monson Place RE Investments LLC, for the property located at 15 Monson Place, Milford Tax Map 30, Lot 6, in the Residential A district, is seeking a Variance of the Milford Zoning Ordinances per Article II and V, Section 2.03.1.C and 5.02.0 to allow for a fourth dwelling unit in an existing three family dwelling.

DENIED May 3, 2018

Steven Bonczar, Chair, opened the meeting and introduced the Board members. Two regular members were absent, so the Alternates, T. Steel and W. Campbell were seated as voting members. He informed all of the procedures of the Board. He read the notice of hearing and invited the applicant to present their case. Andrea Kokko of Kokko Realty, representing the applicant, came forward. She said this property was recently purchased by the applicant who was looking for a variance to convert from a three unit to a four unit building. Property was currently in a state of complete disrepair. She had provided with the application the currently existing floor plan and what was proposed. She asked if she needed to list everything on the application. S. Bonczar told her to just touch on the highlights. He said he had some questions regarding responses on the application.

A. Kokkol had brought some handouts for the Bd. re the section of town in question. She said Monson Pl. over the years had become somewhat dilapidated in that area. In 2013 this investor purchased #7 Monson Pl., which included 12 Vine St. with a mobile home on it. He renovated it when granted permission for a new mobile home. When 15 Monson Pl. became available he decided it was an opportunity to continue helping this area. #15 had been vacant for two years. First vacancy and then foreclosure. It was her understanding from the town that they issued some kind of cease and desist, because the owner at that time

wouldn't keep the heating system up and the tenants living there were asked to leave. Current owner has painted exterior and put on a new roof. Neighbors have commented they were happy to see something going on. Request for variance came from fact that four units would allow renovation to be complete renovations, a two unit and allow a firewall down the middle and new kitchen and bath enhancements. Would make use of the barn space. Proposal fit on ¾ of an acre. Not asking to come out of the footprint. Just to be able to move into the barn area to create two- over- three multifamily. Three units would be more of a remodel than creating a nice multifamily. In the variance request she discussed this was actually bordered on all sides and across the street by multifamily buildings. No single family abutter. Commercial district runs along one side of Monson Place where multifamily houses allowed and abutted by multifamily houses. She didn't feel it would adversely affect abutting properties. Felt this renovation would help revitalize the area and be very good for the town as far as taxes coming in; it was in such a state of disrepair, not much revenue coming in at all. Property served by town water and sewer.

R. Costantino said he went and looked at it. Painting and roof looked good. Can't see all from the road. Looked like three decent parking spaces for cars. Where do they plan to park – in front or in back?

A. Kokko said technically they could. At this time, no plan for parking. There was brief questioning and answering about parking; A. Kokko said in addition to space available at #15 that #7 could be used for parking if needed.

T. Steel asked how many units at #7.

A. Kokko said three, all have front parking.

T. Steel asked how many cars per unit.

A. Kokko said two – currently there were two there.

T. Steel asked if there would be six total for #7 Monson.

A. Kokko said #7 faced Monson Pl and they had parking area that would fit probably eight. Where #15 came around there was paved area that could facilitate parking.

S. Bonczar said that went back to R. Costantino's question whether there was enough on the property. If either was sold. Didn't like using parking from #7 to satisfy #15.

A. Kokko said this abutted so much they had have a minimum of two to four cars on the property and additional parking area. When you were at Monson it was difficult to see how far that lot line came. If you looked at #7 where the dumpster was, it actually belonged to #15.

T. Steel asked, the area where the trees were.

A. Kokko said yes, all trees and to the dumpster belonged to #15.

R. Costantino said there didn't appear to be enough room to park on both sides of the drive. When he was there someone was driving up from below and used that corner. Were they supposed to? Was it public?

A. Chappell said no. It was a private way but it serviced both properties

S. Bonczar said there was an easement there.

R. Costantino said it looked like you could fit on the house side but not on the other side.

A. Kokko said trees would have to come down.

M. Thornton asked how many trees.

A. Kokkol said four or five little scrub trees.

T. Steel said they didn't look significant.

A. Kokko said she wasn't sure she had anything else to add unless there was something they wanted her to touch on.

R. Costantino asked if the entrance from the porch on the proposed first floor was how you got in.

A. Kokko said yes.

R. Costantino said, then going through a door, the way the sketch was drawn, you were entering a common area to get to the first unit kitchen, bath and living area or bedrooms, or go upstairs.

A. Kokko said there was a door to end of the staircase

R. Costantino asked if there was a door for the first unit and to the second unit.

A. Kokko said yes.

S. Bonczar asked if any further questions. None. He asked A. Kokko to go over answers to hardship.

A. Kokko read, re 5A, property was surrounded by multifamily dwellings, with multiple non-conforming uses existing for the residence R [should be residence A] district. (see rest of response on application.)

M. Thornton said there was a slight difference from what she had printed with the owner being treated differently vs. the owner being treated unfairly.

109 A. Kokko apologized – “treated differently.”
110 S. Bonczar asked for any comments.
111 R. Costantino said usually hardship was on the land where it had hardship over some other property that
112 caused you not to be able to do something.
113 M. Thornton said too big a slope or something like that.
114 R. Costantino said, as opposed to financial gain.
115 S. Bonczar said they couldn’t even consider that.
116 R. Costantino said this seemed to be talking about a financial hardship. It was already a multifamily
117 residence plan.
118 A. Kokko said that was correct.
119 R. Costatnino said it was just three and they wanted four. He didn’t see it met the definition of hardship with
120 the land.
121 S. Bonczar said land, or use in this case. That was his biggest hang up. They wanted a multifamily in the
122 neighborhood, which was true. But at the same time this was already a multifamily. The variance which
123 was already a nonconforming use in a sense even though that was done by variance in 1978 when it was
124 made into the three family. He was guessing that it may have been a multifamily prior to zoning laws. They
125 now want a variance to grant four. It was still multifamily, except bigger.
126 A. Kokko understood. She looked it up. Years ago she remembered seeing something that said you weren’t
127 supposed to talk about money on hardship. She struggled to find that in the zoning this time. They were
128 talking about a property and neighborhood that someone was trying to repair, and the fourth unit was
129 something that could be done very easily and without any further expansion. Going with the land she was
130 struggling with a bit because she was under the impression that variance was basically anything that was
131 seeking to change the bulding, land or use of it, and in theory they were. But it was vacant otherwise and
132 unusable. They were talking about a multifamily which don’t use barn areas.
133 S. Bonczar read Criteria 5(A)(i) , which he said was the relationship test. The other part (ii) was the
134 reasonable use test. He thought the proposal was a reasonable use. The question was whether it was a
135 hardship based on the specific purposes of the ordinance and the proposal due to some character of the
136 property, etc. It asked if the restriction on the property was necessary to give full use of it without frustrating
137 the purpose of the ordinance. They had to decide if it would “frustrate” the purposes of the ordinance if they
138 grant this. He could flip a coin and say it was already a multifamily and would remain that except instead of
139 three units there would be four.
140 R. Costantino said in 1978 it said it made the third unit part of the barn. So this was one level of the barn and
141 this would be the second.
142 A. Kokko said they popped a one-bedroom into the upper level of the barn. As far as something mentioned
143 earlier, but she believed it was the only multifamily in that area with a barn attached. #7 had a full barn
144 attached to it and in the 1970’s or 80’s they came and asked to finish it into a large house attached to the
145 multifamily. Going to the earlier comment about hardship to the other structures in the area, she believed it
146 was only one with unfinished barn space like that. She knew of at least one that had converted into living
147 area.
148 R. Costantino said he would be more apt to be in favor with a condition on the parking. Would be afraid
149 they would get in there and not have enough space if someone had a visitor and they will block someone.
150 M. Thornton asked if the space underneath that went down – would that be a living area?
151 A. Kokko said no.
152 M. Thornton said it was a parking space; they were counting it as an entrance.
153 A. Kokko said it wasn’t their parking space.
154 R. Constantino didn’t know what adequate parking was. Certainly four.
155 T. Steel if you had an apartment with two people in there and both had cars, and if they had a visitor.
156 M. Thornton said you needed eight or ten.
157 T. Steel said the road was pretty narrow and pretty touch to turn around in.
158 R. Costatino said you couldn’t turn around without a driveway.
159 A. Kokko said she hadn’t looked into it at that point. It sat on over ¾ of an acre. Large back yard. If you
160 needed to use that to get parking it would be.
161 R. Costantino asked how many spaces she thought would be reasonable.

162 A. Kokko said it would have to be eight. That would be reasonable given the neighborhood and other
163 surrounding multifamily homes. She understood they were asking for a variance for that. Others in the area
164 had only one because they didn't have enough room.
165 M. Thornton mentioned adequate access to the back yard and putting down gravel or something.
166 A. Kokko thought she would have to go to the Planning Bd. Would probably be gravel.
167 S. Bonczar asked R. Costantino if that satisfied him.
168 R. Costantino said he was on the fence with criteria #5. Would be more apt to be in favor with a condition
169 that they had eight spaces for the four units.
170 S. Bonczar asked if that was something they could meet. Looking at the material he couldn't tell if they
171 could get four or ten cars in there. Could A. Kokko state they could do that? Didn't want to put in a
172 condition that couldn't be met.
173 A. Kokko felt she could meet it. If they wanted to put a condition on it that it needed eight spaces then after
174 this meeting she would meet with the construction people and make sure this was something they could do.
175 S. Bonczar asked for any questions re the other statements re the application for a variance.
176 R. Costantino said, just as a comment, that he didn't agree with where it talked about improving the property
177 in the neighborhood, going from two to three units. He didn't think it would be making a difference, but he
178 didn't think it would make the neighborhood residences more value. "It would help increase the value of
179 surrounding property values significantly" (response to #1). What they were doing improved the property
180 and painting did, but didn't see what that having another apartment would do that.
181 M. Thornton said nobody could see the interior.
182 R. Costantino said they could make three apartments in that and hopefully be rewarded for that but didn't see
183 that having four would significantly improve surrounding properties. Just a comment.
184 S. Bonczar asked for any other comments.
185 T. Steel asked how many bedrooms.
186 A. Kokko said two one-bedroom and two two-bedroom.
187 R. Costantino asked if anybody was currently in there.
188 A. Kokko said one.
189 S. Bonczar opened public comment. None. He didn't want to close public comment until he knew there
190 were no other questions re the application or presentation. None.
191 M. Thornton was wondering how the assertion that it would increase property values was derived.
192 A. Kokko apologized, if it was stated incorrectly. It was that renovation in and of itself increased property
193 values. She said a four-family vs. a three-family would be valued higher for tax purposes and in area.
194 M. Thornton said they couldn't take that into consideration.
195 A. Kokko said for other properties surrounding it. If the property next to it were \$400,000 rather than
196 \$300,000 it helps their property as well.
197 M. Thornton said the last paragraph on page was the crux of the matter.
198 S. Bonczar asked for any other questions or comments. None. He closed the public comment.
199
200 S. Bonczar moved into discussion of criteria for a variance.
201

202 **Granting the variance would not be contrary to the public interest because:**

203 M. Thornton didn't see any benefit to town or public around in limiting it to three instead of four.
204 Thought if the parking was left as it was, moving to a four-apartment would not be practical because
205 it would not have sufficient parking.
206 R. Costantino would like, if it was approved, that it be approved with a parking plan.
207 S. Bonczar asked, two per unit?
208 R. Costantino said yes. That was what she thought, without checking with the engineer, could be
209 done.
210 That would be reasonable and would satisfy some of this in a positive direction.
211 S. Bonczar said he would keep it in mind toward the end. Wanted to state that talking about contrary
212 to the public interest applicant had to show there would not be any harm to the public if granted.
213 Thought applicant had done that.
214 W. Campbell and T. Steel said no.

215 R. Costantino said it could be harm if there were not adequate parking. S. Bonczar said that was
216 fine.
217

218 **If the variance were granted, the spirit of the ordinance would be observed because:]**

219 M. Thornton said there was no reason that it would be more observed with four instead of three. But
220 didn't see any reason spirit would be broken if they allowed four.

221 R. Costantino agreed with M. Thornton.

222 W. Campbell agreed with M. Thornton.

223 S. Bonczar read Sec. V, Res. A., Intent and Uses. With that, even though it really didn't meet that
224 intent, it was going to make it less in conformance with the ordinance for Res. A.

225 R. Costantino agreed.

226 S. Bonczar said in his opinion the spirit of the ordinance would not be observed. M. Thornton asked
227 why. S. Bonczar said because Res. A was low density single family. Structure there already
228 violated that but what was being proposed here for variance wasn't improving that or becoming
229 closer to the definition of what Res. Zoning was.

230 M. Thornton agreed.

231 R. Costantino agreed.
232

233 **Granting the variance would do substantial justice because:**

234 S. Bonczar read through this criteria.

235 M. Thornton didn't see benefit to the public if they approved it with the condition. Didn't see how
236 one more dwelling space without adequate parking would be of benefit to the town. Town didn't get
237 anything from it. Whereas the proposed four dwelling space within the same footprint would have
238 great benefit to the owner. If they didn't get it, it would have a large negative effect.

239 T. Steel said there was for house apartments rather than larger commercial buildings. It would be
240 appreciated having an additional unit. People always looking for living space and not a large
241 apartment block. On that it would be beneficial to the town.

242 M. Thornton said he didn't really want more of those giant buildings

243 T. Steel said this would not be like that.

244 M. Thornton said it would be the same footprint.

245 S. Bonczar said he had no issue with that one. It would do substantial justice.
246

247 **Granting the variance would not diminish the value of the surrounding properties because:**

248 T. Steel agreed. All multifamily properties. Would be an additional family living in it.

249 M. Thornton said he didn't see how anybody would know a difference of any amount of loss of
250 anyone driving by or standing across the street. Didn't see from outside any loss to the
251 neighborhood or community.

252 R. Costantino would only agree, with a parking condition.

253 T. Steel said parking should definitely be limited.

254 M. Thornton said that was prudent.

255 S. Bonczar said approval would not diminish surrounding properties.
256
257
258

259 **Unnecessary hardship:**

260 S. Bonczar read the first paragraph.

261 R. Costantino said by letter of the law he would say there was no hardship.

262 M. Thornton said if it was, he didn't hear it adequately addressed.

263 S. Bonczar said he had trouble with this also. Applicant talked about a multifamily; in that this was a
264 multifamily, didn't see where there was a hardship. They already had a multifamily that didn't fit
265 current zoning for that zone and this was a kind of expansion of that. Thought they had adequate and
266 fair use of the property as it was. There were other multifamily properties in that neighborhood and
267 they were not different in any way, shape or form from those other properties.

268 R. Costantino agreed with that.

269 M. Thornton said if they didn't approve there would be no need for a condition.
270 S. Bonczar said they had to vote on the condition and then vote on the criteria individually. He
271 asked for any other comments on this criteria. None.
272

273 **Is the proposed use a reasonable one?**

274 S. Bonczar said this was the use test. The use was similar to uses there now. Didn't have an issue
275 with that part.

276 R. Costantino agreed.

277 S. Bonczar said it may be unreasonable in the fact that they were expanding property that wasn't in
278 the spirit of the ordinance in the first place.

279 M. Thornton agreed.
280

281 S. Bonczar asked if they had anything else to add. Asked R. Costantino to form a condition on the parking if
282 this was approved.

283 R. Costantino asked if they were voting individually.

284 S. Bonczar said they had to vote individually. Had to design a condition and vote on it.

285 M. Thornton suggested, conditional upon approval for fourth unit that would require eight parking spaces. If
286 they didn't approve, it didn't require them to put in more spaces.

287 S. Bonczar said a condition was based on approval. If they didn't approve it they could keep it without more
288 parking.

289 It was suggested that "Approval would include the creation of two parking spaces per unit."

290 T. Steel asked if that would include existing parking, or additional?

291 R. Costantino said total

292 S. Bonczar said to put "for a total of eight parking spaces." Technically there were no parking spaces.

293 M. Thornton said the provision to park eight automobiles.

294 T. Steel said looking at the photos it looked like you could park three or four in front of the barn if you
295 include that space.

296 M. Thornton said if the barn door would open it would give covered space as well as one in front if the rocks
297 weren't there.

298 S. Bonczar said approval would include a provision to allow for parking for two vehicles per unit. Others
299 agreed. He asked for a motion to include that condition.

300 R. Costantino moved.

301 T. Steel seconded.
302

303 **Vote on Condition:**

304 T. Steel – yes

305 W. Campbell – yes

306 M. Thornton – yes

307 R. Costantino – yes

308 S. Bonczar – yes
309

310 S. Bonczar said the above motion would be included in any approval of this application.

311 S. Bonczar asked for anything else to add to the record before voting. Nothing.
312

313 S. Bonczar then proceeded to the vote on the criteria for a variance, with the condition:
314

315 **1. Would granting the variance not be contrary to the public interest?**

316 M. Thornton – yes; T. Steel – yes; R. Costantino – yes; W. Campbell – yes; S. Bonczar – yes
317

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

319 R. Costantino – no; M. Thornton – yes; T. Steel – yes; W. Campbell – yes; S. Bonczar – no
320

321 **3. Would granting the variance do substantial justice?**

322 W. Campbell – yes; T. Steel – yes; R. Costantino – yes; M. Thornton – yes; S. Bonczar – yes

323
324 **4. Could the variance be granted without diminishing the value of abutting property?**

325 M. Thornton – yes; W. Campbell – yes; T. Steel – yes; R. Costantino – yes; S. Bonczar – yes

326
327 **5. Would denial of the variance result in unnecessary hardship taking the following into**
328 **consideration:**

329 R. Costantino – no; M. Thornton – no; T. Steel – no; W. Campbell – no; S. Bonczar – no

330
331 S. Bonczar said based on the vote the criteria had not been satisfied and the variance was denied, by 5 to 0
332 vote.

333 S. Bonczar informed applicant of the 30-day appeal period.

334 There being no other business before the Board, R. Costantino moved to adjourn.

335 W. Campbell seconded.

336 All in favor.

337 Meeting adjourned at 8:45 p.m.