

TOWN OF EAST KINGSTON ZONING BOARD OF ADJUSTMENT

MEETING MINUTES

May 26, 2022

Pound School
41 Depot Road
East Kingston, New Hampshire

Tim Allen, Chair
Ed Robbins, Vice Chair
7:00PM

AGENDA

Donahue ADU Special Exception – 26 Haverhill Road
Bonnievie (Palladino) ADU Special Exception – 2 Woldridge Lane

Board Members present: Ed Robbins – Vice Chair, Dave Ciardelli, Frank Collamore, Nate Maher, and Alternate Paul Falman.
Absent: Tim Allen – Chair

Applicants and members of the public who participated in the meeting: Shawn Donahue, Tanya Donahue, Randy Bonnievie, Margaret Bonnievie, and Terrence Waldron.

Vice Chairman Robbins opened the meeting at 7:00pm followed by the roll call. Noting the absence of Chairman Allen, he designated alternate Paul Falman to participate and vote on any matters before the board.

He then provided instruction as to the public hearing process (applicant to present, board to field questions, public comment, board discussion, board decision). He noted the difference between a special exception and a variance in that a special exception allows for uses that are permitted under zoning requirements, while a variance provides relief from a zoning requirement.

PUBLIC HEARING - SHAWN DONAHUE AND PATRICIA GOODWIN – property located at 26 Haverhill Road (MBL# 09-02-04) on 1.6 acres in the Commercial District. Application for a Special Exception to permit an Accessory Dwelling Unit (Zoning Ordinance Article VIII.F).

Vice Chair Robbins opened the public hearing for Shawn Donahue and Patricia Goodwin at 7:03pm and noted this was a continuation from the May 4th meeting to allow the applicant to submit a septic design plan. Although the board went through the requirements at the last meeting, he would review each item as part of this meeting's record.

- a. *A single-family dwelling located in a zoning district that allows single-family dwellings may be permitted one accessory dwelling unit.* – MET: The property is located in a commercial zone where the use is permitted.
- b. *Ownership. The owner of the property shall occupy one of the units as a primary residence and be owner of both the primary dwelling unit and the accessory dwelling unit. These ownership and residency provisions shall not change in the event the property is sold. Any kind of condominium ownership arrangement for the accessory dwelling unit and/or the principal dwelling unit is prohibited.* – MET: Mr. Donahue is co-owner of the property with his mother and both he and his mother will reside at the premises.
- c. *Living Area Configuration. The total living area for an accessory dwelling unit shall not exceed 900 square feet. The accessory dwelling unit shall have no more than two (2) bedrooms. Dormitory-style facilities are expressly prohibited, whether seasonal or otherwise.* – MET: The total square footage of the unit including the shared breezeway is 864 square feet.
- d. *Construction. Only one accessory dwelling unit is permitted per parcel or lot. The accessory dwelling unit shall be constructed within or attached to the principal dwelling to preserve the appearance of a single-family dwelling and clearly secondary to the principal dwelling unit. Attached means having a shared wall or connected by a covered and enclosed structure. There shall be a connecting door between the primary dwelling and the accessory dwelling unit. An outside entry way to the accessory dwelling unit shall not be placed on the front/street side.* – MET: This

is a single-family dwelling that will connect via a covered breezeway to an accessory unit located above a two-car garage.

- e. *Manufactured Housing. The addition of an accessory dwelling unit to a manufactured home is prohibited in manufactured home parks or when a manufactured home is under condominium ownership.* – MET: The home is not located in a manufactured home park or under condominium ownership
- f. *Parking. Off-street parking shall be available for a minimum of two automobiles for the accessory dwelling unit. Room for vehicle ingress and egress on site shall be provided.* – MET: Ample parking is provided that includes a double width paved driveway and an unpaved extension for turnaround.

Vice Chair Robbins then proceeded to address the septic design plan which was not provided at the May 4th meeting.

- g. *Septic facilities and water. An accessory dwelling unit shall conform to all applicable water and sanitary standards for residential structures.*

Prior to Special Exception approval by the Zoning Board of Adjustment for an Accessory Dwelling Unit, the owner shall provide evidence as part of the Special Exception application that septic facilities are adequate to serve both the principle dwelling and the accessory dwelling unit. This initial evidence shall be in the form of a replacement septic system design plan prepared by a state licensed Septic System Designer sized to accommodate both the primary dwelling and accessory dwelling. The Zoning Board of Adjustment Special Exception approval shall be conditional upon approval of the septic replacement plan by the NH Department of Environmental Services. Alternatively, if the existing septic system is state approved and adequately sized to accommodate both the primary dwelling and accessory dwellings and conforms to state and local requirements, an applicant may choose to submit a copy of the existing septic system plan and an inspection report by a state licensed Septic System Designer detailing the condition of the existing system.

Vice Chairman Robbins noted the board was in receipt of a new septic plan design by Dennis Quintal which depicted two separate septic systems on the property: an existing septic system and a newly proposed system located at the back of the property. Discussion ensued on the existing system in that it was reported at the last meeting the system was at end of life. Mr. Donahue explained that they thought the system was at end of life but that it turns out there was a clog in the system and that ground water was back feeding into the system. This has since been corrected and the system is functioning as it should.

Further review of the plan showed that the newly proposed system was located approximately 10 feet from the property line. Per Article IX Lot Area and Yard Requirements, septic system leach field boundaries shall be located more than 20 feet from any property boundary, 75 feet from any surface water, 75 feet from existing or proposed private wells, and 125 feet from existing or proposed community wells. Additionally, it was noted the septic system design plan should be sized to accommodate *both* the primary dwelling and accessory dwelling. This would mean that the design plan would be for a single septic system large enough to accommodate four bedrooms (two in the main home and two in the ADU).

Requirements also state: *Alternatively, if the existing septic system is state approved and adequately sized to accommodate both the primary dwelling and accessory dwellings and conforms to state and local requirements, an applicant may choose to submit a copy of the existing septic system plan and an inspection report by a state licensed Septic System Designer detailing the condition of the existing system.*

Mr. Donahue was provided this option; however, it was determined the existing septic system was for a three-bedroom home, thus the inspection report option was not applicable to his situation. He was further advised that should the newly proposed system location remain as part of the plan; he would need to apply for a variance as the plan does not meet the 20-foot setback requirement.

Board members reiterated for clarification that the applicant would need to provide a new single septic plan for a minimum of four-bedrooms in order to meet the requirements for an accessory dwelling unit. The septic plan would need to accommodate both the existing home and the ADU. The septic plan would need to meet all applicable setback requirements or seek relief by way of a variance.

Vice Chairman Robbins opened the floor to public comments; there was none.

MOTION: Mr. Collamore motioned to continue the public hearing for Shawn Donahue and Patricia Goodwin of 26 Haverhill Road, MBL# 09-02-04, regarding their application for a special exception for an accessory dwelling unit to the June 23, 2022 ZBA meeting. Mr. Falman seconded. With no further discussion the motion passed 5-0-0.

Vice Chairman Robbins closed the public hearing for Donahue and Goodwin at 7:26pm.

PUBLIC HEARING - Bonnevie Construction (Owner: Diane Palladino Rev. Trust) – property located at 2 Woldridge Lane (MBL# 03-02-12) on 3.94 acres in a residential zone. Application for a Special Exception to permit an Accessory Dwelling Unit (Zoning Ordinance Article VIII.F.

Vice Chairman Robbins opened the public hearing for Bonnevie Construction at 7:27pm. Randy Bonnevie presented a plan to create an accessory dwelling unit as part of a new build to the existing dwelling which would consist of a new three-bay garage, shared laundry facilities, new ADU. The existing septic system would be removed and replaced with a new six-bedroom system.

The board then reviewed the special exception criteria as outlined in Article VIII Permitted Uses. F. a-g:

- a. *A single-family dwelling located in a zoning district that allows single-family dwellings may be permitted one accessory dwelling unit.* – The property is located in a residential zone where the use is permitted.
- b. *Ownership. The owner of the property shall occupy one of the units as a primary residence and be owner of both the primary dwelling unit and the accessory dwelling unit. These ownership and residency provisions shall not change in the event the property is sold. Any kind of condominium ownership arrangement for the accessory dwelling unit and/or the principal dwelling unit is prohibited.* – Margaret Bonnevie, homeowner's daughter, will reside in the ADU.
- c. *Living Area Configuration. The total living area for an accessory dwelling unit shall not exceed 900 square feet. The accessory dwelling unit shall have no more than two (2) bedrooms. Dormitory-style facilities are expressly prohibited, whether seasonal or otherwise.* – Mr. Bonnevie presented the living space of one bedroom, 886 square feet of living space.
- d. *Construction. Only one accessory dwelling unit is permitted per parcel or lot. The accessory dwelling unit shall be constructed within or attached to the principal dwelling to preserve the appearance of a single-family dwelling and clearly secondary to the principal dwelling unit. Attached means having a shared wall or connected by a covered and enclosed structure. There shall be a connecting door between the primary dwelling and the accessory dwelling unit. An outside entry way to the accessory dwelling unit shall not be placed on the front/street side.* – Mr. Bonnevie presented a shared laundry area as the shared/connected wall to the ADU.
- e. *Manufactured Housing. The addition of an accessory dwelling unit to a manufactured home is prohibited in manufactured home parks or when a manufactured home is under condominium ownership.* – This is not a manufactured home in a manufactured home park or under condominium ownership.
- f. *Parking. Off-street parking shall be available for a minimum of two automobiles for the accessory dwelling unit. Room for vehicle ingress and egress on site shall be provided.* – The driveway and proposed three-car garage can accommodate seven cars total.

- g. *Septic facilities and water. An accessory dwelling unit shall conform to all applicable water and sanitary standards for residential structures.*

Prior to Special Exception approval by the Zoning Board of Adjustment for an Accessory Dwelling Unit, the owner shall provide evidence as part of the Special Exception application that septic facilities are adequate to serve both the principle dwelling and the accessory dwelling unit. This initial evidence shall be in the form of a replacement septic system design plan prepared by a state licensed Septic System Designer sized to accommodate both the primary dwelling and accessory dwelling. The Zoning Board of Adjustment Special Exception approval shall be conditional upon approval of the septic replacement plan by the NH Department of Environmental Services. Alternatively, if the existing septic system is state approved and adequately sized to accommodate both the primary dwelling and accessory dwellings and conforms to state and local requirements, an applicant may choose to submit a copy of the existing septic system plan and an inspection report by a state licensed Septic System Designer detailing the condition of the existing system. – The septic plan presented is for a six-bedroom system which will replace the current system in place.

Board members reviewed the septic plans as presented. Fielding board questions, Mr. Bonnevie stated the proposed system will be located in the same location as the existing system using a pump-up system due to the ADU and newly proposed garage being located at a lower level than the main dwelling. Lots of fill will be brought in and the design is for a twin tank and single leach field. The board also identified the streetside, driveway, and primary entrance on the plan.

Vice Chairman Robbins opened the hearing to public comment. Mr. Terrence Waldron of 4 Woldridge Lane noted numerous items of noncompliance:

- Total living area calculation was incorrect in that it should include the space above the new garage as well as the shared laundry area – over 2000 square feet being created with the new plan.
- Single family dwelling appearance is not maintained as the proposal depicts a multifamily unit separated by a large garage (no shared wall to the existing home)
- Missing items from plot plan – abutting streets, buildings not correctly shown
- Application itself is missing information

He further presented that allowing the application to move forward would be setting a precedence for future ADU proposals.

Board members noted the plan consists of new construction with and ADU, the ADU has to be connected by a shared wall of the existing dwelling, and that the garage attic space has not been accounted for in the plan.

Mr. Bonnevie stated the second floor of the newly proposed garage is for storage and not part of the ADU. Board members responded that this information is not reflected on the plan, nor is the living space configuration/calculations – this needs to be clarified to ensure the application is meeting the town's requirements for living area. A shared wall does not exist on the plan as it must be an existing wall, not a newly created shared laundry room. Additionally, there is no existing conditions documentation, and there are several parts of the application that are not complete. The appearance of the home must present as a single-family home; the ADU should not create the appearance of a duplex, which is what the current plan reflects – it looks like two pods connected by a new garage, which is not in the spirit of the ordinance.

Vice Chairman Robbins closed the hearing to public comment. Board members then reviewed their findings:

- The appearance of a single-family home requirement has not been met.
- The provision for a shared wall has not been met. – The ADU needs to be attached to the existing house.
- The plan set does not reflect the actual layout of the property/building.
- The application is not completed with respect to answering all the required information.

Possible reconfigurations were discussed; however, it was noted that providing design suggestions was not in the purview of the board nor recommended. A checklist was provided to the applicant to ensure compliance on any future plans.

MOTION: Mr. Falman motioned the board deny the application for special exception for an accessory dwelling unit for Bonnevie Construction based on the following reasons:

- 1. The proposed accessory dwelling did not preserve the appearance of a single-family dwelling.**
- 2. The proposed accessory dwelling did not include a shared wall with the existing dwelling.**
- 3. The proposed accessory dwelling unit exceeded 900 square feet of living space.**
- 4. The septic plan submitted did not reflect the actual layout of the property/existing building.**
- 5. The application was deemed incomplete with respect to specificity of description of property and description of proposed use showing justification for a special exception as specified in the zoning ordinance.**

Mr. Ciardelli seconded. With no further discussion the motion passed 5-0-0.

The applicant was then advised on the application submission deadline for the July meeting (posted to website). Vice Chairman Robbins then closed the public hearing at 7:58pm.

APPROVAL OF MINUTES

Board members reviewed the minutes from May 4, 2022.

MOTION: Mr. Ciardelli motioned to approved the May 4, 2022 minutes; Mr. Collamore seconded. With no further discussion the motion passed 5-0-0.

OTHER BUSINESS

The board was updated on board member recruitment efforts (open house sessions at June, July, and August Planning Board meetings), and on communication efforts (email distribution, Facebook and website postings). Discussion ensued on the application process with respect to what constitutes a completed application for moving forward for public hearing.

With no other business before the board,

MOTION: Mr. Maher motioned to adjourn the meeting; seconded by Mr. Ciardelli. The motion passed 5-0-0.

The meeting adjourned at 8:16pm.

Respectfully submitted,

Catherine Belcher

Land Board Secretary

Minutes approved on June 23, 2022.