



DRAFT

ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, September 27, 2023
Belmont Mill & Zoom
Belmont, NH 03220

Members Present: Chairman Peter Harris and Members David Dunham, John Froumy, Sharon Ciampi, and Alternate Member Reese Grey

Members Absent: Mark Mastenbrook

Staff Present: Karen Santoro, Town Planner, and Susan Austin, Land Use Administrative Assistant.

ZOOM: iPad (4)

6:00 Public Meeting

The Chairman opened the meeting at 6:02 pm and welcomed those in attendance and announced that as Chairman of the Belmont Zoning Board of Adjustment, this public body is authorized to meet using electronic means. He said that the Board gave notice to the public of the necessary information for accessing the meeting using Zoom or telephone, and he announced that any party experiencing any difficulty in accessing the meeting at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

Chairman Harris stated that he would like to remind everyone to be respectful to each other and the Board members and to please direct all questions and comments to the Board. The public will be allowed the opportunity to address the Board during the public hearing.

Chairman Harris appointed Reese Grey as a voting member.

Abutter's Hearing: Michael Gagne-Matt Smith: Request for a variance of Article 5, Table 2 of the Zoning Ordinance to build a 16' x 24' addition off of the rear of the house 23' from the side lot line, where 25' is required. Property is located at 50 Silkwood Avenue, Tax Lot 206-029-000-000, in the Rural Zone. ZBA Case # 15-23Z

Abutter's Hearing: Michael Gagne-Matt Smith: Request for a variance of Article 5, Table 2 of the Zoning Ordinance to build a 16' x 24' addition off of the rear of the house 8.7' from the rear lot line, where 25' is required. Property is located at 50 Silkwood Avenue, Tax Lot 206-029-000-000, in the Rural Zone. ZBA Case #16 -23Z

M. Gagne was present to discuss his application. He stated that when they had the survey done, they realized that they were closer to the property line than they originally thought. He stated that the home was built at such an angle that they cannot avoid being in the setback, so they are asking for relief.

Departmental Responses:

Building/Code Enforcement Officer: Could be an issue in the future if golf course expands to 18 holes?

Staff Comments:

Lot is .23 acres

Existing house is pre-existing nonconforming.

House sits at an angle to the front property line; limits expansion without relief.

Chairman Harris stated that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: Relative size or number of dwelling units as compared with existing stock; Proximity to the borders of a neighboring community; Transportation networks; Anticipated emissions such as light, noise, smoke, odors, or particles; Proximity to aquifers or surface waters which transcend municipal boundaries; Shared facilities such as schools and solid waste disposal facilities.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.
J. Froumy seconded the motion.
Vote: All in favor, motion carried (5/0)

Chairman Harris opened the public comment. There was no public comment.

MOTION: J. Froumy moved to grant the request for a variance of Article 5, Table 2 of the Zoning Ordinance to build a 16' x 24' addition off of the rear of the house 23' from the side lot line, where 25' is required. Property is located at 50 Silkwood Avenue, Tax Lot 206-029-000-000, in the Rural Zone. ZBA Case # 15-23Z, based on the following criteria:

1. *The variance will not be contrary to the public interest because:* The proposed use doesn't conflict with the explicit or implicit purpose of the ordinance and doesn't alter the essential character of the neighborhood and it does not threaten public health, safety or welfare, or otherwise injure public rights, because of this, it meets the standard of the variance criteria.
2. *The spirit of the ordinance is observed because:* same answer as above.
3. *Substantial justice will be done because:* Any loss to the individual that is not outweighed by a gain to the general public is an incorrect judgment on behalf of the Zoning Board. Approving it will not cause any harm to the public, therefore it meets these criteria.
4. *The variance would not diminish the value of surrounding properties because:* There is no testimony to contradict the opinion of this motion that the surrounding property values would be diminished. It is a brand-new structure being added on to a well-kept structure, so in no way should it diminish the surrounding property values.
5. *Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following:* Unnecessary hardship as defined by the law is hardship that is presented by the property, not a hardship that is

experienced by the owner of the property. The property that the applicant has presented here is a property that is very small, with a small house that was built on an angle as well, and it meets the criteria because the hardship cannot be overcome in a reasonable fashion and still meet the first four criteria.

6. Additional conditions:

- a. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- b. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding the same.
- c. Approval expires on 9/27/25 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

S. Ciampi seconded the motion.

Vote: All in favor, motion carried (5/0)

MOTION: J. Froumy moved to grant the request for a variance of Article 5, Table 2 of the Zoning Ordinance to build a 16' x 24' addition off of the rear of the house 8.7' from the rear lot line, where 25' is required. Property is located at 50 Silkwood Avenue, Tax Lot 206-029-000-000, in the Rural Zone. ZBA Case # 16-23Z, based on the following criteria:

1. *The variance will not be contrary to the public interest because:* The proposed use doesn't conflict with the explicit or implicit purpose of the ordinance and doesn't alter the essential character of the neighborhood and it does not threaten public health, safety or welfare, or otherwise injure public rights, because of this, it meets the standard of the variance criteria.
2. *The spirit of the ordinance is observed because:* same answer as above.
3. *Substantial justice will be done because:* Any loss to the individual that is not outweighed by a gain to the general public is an incorrect judgment on behalf of the Zoning Board. Approving it will not cause any harm to the public, therefore it meets these criteria.
4. *The variance would not diminish the value of surrounding properties because:* There is no testimony to contradict the opinion of this motion that the surrounding property values would be diminished. It is a brand-new structure being added on to a well-kept structure, so in no way should it diminish the surrounding property values.
5. *Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following:* Unnecessary hardship as defined by the law is hardship that is presented by the property, not a hardship that is experienced by the owner of the property. The property that the applicant has presented here is a property that is very small, with a small house that was built on an angle as well, and it meets the criteria because the hardship cannot be overcome in a reasonable fashion and still meet the first four criteria.

6. Additional conditions:

- a. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- b. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding the same.
- c. Approval expires on 9/27/25 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

S. Ciampi seconded the motion.

Vote: All in favor, motion carried (5/0)

Abutter's Re- Hearing: Tradz, LLC: Re- Hearing of a Request for Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow expansion of the existing contractor's yard to include towing of motor vehicles on a flatbed truck in the Rural Zone. Property is located at 194 Gilmanton Road, Tax Lot 241-019-000-000, ZBA Case #11-23Z

Chairman Harris recused himself. Vice Chair Froumy took over as Chair.

Vice Chair Froumy stated that they had a short board tonight due to a member being absent. Ethan Woods and Stephen Condodemetraky were present for the application. E. Woods asked for a short recess to confer with his client

The applicant and his attorney returned to the table and stated that they would like to proceed with four members.

E. Wood stated that he would like to touch on the criteria and history of the lot. He stated that his client acquired this property in 1969, they have been using it as a contractor's yard since before zoning was adopted by the Town of Belmont. They are here in an attempt to resolve litigation that has been brought against his client by the Town. In doing so, they town requested that they file for a Special Exception in regard to the contractor's yard. The contractors yard activities that are considered an expansion of what was existing are the towing of abandoned or repossessed motor vehicles. By "towing" He means that they are on the same flatbed trucks that other vehicles were on. The note that he made previously is that what is on the back of the truck is really the catching point here. With regard to that, there are a number of criteria that must be met in order to grant a Special Exception.

A Special Exception is a use that is permitted under the Zoning Ordinance, so it does not require any hardship. The Special criteria includes whether or not the use is authorized by ordinance, which it clearly is, it permits a contractor's yard in the Rural Zone with a Special Exception.

The proposal satisfies the Special Exception Criteria set forth in Ordinance Article 13F that deals with hazardous waste, which there are none on the property.

The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts. While they don't believe that it is, one thing that they have affirmed in this presentation that was different from the other presentation is that the road that connects with Route 140 on the applicant's property, it was granted to the state in the 1940's by the applicant's predecessor. In the 1950's the state discontinued it because they chose to position Route 140 in its current location. The state then notified the Town of Belmont and the Town took no further action. They are talking about opening tis road up. The Town did not take any action as far as discontinuing this road, so this is a Class VI Road that is owned by the Town of Belmont. E. Wood stated that he spoke with Town counsel, they discussed two courses of action that they can pursue. The Town can pass a warrant to discontinue the road, in which case it will revert back to the

applicant. NHDOT has indicated that they are fine with using the existing driveway or using the Class VI Road. The issue would be who needs to apply for the curb cut, the Town or the applicant?

Because it is a Town road, the Town would be the entity that would need to apply for that curb cut. Town Counsel is amenable to doing so, the other option would be for the Town to pass a warrant article functionally discontinuing the road. Then the road would go back to the applicant, and then they could apply for the curb cut.

J. Froumy stated that he feels Attorney Wood is appropriately reading into what the Board's concerns are. He hears him focusing very strongly on alternate access. Everything that they have done so far is about how the existing driveway is being used. He noted that now there is a very strong focus on trying to correct where the driveway is. E. Wood stated that his client is certainly cognizant of the concerns brought by the Board with regard to the existing driveway, and they have no objection to incurring the cost necessary to open that alternate roadway. The real question is how the Town wishes to proceed in regard to that road. He will note that they are still obligated to go before the Planning Board for site plan approval.

S. Condodemetraky stated that they met with ARC and discussed options. Since it is a steep hill, they decided that trucks would only enter from the Northbound Lane. He stated that they would gate the entrance to the residential side, and no commercial vehicles will be allowed beyond that gate. The existing entrance would only be used privately.

Vice Chair Froumy opened the meeting to questions from the Board.

S. Ciampi stated that she is questioning whether or not she should recuse herself, as she is a Select Board Member.

J. Froumy stated that he has done a lot of research on recusals. The applicant or any member of the public cannot make that choice for her. She has control over whether or not she can recuse herself. She can ask for a non-binding vote to vote whether she should or should not recuse based upon the fact that she is a Selectman.

E. Wood stated that he would suggest noting the specific statute on record that the Vice Chair is referring to in order to clarify if there are ever any questions. He stated that the statute is RSA 673-14.1, as it relates to Planning and Zoning Boards, which is cited back to RSA 500-A:12, which states the non-binding vote.

MOTION: J. Froumy moved that S. Ciampi not recuse herself because there RSA also says that even though she holds office on the Select Board, it does not force her to recuse herself. The statute goes on to say that the recusal should be for personal or pecuniary interest in the outcome which differs from the interest of other citizens. Ms. Ciampi has not met that standard.

D. Dunham seconded the motion.

Vote: All in favor, motion carried (3/0)

Vice Chair Froumy noted that the minutes from the last hearing are available to the public in order to see what the objections and concerns of the Board, as well as the abutters testimony.

Vice Chair Froumy opened the public comment portion of the meeting.

Ms. Katherine McGlynn, 189 Gilmanton Road stated that she lives directly across the street from the Applicant. She asked what the hours of operation would be, and would they stay strictly within that timeframe? J. Froumy

stated that the applicant has indicated that the hours of operation will be from 10AM until 6PM daily. E. Wood stated that the representation that they have made, and they make this to be completely open, without the expectation that it will occur, but on the off chance that it does, they don't want it to upset people, but there may be a rare occasion where a truck will show up outside of the hours. It will also not be occurring at the existing driveway, rather, 764 feet down the road from it. Ms. McGlynn stated that they are coming in at all hours of the night, and even if they are pulling in down the road, the garage that they are driving to is still in the same place.

This past year there have been multiple flatbed trucks carrying cars and pickup trucks dragging cars nightly. Not only is there noise from the beeping of the trucks backing up, but there are car alarms going off from the cars that are parked on the property. It's not ending at 6 PM. it's 7:30, 9:30...11 o'clock at night. She doesn't feel she should have to police what is going on at night there.

Chris Gilbert, 209 Gilmanton Road. Mr. Gilbert stated that he appreciates the fact that they are trying to relocate the entrance. The last two years, it has been a zoo of vehicles going in and out of that property. It has not been farming equipment. The noise is unbearable. Late at night there are constant car alarms going off. As he noted at the last meeting, he has more videos that he has taken since this new application. Including one at 9:15 at night of a flatbed backing out. As well as one backing out and stopping traffic. They have no control over what is going on. He watched as a flatbed backed out across Route 140 and damaged Ms. McGlynn's property. It's still damaged. A year ago, they told them that they never backed out. It's not true. It's not a matter of whether they think it's right or not, it's just not safe. The car alarms are constantly going off after hours and on the weekends.

Vice Chair Froumy asked what can the applicant do about the noise? S. Condodemetraky stated that it is the current business to disconnect the batteries on the vehicles when they arrive. He stated that he has yet to hear a single car alarm. He stated that they don't unload in the evening. E. Wood stated that they will not unload the vehicles in front of the building, and they are bound by the representations made at this meeting. S. Condodemetraky stated that they have stopped backing up in order to keep the noise down, and they do not unload at night. There are occasions where they will come after hours because the truck come from far away. In those cases, the trucks are parked in the back and shut off. If they are unloaded, the trucks drive in from the back of the building. He is also working on a fix where they can turn the alarms off. K. McGlynn stated that the only other issue she would like to address is the trucks coming in at 9 or 10 at night. That is happening 4 or 5 days a week. It's not rare, it's happening and she just wanted that noted.

Chris Gilbert: What are the repercussions if this is conditionally approved and they do not fix that problem? J. Froumy stated that they will discuss that as a Board.

Vice Chair Froumy closed the public comment portion of the meeting.

J. Froumy stated that he would like the Board to consider whether or not an entrance 754 feet down the road would resolve these issues brought up by the abutters and the Board? The issue of car alarms, how they would reserve the right to rescind any permissions given because they cannot give a temporary Special Exception.

D. Dunham stated that if this proposed development of the lower road is utilized as planned, then this would be a positive plan. R. Grey stated that the proposed driveway would alleviate the safety concerns that have been expressed. J. Froumy stated that he was in agreement with the Board as far as the driveway was concerned.

Current Considerations:

At least three members of Board must view site prior to meeting.

Does the application meet the criteria for granting a special exception (see below; also NH OEP ZBA Handbook pg 10; Arts. 11 & 13 of Zon. Ord.)?

Property is not in the Aquifer Protection District.

Is this a Development of Regional Impact?

Regional Impact:

Vice Chair Froumy stated that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: Relative size or number of dwelling units as compared with existing stock; Proximity to the borders of a neighboring community; Transportation networks; Anticipated emissions such as light, noise, smoke, odors, or particles; Proximity to aquifers or surface waters which transcend municipal boundaries; Shared facilities such as schools and solid waste disposal facilities.

MOTION: S. Ciampi moved that the proposal does not have a potential regional impact.
R. Grey seconded the motion.
Vote: All in favor, motion carried (4/0)

MOTION: J. Froumy moved to grant the request for Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow expansion of the existing contractor's yard to include towing of motor vehicles on a flatbed truck in the Rural Zone. Property is located at 194 Gilmanton Road, Tax Lot 241-019-000-000, ZBA Case #11-23Z, based on the following:

1. ***The proposal is specifically authorized as a special exception by the ordinance.*** Yes.
2. ***If applicable, the proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F.*** Not Applicable.
3. ***The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts.*** The proposal as presented by the applicant, contained in the minutes, and under conditions that will be attached, will meet the compatibility question of noise, fumes, dust, odor, lighting, smoke and other impacts.
4. ***The proposed location is of adequate size.*** The size of the location is adequate. It was explained that the back lot is large and approximately 800 feet away from the road and will be where most of the activity will be taking place.
5. ***The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety.*** The proposal as stated by the applicant will not create undue traffic congestion in the long term, as proposals have been made to relocate the driveway to a safer location.
6. ***The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street.*** True, there has been no testimony to contradict this.

7. *The proposal does not create excessive demand for municipal services and facilities.* This has been a contractor's yard for an extended period of time, and that activity does not create excessive demand for municipal facilities.
8. *The proposal does not create hazards to the health, safety or general welfare of the public.* The proposal which improves the driveway location, as stated by the applicant, will not create hazards to health, safety or general welfare of the public.

Any additional conditions

- a) All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- b) The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding the same.
- c) Compliance shall be maintained with all applicable ADU standards set forth in Zoning Article 8.F and a Certificate of Compliance shall be obtained from the Building Inspector prior to occupancy of the unit.
- d) Approval expires on 9/27/25 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
- e) Site Plan approval from the PB is required.
- f) NHDOT driveway permit is required
- g) Progress be made on improving the area where Old HW 140 currently exists, and doing so in the most practical time frame and with cooperation of the town.
NO third party will enter the premise after 6 PM or before 10 AM
- h) Noise will be mitigated by mechanical methods during the daytime and no alarms will be permitted after 6PM and before 10AM

S. Ciampi seconded the motion.

Vote: All in favor, motion carried (4/0)

Vice Chair Froumy called for a recess at 8:04 PM

Chairman Harris returned to the table.

Abutter's Hearing: Good Fortune Trust of 2022: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to build a 639-sf dwelling unit accessory to residential use. Property is located at 121 Brown Hill Road, Tax Lot 229-007-000-000, in the Residential Single Zone. ZBA Case # 22-23Z

Richard Bjelf was present to discuss his application. He stated that he is replacing the house that was destroyed in a fire with a house in the same footprint. His oldest son and his family will be living in the new home. He would like to build an ADU in order to have a place for him to live in when he is older and his health deteriorates.

Current Considerations:

At least three members of Board must view site prior to meeting. Yes.

Does the application meet the criteria for granting a special exception (see below; also NH OEP ZBA Handbook pg 10; Arts. 11 & 13 of Zon. Ord.)? Yes.

Property is located within the Aquifer Protection District.

Development of Regional Impact

Chairman Harris stated that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: Relative size or number of dwelling units as compared with existing stock; Proximity to the borders of a neighboring community; Transportation networks; Anticipated emissions such as light, noise, smoke, odors, or particles; Proximity to aquifers or surface waters which transcend municipal boundaries; Shared facilities such as schools and solid waste disposal facilities.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.
J. Froumy seconded the motion.
Vote: All in favor, motion carried (5/0)

Departmental Responses:

- **Fire:** I don't have any issues as long as all fire and building codes for additions are followed. If they have septic, that is set for the number of people living in the house
- **Police:** No concerns.
- **Public Works/Water/Sewer:** No concerns.
- **Building/Code Enforcement Officer:** No concerns at this time.
- **Conservation Commission** No concerns.
- **Assessing:** No concerns.

Staff Comments:

- Lot is 13.4 acres
- Single family home is under construction; it replaces fire damaged structure.
- Property is owned by a trust; applicant and his son are trustees of the trust; this meets "owner occupied" requirement.
- The property owner is in the process of constructing a single-family house and would like to include a new Accessory Dwelling Unit (ADU). The Zoning Ordinance allows ADUs in the RS zone through Special Exception, however it limits the size of ADUs to the larger of:
1,250 square feet of net floor area **or** forty percent (40%) of the sum of the net floor area of both the finished primary dwelling unit and the finished accessory dwelling unit whichever is larger.

Chairman Harris opened the public comment. There were no public comments.

K. Santoro stated that an abutter stopped in to the office and expressed his support for this project.

MOTION: D. Dunham moved to grant the request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to build a 639-sf dwelling unit accessory to residential use. Property is located at 121 Brown Hill Road, Tax Lot 229-007-000-000, in the Residential Single Zone. ZBA Case # 22-23Z, based on the following:

1. *The proposal is specifically authorized as a special exception by the ordinance. Yes.*
2. *If applicable, the proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F. Yes.*

3. *The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts.* True, as it will be part of a residential home in a residential neighborhood and will not add any impacts to the area.
4. *The proposed location is of adequate size.* True, it has 13.4 acres and there is plenty of dry land.
5. *The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety.* True it is located on the corner of Farrarville Road and Brown Hill Road, and it was a location of a preexisting home that in the past created no problems.
6. *The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street.* True. It will be utilizing existing facilities and will not be serviced by the town except for road maintenance.
7. *The proposal does not create excessive demand for municipal services and facilities.* As stated in the previous criteria, there is already existing well and septic on this lot, and this will not be serviced by the town except for road maintenance.
8. *The proposal does not create hazards to the health, safety or general welfare of the public.* It is already a proven location for a home that will not create any undue problems with the public in general.
9. Any additional conditions:
 - A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - B. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding the same.
 - C. Compliance shall be maintained with all applicable ADU standards set forth in Zoning Article 8.F and a Certificate of Compliance shall be obtained from the Building Inspector prior to occupancy of the unit.
 - D. Approval expires on 9/27/25 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

S. Ciampi seconded the motion.

Vote: All in favor, motion carried (5/0)

Abutter's Hearing: Lisa and Chad Ober: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to build a 728-sf dwelling unit accessory to residential use. Property is located at 75 Jefferson Road, Tax Lot 116-012-000-000, in the Residential Single Zone. ZBA Case #23-23Z

Current Considerations:

At least three members of Board must view site prior to meeting. Yes

Does the application meet the criteria for granting a special exception (see below; also NH OEP ZBA Handbook pg 10; Arts. 11 & 13 of Zon. Ord.)? Yes

Property is located within the Aquifer Protection District.

Is this a Development of Regional Impact?

Chairman Harris stated that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: Relative size or number of dwelling units as compared with existing stock; Proximity to the borders of a neighboring community;

Transportation networks; Anticipated emissions such as light, noise, smoke, odors, or particles; Proximity to aquifers or surface waters which transcend municipal boundaries; Shared facilities such as schools and solid waste disposal facilities.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.
J. Froumy seconded the motion.
Vote: All in favor, motion carried (5/0)

Departmental Responses:

Fire: I don't have any issues as long as all fire and building codes for additions are followed. If they have septic, it should be big enough for the number of people living in the house.

Police: No concerns.

Public Works/Water/Sewer: No concerns.

Town Administrator: No comments.

Building/Code Enforcement Officer: No concerns at this time.

Conservation Commission: No concerns.

Assessing: No concerns.

Staff Comments:

- Lot is 1.08 acres
- The property owner has constructed a garage addition with living space above would like to convert space to an Accessory Dwelling Unit (ADU). The Zoning Ordinance allows ADUs in the RS zone through Special Exception, however it limits the size of ADUs to the larger of:

1,250 square feet of net floor area **or** forty percent (40%) of the sum of the net floor area of both the finished primary dwelling unit and the finished accessory dwelling unit whichever is larger.

Proposed ADU is 728 square feet

Chad and Lisa Ober were present to discuss their application. L. Ober stated that they would like to build a space for her father-in-law in order to give him more space than what they have available in the existing home.

Chairman Harris opened the public comment portion of the meeting. There was no public comment.

MOTION: R. Grey moved to grant the request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to build a 728-sf dwelling unit accessory to residential use. Property is located at 75 Jefferson Road, Tax Lot 116-012-000-000, in the Residential Single Zone. ZBA Case #23-23Z

1. *The proposal is specifically authorized as a special exception by the ordinance. Yes*
2. *If applicable, the proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F. Not Applicable*
3. *The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts. True, this is an existing home and there are no objections from the public.*

- 4. *The proposed location is of adequate size.* True, and it meets the ADU size requirements.
- 5. *The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety.* True.
- 6. *The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street.* True.
- 7. *The proposal does not create excessive demand for municipal services and facilities.* True.
- 8. *The proposal does not create hazards to the health, safety or general welfare of the public.* True.
- 9. Any additional conditions
 - A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - B. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding the same.
 - C. Compliance shall be maintained with all applicable ADU standards set forth in Zoning Article 8.F and a Certificate of Compliance shall be obtained from the Building Inspector prior to occupancy of the unit.
 - D. Approval expires on 9/27/25 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

S. Ciampi seconded the motion
 Vote: All in favor, motion carried (5/0)

Abutter’s Hearing: Fran and Sarah Patno: Request for a Variance from Article 5 Table 1 of the Zoning Ordinance to allow the use of Boat Storage-Exterior on their lot in the Rural Zone. Property is located at 143 Province Road, Tax Lot 211-057-000-000, in the Rural Zone. ZBA Case # 24-23Z.

Current Considerations:

Does the application meet the criteria for granting a Variance (see below; also NH OEP ZBA Handbook pg 10; Arts. 11 & 13 of Zon. Ord.)? Yes.
 Property is partially located within the Aquifer Protection District.

Is this a Development of Regional Impact

Chairman Harris stated that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: Relative size or number of dwelling units as compared with existing stock; Proximity to the borders of a neighboring community; Transportation networks; Anticipated emissions such as light, noise, smoke, odors, or particles; Proximity to aquifers or surface waters which transcend municipal boundaries; Shared facilities such as schools and solid waste disposal facilities.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.
 D. Dunham seconded the motion.
 Vote: All in favor, motion carried (5/0)

Departmental Responses:

Fire: No concerns.

Police: No concerns.

Building/Code Enforcement Officer: In ARC we asked for a detailed map of parking with measurements as to denote how any spaces will be created and distances for turn/swing while maneuvering boats. The maximum number of boats or trailers. None of this was not provided on application.

Conservation Commission: No concerns.

Staff Comments:

- Lot is 2.9 acres
- Lot is a vacant lot
- Applicant is proposing the seasonal storage of boats and trailers. Use at “Boat Storage – Exterior” is not a permitted use in the Rural Zone and requires a variance from the ZBA.

Fran and Sarah Patno were present. S. Patno stated that they would like to use their land to store boats seasonally. The existing driveway will be used as the main entry/exit so no disruption to the traffic flow is expected. S. Patno stated that she spoke with her surveyor and he has been very busy so she isn't sure when she can get a final signed site plan, she should know more next week, but that will be holding up her Planning Board application. There really isn't anything more that they could do with that lot since it would be very hard to develop it.

Chairman Harris opened up the public comment portion of the hearing.

K. Santoro stated that they had received a memo from NHDOT in regard to this application.

Dear Board Members:

The New Hampshire Department of Transportation provides the following testimony in response to the above request:

The New Hampshire Department of Transportation remains neutral toward the request for Request for Variance from Article 5, Table 1 of the Zoning Ordinance to allow the use of Boat Storage-Exterior in the Rural Zone at 143 Province Road, , Tax lot 211-057, provided that the property has no increase in water runoff flowing into the Department's Right of Way, provided there is no storage, alteration or construction within the Department's Right of Way. The Department does require an updated driveway permit to reflect the change in use, if using an existing permitted driveway. The Department will require a complete driveway permit application if asking for a new access point. This process should be completed before any decision is made to ensure that a new driveway is allowed.

Thank you for your consideration.

Sincerely:

Michael S. Kimball

Access & Utilities Technician

K. Santoro stated that if they are going to be using the existing driveway as the entrance, they would need to update the driveway permit.

Vicki Hughes (9 Hicks Road) asked about the back of the property. Are they planning on creating a road back there? S. Patno stated that they had no plans to do that. V. Hughes stated that as long as they don't remove the stone wall. S. Patno stated that they love the stone wall and would not tear it down.

Marjorie Wooley (20 Hicks Road) stated atht she had no issues or concerns with this proposal.

George Cuthbert(47 Hicks Road) He asked if this could eventually turn into a giant boat storage? Chairman Harris stated that the applicant cannot change the site plan without approval from the Board. The applicant will also need to go to the Planning Board for site plan.

J. Froumy stated that he was a bit concerned about the aesthetics. But that would be something that the Planning Board would deal with. Why does the applicant feel that this would be hard to develop? S. Patno stated that the lot has rocks and ledge and it would be very expensive to clear the lot.

MOTION: S. Ciampi moved to grant Request for a Variance from Article 5 Table 1 of the Zoning Ordinance to allow the use of Boat Storage-Exterior on their lot in the Rural Zone. Property is located at 143 Province Road, Tax Lot 211-057-000-000, in the Rural Zone. ZBA Case # 24-23Z, based on the following criteria:

1. *The variance will not be contrary to the public interest because:* The land is not in the village or used by anyone, and there is no disruption of traffic.
2. *The spirit of the ordinance is observed because:* As the applicant stated, without significant investment, the land is not buildable and this is a good use for this property.
3. *Substantial justice will be done because:* It is a way to allow the property owner a good use of the property and allow them to create some income to help their financial situation.
4. *The variance would not diminish the value of surrounding properties because:* All of the boats would be covered in a neat fashion and they have neighbors that have construction vehicles on their property and that does not create any problems.
5. *Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following:*
 - a) *no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:* It is not part of the village, and there is no impact to municipal services.
And
 - b) *the proposed use is a reasonable one because:* The boat storage will be off the road on private land for a small period of time, there will be no disruption to traffic, the site will be almost unnoticeable as there is no signage.

Any additional conditions

- A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- B. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding the same.
- C. Approval expires on 9/27/25 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
- D. Obtain an updated driveway permit.

D. Dunham seconded the motion.

Vote: All in favor, motion carried (5/0)

Minutes of August 23, 2023

MOTION: P. Harris moved to approve the minutes of August 23, 2023 as written.
S. Ciampi seconded the motion.
Vote: All in favor, motion carried (5-0)

Staff Report

K. Santoro stated that the Planning Board has begun working on potential zoning amendments for next year.

ADJOURNMENT

MOTION: D. Dunham moved to adjourn at 9:05 PM.
R. Grey seconded.
Vote: All in favor, motion carried (5/0)

Respectfully Submitted,



Susan M. Austin
Land Use Assistant