

**TOWN OF NEW HAMPTON  
ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
TOWN OFFICES  
NEW HAMPTON, NH 03256**

May 2, 2018

- MEMBERS PRESENT** Regular members: Mr. Tierney and Mrs. Erler  
Alternate member: Mr. Livernois
- OTHERS PRESENT** Administrative Assistant Mrs. Vose
- CALL TO ORDER** Mr. Tierney called the meeting to order at 7:00 PM.
- Mr. Tierney appointed Mr. Hofling to vote in place of Ms. Karnis.
- ANNUAL ELECTION OF OFFICERS** Mr. Tierney advised that the board must elect a Chair, Vice-Chair and Clerk, as dictated by the ZBA By-Laws.
- Mrs. Erler made a motion, seconded by Mr. Livernois, to nominate Mr. Tierney as Chair. Vote passed. Mrs. Vose advised that Ms. Karnis emailed the office to say her work schedule has made it difficult for her to attend regularly and said she would contact Mr. Tierney to discuss. Mr. Tierney made a motion, seconded by Mrs. Erler, to nominate Ms. Karnis as Vice Chair. Vote was unanimous. Mrs. Erler made a motion, seconded by Mr. Livernois, to nominate Mr. Orvis as Clerk. Vote was unanimous.
- PUBLIC HEARING** Dan Rivanis was present.
- New Hampton Community Church, Church Lane, Tax Map U-4, Lot 4, for a Variance -Article IV, Section F:4, of the New Hampton Zoning Ordinance.* Relative to receiving a stamped survey plan from the New Hampton Community Church, Mr. Tierney read into record, a letter from Dan Rivanis dated 5/1/18, that Brown Engineering would complete the survey with submission to the town by 5/22/18.
- Mrs. Erler made a motion, seconded by Mr. Livernois, to continue the hearing to 6/6/18 at 7:00 pm. beginning with the site visit to the church. Vote was unanimous.
- Mr. Tierney asked Mr. Rivanis to submit deeds for the church lots, for the purposes of confirming whether they are 3 separate lots.
- PUBLIC HEARING** Kevin & Cheryl Drake were present.
- Kevin & Cheryl Drake, 39 Akerman Lane, Tax Map R-4, Lot 58, for a Special Exception -Article IV, Section D:3 & 5, of the New Hampton Zoning Ordinance.* Mr. Tierney advised that they did not have a full board of 5 members and offered the Drakes the choice of having the hearing with the 3 members present, which they agreed to. Mr. Tierney advised that the absence of a full board was not reason for appeal of a decision.
- Mrs. Vose advised that the applicants, Kevin and Cheryl Drake, have

requested a Public Hearing in accordance with RSA 676:7, for a Special Exception request under Article IV, D., Sections 3 & 5 of the New Hampton Zoning Ordinance. The applicant's proposal is to make alterations to the 2<sup>nd</sup> floor of an existing garage/shop to create a one-bedroom accessory dwelling unit. To create an accessory dwelling unit (ADU) the applicant shall meet the definition and provisions under Article V, R. The property is located at 39 Akerman Lane, Tax Map R-4, Lot #58, in the Business Commercial District (BC2).

Mrs. Vose advised that all abutters were notified but heard from none.

Mr. Tierney advised that he has a business relationship with the Drakes but did not see that it would affect his duties relative to this hearing and asked if the members and applicants if they had an issue with it. Mrs. Erler and Mr. Livernois and Mr. and Mrs. Drake confirmed they did not.

Mr. Drake reviewed the drawing of the 2<sup>nd</sup> floor. He said the downstairs is currently used by the auto repair shop and they want to create an apartment upstairs, which they will live in when they remove the existing mobile home to construct a new home in its place. Mr. Livernois confirmed with Mr. Drake that their intention was to keep the apartment after they construct and move into, their new home.

Mr. Drake said they did not want to upgrade the septic system, which would be a separate system than the one the home uses unless they received approvals for the special exception. He said they installed egress windows. Mr. Drake said there would be 724 total sq. ft. of living space. He pointed out a room upstairs to be left unfinished and used for their own storage. Asked if it was counted in the total square footage, Mr. Drake said it wasn't. Mr. Tierney advised it would exceed the 800 sq. ft. limitation if it did. Mr. Tierney reminded Mr. Drake that the Special Exception goes with the property so subsequent owners would have to abide by the same regulations, not turning that room into a bedroom. The board agreed it would be preferred to have a separate entrance to gain access to that storage room. Mr. Drake said it wasn't feasible but would keep the storage area locked. Mr. Drake said if they rented the apartment in the future it would only be to one person.

Mr. Tierney reviewed the definition of an ADU in the zoning ordinance. The board confirmed the request met the requirements in the ordinance for an ADU:

- i. The board confirmed there was one ADU.
- ii. The board confirmed there were provisions for kitchen facilities, bedroom, and a bathroom. Sanitation needs to be addressed, which could be done through a condition.
- iii. There was appropriate ingress and egress for the apartment.
- iv. The apartment is allowed in the accessory structure.
- v. The property owners reside in the principal dwelling unit.
- vi. The square footage of the apartment does not 45% of the floor area of the accessory structure to a maximum of 800 sq. ft.

Mrs. Erler and Mr. Livernois expressed concern with this calculation because counting the addition of the storage area it is 880 sq. ft. Mr. Livernois said the next owner could finish this area and it would no longer comply. Mr. Drake said the storage area would be completely unfinished. Mr. Livernois suggested adding 2 feet to the knee walls to make it compliant, with the use of the storage area. Mr. Drake offered to remove the door, and wall up - the storage area.

- vii. There is only one bedroom in the ADU.
- viii. There are two off street parking spaces in addition to the 2 for the home.
- ix. The board confirmed there was an adequate water supply, shared with the mobile home. The sewage disposal system would need to be a condition.

The board reviewed the criteria for a Special Exception.

**The specific site is an appropriate location for such use:** The applicant wrote *“the ADU meets lot dimension and setback requirements. The site has 2 off-street parking spaces”*. The board agreed the site was appropriate for an ADU.

**There is adequate area for safe and sanitary sewage disposal:** The applicant wrote *“yes”*. Mr. Tierney advised it there is enough area for it, it just needs to be installed. Mr. Livernois and Mrs. Erler agreed. Mr. Drake said he will likely have a design that is larger than necessary.

**The use will not adversely affect the adjacent area:** The applicant wrote *“the ADU will not affect the adjacent area”*. The board agreed.

**There will be no nuisance or hazard created:** The applicant wrote *“no nuisance or hazard will be created”*. The board agreed.

**Adequate and appropriate facilities will be provided for the proper operation of the proposed use:** The applicant wrote *“yes - water, septic and power.”* The board noted that power and water already serve the building.

**The use will not impair the aesthetic values exhibited by the surrounding neighborhood:** The applicant wrote *“the use will not impair the value.”* The board agreed.

**The building, parking/or driveway area will not exceed 50% of the lot:** The applicant wrote *“none of the above exceeds 50% of the lot.”* The board agreed this wouldn't be an issue due to the lot size.

Mr. Tierney advised that there were certain requirements relative to state code, as this would become a rental. Mr. Drake said it was constructed to state code. Mr. Tierney expressed concern with a 2<sup>nd</sup>

gress and said the Fire Dept. would need to perform an inspection for the proposed uses and it may be by another town's department as the Drakes are related to the Fire Chief.

Mrs. Erler made a motion, seconded by Mr. Livernois, to approve the Special Exception with the following conditions.

1. The door to the storage area as shown on the plan submitted will have the door removed and that wall closed up, providing no access to the space inside the apartment.
2. Installation of a state approved septic system for the apartment.
3. Life safety code inspection and satisfactory compliance with any issues noted, prior to occupancy.

Vote was unanimous.

**MINUTES**

There were none.

**CORRESPONDENCE**

There was none.

Mr. Tierney reviewed a Zoning Conference he had attended. He said proposed HB 1215 requires that ZBA's decided to vote on each criteria or discuss all criteria then vote at the end. There was discussion on if an applicant doesn't meet one particular criteria should the hearing cease but there was agreement that all criteria should be discussed and decided whether it is met or not. Mr. Tierney said once the board decides how they will discuss vote on criteria it can be made part of the By-laws.

**ADJOURNMENT**

Mrs. Erler made a motion, seconded by Mr. Livernois, to adjourn at 7:59 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose, Administrative Assistant