

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

March 1, 2017

MEMBERS PRESENT

Regular members: Mr. Tierney, Ms. Karnis, Mrs. Erler, and Mr. Orvis, and alternate members Mr. Smith and Mr. Hofling.

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 Mr. Frazier.

Mr. Smith advised that was no longer going to serve on the board after his term expires on March 31st.

PUBLIC HEARING

Jeremy Hiltz Rev. Trust, 55 Main Street, Tax Map R-3, Lot 22B, for two Special Exceptions & two Variances. Special Exception #1-Article IV, Section F(2)i; Special Exception #2-Article VI, Section A(2); Variance #1-Article IV, Section F(3), Variance #2- Article IV, Section F(8), of the New Hampton Zoning Ordinance.

Jeremy Hiltz was present to represent the application.

Mrs. Vose advised that the applicant, Jeremy Hiltz, has requested a Public Hearing in accordance with RSA 674:33-a, for two Special Exceptions and two Variances.

The applicant's proposal is for two bedrooms in each unit. The first Special Exception request is under Article IV, Section F.2.i to construct a two family home which is an allowed use by Special Exception. The second Special Exception request under Article VI. Section A.2 is to replace the previous existing home at 848 sq. ft. with a structure which is 896 sq. ft. which is dimensionally non-conforming, but is part of a conforming use and is being enlarged.

The first Variance is under Article IV, Section F.3, of the New Hampton Zoning Ordinance. The applicant's proposal is to construct a new two-family home, replacing the single-family home destroyed by fire. The proposal is to relocate the house to the center of the lot. The required setback from the side property lines is 15 ft. The current eastside setback is non-conforming at 1.26 ft but would be more conforming at 10.83 ft. The proposed setback of 10.80 ft. on the west side will not meet the required setback of 15 ft. and requires a variance. The second Variance is under Article IV, Section F.8 of the New Hampton Zoning Ordinance. The applicant's proposal is to provide four parking spaces instead of the required five parking spaces as the regulations require 2 spaces per bedroom for the first two, plus ½ space per each additional bedroom. The property belonging to Jeremy J. Hiltz Revocable Trust is located at 55 Main Street, Tax Map U-4, Lot #20, in the Village District.

Mrs. Vose advised that all abutters were notified but heard from none. Abutters Kent and Karen Bicknell were present.

Mr. Hiltz reviewed the previously existing conditions plan where the single family home was located 1.26' and 2.84' from the east side property line and 4.92' from where it comes closest to the front property line, and 22.89' from the rear property line. Their intention is to center the structure on the lot (east to west) making it equal distance (ranging from 10.77' to 10.85') from side property lines, increasing the distance to the front property line at 7.39', and maintaining the 22.89' from the rear property line. Previous structure had 3 bedrooms and 2 parking spaces with the proposed having 4 bedrooms and 4 parking spaces. Ms. Karnis asked what the actual dimensions of the previous home were and Mr. Hiltz said he was not sure as it was not shown on the plan but they would like an additional 50 sq. ft. on the footprint. Mr. Orvis expressed concern with egress on the 2nd floor and Mr. Hiltz explained the apartments were side by side, with each having 2 floors and that the windows did provide egress.

Mr. Tierney said they should have full-size plans with a scale, due to the size of the parcel.

Mrs. Erler asked if the previous home was single story and Mr. Hiltz said it was a 2-story cape with a finished basement. The board reviewed drawings of the building including the floor plans. Mr. Orvis asked if there was a deck planned off of the sliders, at the south side, and Mr. Hiltz said he would like to consider it but it is not indicated on these plans. The board pointed out that the setback to the rear property line is 50 feet. Based on this information Mr. Hiltz said he would change the sliders to windows. Mrs. Erler asked where the added sq. footage would be and Mr. Hiltz explained it would square off the footprint as the previous building was "L" shaped. Mr. Orvis pointed out that by moving the structure towards the west this will improve access on the eastern side. Mr. Hiltz confirmed for the board that the driveways on each side of the proposed structure provides for 4 total parking spaces. There was discussion on whether building code required 2 doorways on the main level and Mr. Tierney advised that it was not up to the board to determine this.

Mr. Hofling made a motion, seconded by Mr. Orvis, to perform a site visit to 55 Main Street, 3/15/17 at 5:30 pm. Vote was unanimous.

The board agreed to discuss the criteria in case other issues came up.

Relative to the variance request under Article IV, Section F.3:

To relocate the house to the center of the lot changing the setbacks. As the side setback requirements are 15' the proposal increase this from 1.26' on the east side to 10.83', making it more conforming but making the west side 10.8' from the side property line, which requires a variance.

The variance will not be contrary to the public interest; the applicant states *"by relocating the footprint of the home to the center of the lot the maximum side setbacks will be obtained. This will increase the east side*

setback from .73' to 10.8'."

Mr. Orvis said he felt this had a positive effect. Ms. Karnis asked where snow would go and Mr. Hiltz said it would be pushed to the rear of the property. Mr. Tierney asked what the topo of the lot was and Mr. Hiltz advised he would create a flat spot for the home retaining walls as part of the foundation - for the driveways, then the land drops off creating a small backyard where a patio can be located. Mr. Hiltz advised his intention is to have both driveways end at the rear of the house even though the plan does not indicate that. Ms. Karnis asked Mr. Hiltz to confirm whether code requires any additional egress than what the plans currently show. Asked how the patio would be constructed Mr. Hiltz said it would be pavers.

The spirit of the ordinance is observed; the applicant wrote *"The relocating of the footprint allows for the best possible setback on both sides of the property. This will allow for maximum separation as well as access to the east side of the structure which wasn't possible before without crossing the abutter's property."*

Mr. Orvis suggested having review by the Fire Chief relative to access around the proposed building. The board agreed to get Chief Drake's input.

Substantial justice is done; the applicant wrote: *"The granting of this variance allows for the previous home that was destroyed by fire to be replaced in the best location on the lot. If this variance was not allowed the house would have to be rebuilt in the in the original location which would not allow separation from the property to the east or access to the entire east side of the house without crossing the abutter's property."*

The values of surrounding properties are not diminished; the applicant wrote *"the centering of the house on the lot allows for access to the new home for maintenance on the east side without crossing the abutting property and still leaves a 50' separation to the existing home on the west side."*

Mrs. Erler said she would like input from the abutters. Mr. Bickell said they are in the house to the east and are happy the fire damaged home is being removed. He thought it may be challenging to get a 2-family in that location but understands the need for the housing and that centering the structure made sense. Mrs. Bicknell said it seems difficult to get 4 cars parked on the lot and wondered what the house would look like.

As Mr. Hiltz confirmed that Surveyor Mr. Brown had surveyed the lot, Mr. Tierney asked that a copy be provided to the board.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because special conditions of the property distinguish it from other properties in the area; no fair and substantial relationship exists between the general purposes of the zoning

ordinance and the specific application of that provision to the property because: The applicant writes *“the relocation of the house improves the application of the setback requirements in the ordinance.”*

Mr. Tierney asked Mr. Hiltz what the hardship was on the lot that causes a request for a variance. Mr. Hiltz said this proposal improves the access to the rear and the encroachment towards the neighbors.

The proposed use is a reasonable one because; the applicant writes *“the proposed use maintains an existing use and allows for the reconstruction of the house destroyed by fire.”*

If the paragraphs in 5(A) are not established what are the special conditions for the property that distinguishes it from other properties in the area, the property cannot reasonably be used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it; the applicant writes *“this property has had a home on it longer than there has been a zoning ordinance in the town of New Hampton. When the setback requirements for the Village District were established they did not consider this lot. The front and rear setbacks overlap and provide for no building area on the lot. The side setbacks would only allow for a house 20’ wide to be built. Therefore, strict conformance to the ordinance would be impossible on this property and its unique characteristics were not taken into account in the enacting of the ordinance.”*

Ms. Karnis pointed out that rebuilding the same square footage and relocating to the center of the lot allows for the use of the property in a reasonable manner, but expressed concern with the request to increase the square footage. Mr. Tierney pointed out that the increase in square footage is part of the Special Exception, not the Variance, and uses different criteria.

Ms. Karnis said she felt the Special Exception requests should be considered before the 2nd Variance request and the board agreed.

Relative to the Special Exception request under Article IV, Section F.2.i to replace a single family dwelling with a 2-family dwelling:

The specific site is an appropriate location for such use: The applicant writes *“the proposed use as a 2-family replaces an existing single family home that was destroyed by fire. The site is located in the Village District is an area adjacent to the New Hampton School. This new home will continue to provide housing in an area of town that requires it.”*

There is adequate area for safe and sanitary sewage disposal: The applicant writes *“there is town water and sewer available.”*

The use will not adversely affect the adjacent area: The applicant writes *“no adverse effects are anticipated by the development.”*

There will be no nuisance or hazard created: The applicant writes *“no*

nuisance or hazard will be created.”

Ms. Karnis asked the abutters if they had any further input on the possibility of having 2 families on this location. Mrs. Bicknell mentioned the lack of yard area for children.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use: The applicant writes *“Sewer, water and access from a town road will provide adequate facilities for the proposed use.”*

The use will not impair the aesthetic values exhibited by the surrounding neighborhood: The applicant writes *“the new home will have architectural elements consistent with the surrounding homes.”*

Mrs. Erler expressed her opinion that given the existing historical homes that the new construction fit in with the neighborhood and Mr. Hiltz said it would be white siding with green shutters, similar to neighboring properties. Mr. Hofling agreed he wanted to see the home fit the character.

The building, parking/or driveway area will not exceed 50% of the lot: The applicant writes *“the total lot area is 3,275 sq. ft. and the total building and parking areas is 1,573 sq. ft. which is 48% of the lot.”*

Relative to the Special Exception request under Article VI, Section A.2
To increase the size of a dimensionally non-conforming structure as the footprint of the previous existing home was approximately 848 sq. ft. and the footprint of the new home is 896 sq. ft. The structure can be increased as it is part of a conforming use, by Special Exception:

It was noted that the same criteria explanation was used as in the other Special Exception request under Article IV, Section F.2.i. The board reviewed Pgs #69-70 in the ordinance for Article VI, Non-Conforming Uses.

Mrs. Erler said she felt the expansion is so minimal and being that the proposed 2 family dwelling is small it is justified.

The board reviewed the same criteria and explanation as listed above with the board agreeing to the statements. Mr. Tierney reminded the board that they would review all criteria and statements made by the applicant after the site visit on 3/15.

Relative to the Variance request under Article IV, Section F.8:
Provide for 4 new parking spaces as part of the reconstruction of the existing house. The ordinance required 5 spaces, 2 for the 1st bedroom + ½ for each additional, requiring a total of five. The previously existing house had 3 bedrooms and 2 parking spaces.

Mr. Tierney reviewed the required size of parking spaces as being 10' by 20'. It was noted that the plan does not reflect that the 4 spaces the

applicant is providing meet this regulation.

The variance will not be contrary to the public interest; the applicant states *“there will be two spaces per dwelling unit which is what the existing house had.”*

Mr. Tierney said he did not think this applies as the previous home was single family and a multi-family is being proposed. Mr. Hiltz said he was comparing it to the fact that there were only 2 spaces for the previous dwelling and now there are 2 dwellings with 4 parking spaces, and each dwelling will have 1 less bedroom than the original home. Mrs. Erler asked Mr. and Mrs. Bicknell how the parking is typically, along Main Street. Mr. Bicknell said it is usually okay and the entire neighborhood feels somewhat non-conforming relative to parking.

The spirit of the ordinance is observed; the applicant wrote *“adequate parking will be provided. Two parking spaces per unit as a common criteria in most towns. Especially in dense areas like the Village District in New Hampton.”*

Mr. Tierney pointed out that the Village Precinct regulations predated zoning in the rest of the town, and were eventually absorbed into the town’s regulations. Mrs. Vose advised that the districts outside of the Village require 2 spaces per dwelling unit which is less restrictive than the more densely populated Village.

Substantial justice is done; the applicant wrote: *“This is the maximum amount of parking that can be provided as off street parking on this lot due to the grades in the back.”*

Mrs. Erler said given the size of the lot and proposed structure it does not appear to be a dwelling that would be attractive to a family with children, therefore less likelihood of more than 2 cars for each unit. Ms. Karnis offered other scenarios where more parking spaces may be needed.

The values of surrounding properties are not diminished; the applicant wrote *“the proposed parking will be the same per unit and greater per bedroom than the existing house.”*

Mr. Tierney said he agreed with this statement.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because special conditions of the property distinguish it from other properties in the area; no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific application of that provision to the property because: The applicant writes *“the existing house had two parking spaces per unit and the proposed house will have the same.”*

The proposed use is a reasonable one because; the applicant writes *“the proposed use maintains an existing use and allows for the reconstruction*

of the house destroyed by fire.”

Ms. Karnis said it is actually changing from one use – single family, to a different use – multi family.

If the paragraphs in 5(A) are not established what are the special conditions for the property that distinguishes it from other properties in the area, the property cannot reasonably be used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it; the applicant writes *“the grades on this lot drop off in the back of the lot and would not allow for any more parking.”*

Mr. Tierney agreed with this statement.

The board confirmed for Mr. Hiltz that what was necessary by the next meeting was a scaled drawing, dimensions of the old foundation, check building code for 2nd means of egress, town to get input from Fire chief, provide survey done by Mr. Brown, and to show on the plan that parking spaces meeting the size regulations.

There was discussion on putting a condition on any approval that restricts the number of vehicles to two per dwelling unit.

Ms. Karnis made a motion, seconded by Mr. Hofling, to continue the hearing to 3/15/17 for a site visit, followed by deliberations at the Town Office meeting room immediately following. Vote was unanimous.

MINUTES

Mrs. Erler made a motion, seconded by Mr. Smith, to approve the minutes of 12/7/16 as written.

Mr. Smith made a motion, seconded by Ms. Karnis, to approve the minutes of 10/5/16 with the following change:

1. 2nd to last paragraph under CONTINUATION OF REHEARING portion; insert the word “that” before “the...” after “Mr. Smith said...”
Vote was unanimous.

Mr. Orvis made a motion, seconded by Mr. Smith, to approve the minutes of 2/3/16 with the following change:

1. Page 7, large paragraph, change “will” to “with” after “Mr. Orvis expressed concern...”
Vote was unanimous.

CORRESPONDENCE

There was none.

ADJOURNMENT

Ms. Karnis made a motion, seconded by Mrs. Erler, to adjourn at 8:42 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose
Administrative Assistant