

Town of Kensington
ZONING BOARD OF ADJUSTMENT MEETING
Kensington Town Hall
95 Amesbury Road
Kensington, NH 03383
Tuesday, May 7, 2019
Meeting Minutes – Approved 12/03/2019
7:30pm

In attendance: Chairman Bill Ford, Joan Skewes, Mark Craig, Mike Schwotzer, also in attendance Kathleen Felch, Stephanie Artigliere, Nathan Kenison-Marvin, Jerome Artigliere, Steve Wilson.

Chairman Ford opened the meeting at 7:30

The applicant, Stephanie Artigliere, was asked to present her request to the board. Re: 48 Stumpfield Road, Kensington, NH. Tax Map 7 Lot 19-1. Stephanie presented the board with several details on the property including pictures of her property and the surrounding neighborhood. At that time, Nathan Kenison-Marvin introduced himself to the board and explained that he would be speaking on behalf of Stephanie Artigliere.

Stephanie explained a little bit about the documents in the binder to the board. She stated that they were petitioning for a variance of Article III 3.2.2 A1. Nathan reviewed the variance criteria in addition to explaining other details about the zoning objectives. He stated that the residential zoning district allows for cluster dwellings on as little as 3 acres and qualifying frontage. It also allows for Accessory Dwelling Units. In their petition they will not be altering the infrastructure in anyway which enhances the objectives of the zoning board rules. Thus, not altering the character of the neighborhood and preserving Kensington's rural charm. He referenced page 6 of the presented binder. He went on to go through the criteria of the Zoning Variance. He references the notes on Page 6 of the binder.

1. Stating that the proposal would not pose a threat to public health. (Page 6 and 9).
2. Stating that the Spirit of the Ordinance is met with the fact that this variance would not be contrary to the public.
3. The criteria of Substantial Justice, he states that if they cannot go forward with this petition, they intend to apply for an ADU permit. This would present the same impact on the area only restricting their space to 900 Sqft. Stating that the loss to them would not create a public gain. He also references Supreme Court cases that provide standards that Zoning Boards can apply.
4. The proposed use is consistent with the neighboring area and current property use, which also speaks to Substantial Justice. He states that town has taxed this property as a 2 family for some time. Referring to pages 7-14 of the binder. Further discussion continued about other properties with 2-4 family dwellings on parcels smaller than the property being discussed (Page 15).
5. A letter from a consultant is presented stating that there is "no effect", "no diminution of value to any other property" (Page 16-21).

6. The criteria of hardship, referring to page 22, shows a map that the property is considerably larger than others in the area. Citing 3 special conditions of the property. The considerable size of the property is one. The abutting tax map showing 2 family properties. Additionally, the existing structure on the property would be used and there are no other properties with structures like this on them. This property contributes to the rural charm.

He goes on to reference page 30 of the binder. Insuring safety from fires, protection of water and other natural resources and preservation of rural charm. No new structures would be needed to achieve this proposal.

Mike Schwotzer comments that in comparison to Whipple Way, which was a decision of the town to allow higher density single family homes in trading of the Greenspace that would be traded off. The town never really voted to have more than 1 dwelling on a property, the State of NH instituted the law for ADU's. Then the town reacted by instituting an ordinance to control/monitor the size and use

Joan Skewes asked for clarification on if an ADU needed to be attached. Mike added that an ADU no longer needs to be attached as the zoning has changed. An ADU is intended to be subordinate to the original dwelling. Not all of the 2 family homes being referenced were approved by the town. If the board decides to allow this, we are literally allowing 2 single family homes on a property. This town by its zoning has kept the rural character by saying that only 1 home per lot with the exception of ADU's.

Joan inquired about the list on page 15, discussion continued that there are varying reasons for this. There are 2 dwelling units in one structure.

Discussion continued about the dwelling inside the garage and any ability to expand into the garage bays. Jerry Artigliere spoke regarding the main dwelling unit not being suitable to expand, the other building is more suitable. They are trying to use the existing structure which will not change the footprint or outer appearance.

Steve Wilson spoke regarding his history of living in town and the history of the property. He states that the property has been improved over the years and he appreciates the owners as neighbors. It is important to him to state a variance applies to the land, not the family that owns it. The characterization of the area is important. He inquired if the vacant lot next to their property has been approached as an opportunity to expand. That has not been explored. Whatever decision is made needs to be carefully considered. Extenuating circumstances by him as an abutter, regarding questions of the need to address the planning board and lot lines.

The board continued and agreed to complete the Variance Worksheet as follows.

1. Granting the variance would not be contrary to the **public interest** because: *In keeping with the residential use of the area.*
2. The **spirit of the ordinance** would not be observed because: *this would negate the long time standard of one primary dwelling per house lot. The town has adopted an ADU ordinance to allow for the use requested only at a lower density.*
3. Granting the variance would do **substantial justice** because: *the prepared use has no visible impact on the neighborhood.*
4. For the following reasons, the **values of the surrounding properties** would not be diminished: *Shown by appraisal submitted with application.*

5. ***Unnecessary Hardship***, the property can be used in strict conformance with the ordinance because: ADU ordinance allows use of second building as an accessory dwelling.

FINDING: Moved and seconded to deny the application.

New business:

Application fee needs to be discussed as it doesn't cover the cost of the materials needed to complete the necessary process. Joan made a motion to increase the fee of application to \$130. Mark seconded, all in favor. Unanimous vote.

Mail that came to the board regarding Hazard mitigation plan from the Fire Chief. May 15th meeting, Mark will represent.

Minutes to be approved for February – unable to make a motion at this time. Minutes will carry over to the next meeting.

Motion to adjourn. Seconded by Mark and all in favor. Meeting adjourned at 8:44pm.

Respectfully submitted,

Sarah J. Wiggin