

**APPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
February 25, 2020**

Present: Mark Wright, Chairman. Mike DiPietro, Vice-Chairman, Kevin Stuart, Stephen Carroll & Dennis Vieira, Members of the Board. Dale Phillips & Shawn Matte, Alternate Members of the Board. Minutes recorded by Amy Lachance and prepared by Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector/Code Enforcement and Jeff Porter, Conservation Commission.

Absent: None.

Mr. Wright called the meeting to order at 7:00 p.m.

Mr. Wright began by explaining tonight's procedures and introducing the Board members to everyone present at tonight's hearing. With that said, Mr. Wright moved on to the first case and asked Mrs. Lachance to read the case into the minutes.

**Case #20-02
Elizabeth Kidder & Luke Gaudreau
37 Lakeview Way – Tax Map 17, Lot 88
Zoned Residential One**

Applicant is requesting a Variance to establish a home office within a proposed separate structure that will not be attached to the single-family dwelling in a Residential One zone. (Article 2, Section 2.02(38))

Attorney Brett Allard of Bernstein Shur presented on behalf of the applicant Ms. Kidder and her husband. At this time, Attorney Allard read the application into the minutes for the record. Attorney Allard added that the applicants purchased this property for its size. Attorney Allard stated that, they were requesting a Variance from the definition of a home business in the Town of Auburn's Zoning Ordinance which would allow the applicants to conduct their home office in a detached structure on the property rather than within it. The business would be an appointment only dreadlock hairstyling business. It's similar to a salon except there are no use of chemicals and there are no sinks, it's more of a hair braiding style use rather than an actual salon. The applicant anticipates only about one or two customers per day. This type of business is permitted within the home, but this Variance is simply to permit the use within a detached building. The applicants would like to maintain a sense of privacy within their home but keep in within a small structure on the property. Attorney Allard explained that, they have not drawn up anything regarding location and size yet as they were only before the Zoning Board of Adjustment looking to obtain the use by requesting a Variance. Attorney Allard informed the Board that, they understand that any structure would have to be code compliant and that they would have

to obtain a permit. Attorney Allard pointed out that, the structure would not be a large structure but would be the size of a typical shed as this type of business does not require a lot of space.

At this time, Attorney Allard stated that, this was all he had tonight and would be more than happy to answer any questions. Attorney Allard also wanted to mention that the traffic generation would not be any different than any other single-family home in the area. It's not something that will change the character of the area or impact property values.

Mr. Wright asked if there were any abutters present that would like to ask questions. Mr. Gregoire, who is an abutter to the property did not have a question but just wanted to know the story behind it and that's why he was here tonight. Mr. Wright asked Attorney Allard if he had any idea what the square footage of this structure would be and understood what he was saying about the use but not having any sense of the magnitude of the shed or barn but wanted to have some idea of what the size would be. Mr. Wright went on to say that this Variance would run with the land and would prefer to have a size so that they could put that in the motion. Attorney Allard pointed out the cover letter that went with the application which indicated a size of 10 feet by 15 feet which was not exact and did not believe that the applicant wanted to hold to that but believed that it would be something less than 200 square feet. Mr. Wright moved on to say that, if they were to say 200 or 250 square feet and take that to the Planning Board for Site Plan Review which would include parking, lighting and hours of operation and if it became bigger than that then they would have to come back before the Zoning Board.

Mr. Wright asked the applicant if there would be a bathroom in this structure. Ms. Kidder commented that, she would like to be able to do it off grid such as solar power and woodstove and a composting toilet because her clientele would really value that but if that was not allowed that she would seek some other options.

At this time, Mr. Wright opened it up to questions from the Board Members. Mr. Stuart asked the applicant if she would be open to a restriction of the structure to be no greater than 200 square feet. Ms. Kidder said yes as she was thinking a 10 foot by 15-foot structure with maybe a little deck on the outside so that would make 200 square feet. Mr. Wright asked about no sleeping quarters correct. Ms. Kidder said no. Attorney Allard added that it would be by appointment only so there would not be people coming and going at all times of the day. Mr. Wright pointed out that, this would be something that the Planning Board would be asking as it was located within a Residential area. Mr. Vieira commented that, it would behoove Ms. Kidder to have a plan and a building size and figure out what it is that you need because you're going to be serving customers in there and you'll need heat in there as you're talking about something more than a shed. Attorney Allard indicated that, this would be certainly something that they would have before going to the Planning Board that showed all the dimensions and location on the property which would follow all the Planning Board Site Plan requirements.

Mr. Wright believed that there was some room for them to make a decision, however, you would have to be pretty sure where you were going to put it that you will meet the setbacks

and setbacks from any wetlands if there are any. Attorney Allard stated that, based on the size of the property that he did not anticipate running into these issues but if for some reason that they run into these issues that they would certainly have to come back before the Board for some sort of relief.

Mrs. Phillips believed that they would need more information regarding location and size and was unsure of having a chemical toilet if a client had to go to the bathroom and asked about if she had to wash her hands. Mr. Vieira also believed that more information was needed. Attorney Allard believed that these issues would be certainly something that they could deal with the Planning Board with some sort of limitation on square footage. Mr. Wright believed they were valid comments and concerns that the Board had and that they certainly could discuss this in deliberation.

Mr. Stuart asked about the 8 foot by 12 foot shed as it was pointed out in the Zoning Determination. Ms. Kidder stated that, there was a shed which they are using for something else. Mr. Stuart asked if it was too small to conduct her business within the existing shed. Ms. Kidder commented that it was pretty run down. Mr. Carroll also would like to see more information as well but would maybe like to discuss it in deliberation as they were looking for a Variance to establish what they want to build so if we approve a Variance to establish a detached small business within that property then they have to still go to the Planning Board. Mr. Carroll went on to say that, if they approve it for a specific size and for a specific use, such as dreadlocks, then it should be good because it runs with the land. Mr. DiPietro added that, they are looking to establish a home business that is detached. Attorney Allard agreed with what Mr. Carroll said regarding not spending a lot of money on plans if they are not able to do this.

Mr. Wright moved on to discuss the Zoning Determination which was done by Mrs. Rouleau-Cote, the Building Inspector/Code Enforcement officer that was included in the Board's package and that they type of business is very specific and believed that they could limit. With that said, Mr. Wright asked for a motion to enter into deliberation.

Mr. Vieira made a motion to enter into deliberation. Seconded by Mr. Carroll. The Board entered into deliberation at 7:23pm.

Mr. Wright began by saying that he has heard the Board's comments and concerns and pointed out that, in the past the Board has received plot plans, a drawing and dimensional requirements and variations that would help the Board understand where this structure would go. Mr. Wright went on to say that, what he was leaning towards was to try to figure out a way to comply with our ordinance and protect abutters and future use and offering the applicant some relief. Mr. Wright talked about setbacks and life safety and building codes that Mrs. Rouleau-Cote, the Building Inspector/Code Enforcement Officer would handle when the plan was submitted for a Building Permit. Mr. Wright also stated that, if Mrs. Rouleau-Cote did not believe it could be done where they intended that they would have to come back to the Zoning Board of Adjustment. Mr. Wright wanted to hear from other Board Members at this time. Mr. Matte asked if they could send them to the Planning Board first and then have them come back before the ZBA for approval. Mr.

Wright explained that, what typically happens when an applicant has to go before both the ZBA and the Planning Board that they come before the ZBA for the Variance and then go to the Planning Board with drawings and plans. A brief discussion ensued regarding going before the ZBA and Planning Board and the process.

Mrs. Phillips asked if they could approve the specific use and limit it to the size of the shed based on the Planning Board acceptance and that way they can move forward. Mr. Wright said yes, they can approve something conditioned upon Planning Board approval. Discussion ensued regarding Planning Board review regarding lighting, parking and hours of operation. Mr. Vieira talked about what Ms. Kidder was proposing and was unsure that 200 square feet would be enough for her. Mr. Vieira wanted her to make sure of what she wanted right off the bat. Mr. Stuart pointed out that, they were looking for a 10 foot by 15 foot shed and if they can't make it work then they can always come back before us. Mr. Stuart also indicated that, he would not be able to approve it without any guidelines or size. The Board members all agreed.

Mr. Wright asked Mr. Vieira if he would be comfortable if they put a condition on it that it be no larger than 200 square feet knowing that if they exceed that, that they would have to come back before the Board. Mr. Wright went on to add that, it would also be conditions to a specific use and conditioned upon site plan approval through the Planning Board and other code and life safety designs that are required. Mr. Vieira said yes, he would be agreeable to that. Mr. Matte wondered if they should give some leeway and say 250 square feet. A brief discussion ensued regarding the Board granting minimum relief. The Board members discussed the proposed shed and the fact that they were talking about things that would be dealt with by the Planning Board.

Mr. DiPietro made a motion to exit out of deliberation at 7:39pm. Seconded by Mr. Carroll. The Board exited out of deliberation.

Mr. Wright asked Mrs. Rouleau-Cote if she had anything else to add other than her Zoning Determination or anything that the Board should think about or consider. Mrs. Rouleau-Cote began by saying that, she was certain that the Planning Board would be addressing a lot of things that the Board has talked about regarding parking, signage and hours of operation. Mrs. Rouleau-Cote also had the same concerns that the Board had regarding not knowing the size of the structure and where they propose to place the structure on the property in proximity to the parking and to the house. Mrs. Rouleau-Cote mentioned that, the life safety of people who may be coming in December when it's dark at 4:00pm would be things that she and the Planning Board would be working with the applicant on. Mrs. Rouleau-Cote talked about provisions in the Building Code regarding distances in being able to use the facilities in the existing home as an alternative to having bathroom facilities in the structure. Mrs. Rouleau-Cote moved on to the discussion regarding the size of the structure and how the Board was trying to get an idea on the size and recalled the applicant talk about adding a porch on the front of it which would be part of the square footage. Mrs. Rouleau-Cote thought that the Board could put some conditions on it regarding size and conditioned upon a minor site plan review with the Planning Board. She did not see it being a huge site plan review with the Planning Board and suggested

that they maybe go for an informal with the Planning Board first to see what they would need to present to the Planning Board and then move forward with a true site plan review with the Planning Board. Mr. Wright agreed and believed that Mrs. Rouleau-Cote hit it regarding things that they need to consider voting on this application.

Mr. Wright suggested to the applicant that she may want to amend her application to say “no structure larger than 300 square feet” or something like that so that they would not have come back before the Board if things changed slightly. Mr. Wright asked Attorney Allard if they could get a formal amendment to their application to say no larger than 300 square feet. Attorney Allard said yes, they were agreeable to that and limiting it to a dreadlock business. Attorney Allard went on to say that, after listening to the Board’s discussion while in deliberation that certainly they will have to go to the Planning Board and that it may be helpful to have a little more wiggle room and would like to propose a 400 square foot building which would be a 20 foot by 20 foot building. Mr. Wright asked what the size of the current house was. Ms. Kidder stated that it was 1,500 square feet. Attorney Allard did not believe that his client would be proposing that big but it would be helpful to have a little more wiggle room so if it’s 16 feet by 18 feet and they said 10 feet by 20 feet then they wouldn’t have to come back before the ZBA. Mr. DiPietro did not have a problem with that request. Mr. Wright reiterated what Attorney Allard was asking for which was not to exceed 400 square feet. Mr. Wright asked the applicant if it would be a single-story structure. Ms. Kidder said only one room. Mr. Matte asked Ms. Kidder if it would only be her working there. Ms. Kidder indicated that she has one girl working with her. Mr. Wright also added that, they could condition it to only a single-story structure. Mr. Stuart and the Board members all agreed.

Mr. Stuart asked Ms. Kidder that, in her cover letter she indicated that the state called it “African hair styling” or “hair braiding”. Ms. Kidder commented that, there is no Board of Cosmetology in NH. A brief discussion ensued regarding hair braiding or African hair styling.

Mrs. Rouleau-Cote wanted to point out that, in the Zoning Ordinance that an accessory use is usually not to exceed 25% of the floor area of the primary use, so if you mention that the primary house is 1,500 square feet then 400 square feet is too much. The Board discussed the total requirement which would be capped at 375 square feet.

Mr. DiPietro made a motion to vote on the Variance application as presented tonight with the condition that the single-story accessory dwelling not to exceed 375 square feet which structure shall be limited to dreadlock/African hair styling shop and the sale of accessories contingent upon a review by the Planning Board to include on code compliance and life safety code provisions for Case #20-02, 37 Lakeview Way, Tax Map 17, Lot 88. Seconded by Mr. Vieira. Mr. Vieira voted to grant as all five (5) factors have been met, Mr. Carroll voted to grant, Mr. Stuart voted to grant as all five (5) factors have been met, Mr. DiPietro voted to grant as he believed all five (5) factors have been met, and Mr. Wright also voted to grant and believed that all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. Wright explained that the Variance has been granted and that there was a 30-day appeal period where abutters or interested parties could appeal the ZBA decision. Mr. Wright also stated that they had two (2) years for substantial completion. Mr. Wright also indicated that their next step would be to go before the Planning Board. Attorney Allard thanked the Board members and the discussion ended.

Other Business

Mrs. Rouleau-Cote believed that there would be at least one case coming before the Board in March which would be Travassos who will be looking for an extension of an approved Variance. Mr. Stuart did not believe he would be around for the March meeting.

Minutes

Mr. DiPietro made a motion to accept the minutes of January 28, 2020 as written, seconded by Mr. Stuart. All were in favor, and the motion passed.

Mr. Wright thanked Mrs. Rouleau-Cote for her input tonight.

Adjourn

Mr. Stuart made a motion to adjourn, seconded by Mr. Carroll. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 8:00 p.m.

The Zoning Board of Adjustment is scheduled for March 24, 2020 at 7:00 pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted on the upcoming Agenda.