

APPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
June 27, 2023

Present: Mike DiPietro, Chairman. Kevin Stuart, Vice-Chairman. Nick Pappas, Allie Broom & Jeremy Wirths, Alternate Members. Minutes recorded and prepared by Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer.

Absent: Patrick Bergeron, Shannon Daoust & Jill Dross, Members. Steven Kimball, Alternate Member.

Mr. DiPietro called the meeting to order at 7:01 p.m. At this time, Mr. DiPietro explained the procedures for tonight's hearing and introduced the Board members to everyone present at tonight's hearing. Mr. DiPietro informed everyone that Mrs. Rouleau-Cote was also present tonight for tonight's meeting.

Mr. DiPietro pointed out that we have a quorum tonight by elevating all three (3) alternate members present tonight and therefore elevated Mr. Pappas, Ms. Broom and Mr. Wirths to full voting members for tonight's hearing. With that said, Mr. DiPietro asked Ms. Royce to read the case into the minutes. Ms. Royce read the first case into the minutes for the record.

Case #23-11
Matthew & Stacey Dube
16 Parker Way – Tax Map 4, Lot 2-3
Zoned Residential Two

Applicant is requesting a Special Exception from Article 4, Section 4.06(5)(h) to allow the construction of a duplex Unit to be attached to the existing single-family home; and, a Variance from Article 4, Section 4.06(6) to allow the addition for new duplex unit to be within the side setback in a Residential Two zone.

Mr. Stuart asked Mr. Dube if anything has changed since the last application was submitted and granted by this Board. Mr. Dube said no that the builder fell through, and they were unable to build it. Mr. Dube went on to say that he did not know that it had expired until Ms. Royce informed him that it had in fact expired. Mr. Dube said that right now it's the same if anything they would probably go smaller to save on cost. Mr. Stuart understood. Mrs. Rouleau-Cote added that nothing has changed in zoning. Mr. DiPietro asked about the Variance for the setback. Mr. Dube informed the Board that because the way the house is set on the lot that it would encroach into the side setback in order to line it up with the driveway.

At this time, Mr. DiPietro asked Mr. Dube to start by reading the Special Exception application into the minutes. Mr. Dube began by reading his application for the Special Exception into the minutes for the record.

Mr. DiPietro believed they could vote on the Special Exception first and then the Variance unless the Board wanted to hear both now. Mr. DiPietro asked if there were any questions from the Board. None were noted. Mr. DiPietro asked if there were any abutters or interested parties present. None were noted. Mr. DiPietro asked Mrs. Rouleau-Cote if she had anything to add. Mrs. Rouleau-Cote wanted to clarify that Mr. Dube has mentioned both an ADU and Duplex back and forth and believed his intention was when he first applied that because he was going to exceed the square footage he was moving along with the duplex as there would be no restriction on the size and he has the acreage to be able to do a Duplex. How he decides to move forward that she could work with him on that but just wanted to make sure that everyone was on the same page. In conclusion, Mrs. Rouleau-Cote stated that he does have the acreage to be able to do a duplex. Mr. DiPietro thanked Mrs. Rouleau-Cote for her input.

Mr. DiPietro stated that, if there were no more questions, he would entertain a motion to vote on the application as presented.

Mr. Stuart made a motion to vote on the Special Exception application as submitted for a duplex unit to be attached to the existing single-family home for Matthew & Stacey Dube, 16 Parker Way, Tax Map 4, Lot 2-3. Seconded by Mr. Pappas. Mr. Wirths voted to Grant finding all four (4) factors have been met, Ms. Broom voted to Grant finding all four (4) factors have been met, Mr. Stuart voted to Grant finding all four (4) factors have been met, Mr. Pappas voted to Grant finding all four (4) factors have been met noting that there were no changes made, and Mr. DiPietro also voted to Grant finding all four (4) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro informed the applicant that the Special Exception was granted and that they would receive a Notice of Decision from Ms. Royce. Mr. DiPietro also informed the applicant that there was a 30-day appeal period where abutters or interested parties could appeal the Board's decision. Mr. DiPietro asked the applicant to read the Variance application into the minutes for the record.

Mr. Dube read the Variance application into the minutes for the record. Mr. DiPietro asked if there were any questions from the Board. Mr. Stuart asked about the Variance and the relief that he would be looking for within the 30-foot side setback and believed the last time they utilized the plan. Discussion ensued with regard to the relief requested to be within the side setback. It was noted that the Board could reference the plan presented at the previous Zoning Board of Adjustment meeting back on March 23, 2021. The Board

members all agreed. Mr. DiPietro asked if there were any further questions for the applicant. Mr. Wirths asked about the size of the structure. Mr. Dube believed if it was an ADU that it would be over the 750 square feet allowed but that a duplex did not have a specific set size.

Mr. DiPietro asked if there were any further questions. None were noted. Mr. DiPietro stated that if there were no further questions that he would entertain a motion to vote on the Variance application as submitted.

Mr. Stuart made a motion to vote on the Variance application as submitted for a duplex unit to be attached to the existing single-family home to include the plan that was submitted for Matthew & Stacey Dube, 16 Parker Way, Tax Map 4, Lot 2-3. Seconded by Mr. Pappas. Mr. Pappas voted to Grant finding all five (5) factors have been met as it's the same plan that was submitted back in 2021, Mr. Wirths voted to Grant finding all five (5) factors have been met, Ms. Broom voted to Grant finding all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met noting that there were no changes made, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro informed the applicant that the Variance was granted and that they would receive a Notice of both of their decisions from Ms. Royce. Mr. DiPietro also informed the applicant that there was a 30-day appeal period where abutters or interested parties could appeal the Board's decision.

Case #23-12

James Butts, Trustee

64 Tanglewood Drive – Tax Map 4, Lot 19-5

Zoned Residential One

Applicant is requesting a Special Exception from Article 4, Section 4.06(3)(m) to allow an Accessory Dwelling Unit within the existing single-family home; and, a Variance from Article 2, Section 2.02(28)(a) to exceed the required 750 square feet for the ADU in a Residential One zone.

Mr. Butts began by reading his application for Special Exception into the minutes for the record. Mr. Butts explained that he included the whole basement because he was unsure what was being requested of him. Mr. DiPietro stated that it currently exists correct. Mr. Butts said yes.

Mr. DiPietro asked Mrs. Rouleau-Cote if she had any input she wanted to add. Mrs. Rouleau-Cote stated that she was present when the house was being constructed originally and what was being shown to the Board members tonight was the original floor plan of the house. Mrs. Rouleau-Cote pointed out that there have been some modifications made to the home with appliances added and according to Avitar Assessing

there is a bedroom down there, so it qualifies as an Accessory Dwelling Unit because it has cooking, sanitation and sleeping provisions. Mrs. Rouleau-Cote pointed out that she has not been inside the home since it's been constructed.

Mr. Stuart commented to Mr. Butts that he finished the basement. Mr. Butts indicated that everything was there when the house was built and the only thing, he had added was a plug-in stove and a privacy door where a curtain was. Discussion ensued with regard to what is included in the basement and the egress to the outside. Mr. Butts stated that there were French doors from the basement. Mr. Butts stated that the stove is in place currently and everything else was there when the home was built. Mrs. Rouleau-Cote reiterated that by adding a privacy door it created a bedroom and the appliance created cooking provisions which makes it an ADU. Mrs. Rouleau-Cote was unsure what was occurring within the storage area. Mr. Butts said that it was totally unfinished. Mrs. Rouleau-Cote added that she has been in communication with the property owner over the last four (4) to six (6) months trying to resolve this issue and he's chosen to go through the steps of making it a legal ADU by appearing before this Board. Mrs. Rouleau-Cote informed the Board members that when the house was built that there was no bedroom with a door and there were no cooking provisions and if he is granted permission to have the ADU then it would have to meet the egress requirement. Mr. Stuart believed that if this was granted that it could potentially be an issue with the egress requirement. Mr. Butts asked Mrs. Rouleau-Cote if he removed the privacy door would it solve the problem. Mrs. Rouleau-Cote stated that if the privacy door goes away then there's not a bedroom but he also does not have permission to have an ADU so he would either have to go through this process for a legal Accessory Dwelling Unit or you would go back to having a finished basement that is utilized as part of the single-family home. Ms. Broom asked if the appliance could remain. Mrs. Rouleau-Cote stated that the appliance could remain, but it would be clearly documented that the use would be part of the single-family home, but it was up to the applicant to decide how he would like to proceed. Mr. Stuart asked the applicant how he wanted to proceed. Mr. Butts said he would like to move forward but worse case scenario he would remove the privacy door. Mr. Pappas asked Mrs. Rouleau-Cote if this were granted that she would go in and do a full inspection. Mrs. Rouleau-Cote stated that she would go in to do an inspection that if it turned into a bedroom that the window is an egress window and there is a smoke detector in the bedroom and there is a smoke/CO detector outside of the bedroom which would include life safety issues.

Mr. DiPietro asked if there were any further questions. None were noted. Mr. DiPietro asked if there were any abutters or interested parties. Ms. Galida of 53 Tanglewood Drive had a few questions and began by asking if the ADU was granted was there a time limit. Mrs. Rouleau-Cote commented that the Special Exception runs with the property so if he were to sell it that it would go with the property. If at any point the ADU is abandoned for more than a year, then whatever is granted tonight would go away. Ms. Galida asked if the homeowner would need to reapply if there is a change in who occupies the ADU. Mrs. Rouleau-Cote commented that State law allows the ADU to be rented but the homeowner would need to occupy one of the units, but the unit could be rented. Ms. Galida asked if there was a time limit for how long the renter stays. Mrs. Rouleau-Cote

said that our current zoning ordinance does not have any provisions for that, and it would be up to the Planning Board and Zoning Board to see if they want to prohibit the Airbnb uses. Mrs. Rouleau-Cote indicated that she does not receive a lot of concerns about this issue at this time. Ms. Galida thanked the Board for listening to her concerns and in conclusion, she would like to add that her thoughts would be to not allow an ADU. Mr. DiPietro informed Ms. Galida that it is permitted in our ordinance by Special Exception. Mrs. Rouleau-Cote added that State law says that wherever we allow single-family homes that we have to allow Accessory Dwelling Units. Mrs. Rouleau-Cote further pointed out that we currently have it in our ordinance that they have to come in to get the Special Exception and then that is an opportunity for someone to express their concerns but to totally prohibit ADU's then State law would trump you on that. It is an allowed use in the Town of Auburn by Special Exception so the Zoning Board would have to have just cause to deny a Special Exception. At this time, Mr. Stuart asked Ms. Galida her reason for being against the ADU. Ms. Galida stated that if it were different and if it were limited to change of occupancy as she would hate to see it turn into an Airbnb but understood that it was up to the property owner. Mr. Butts explained to Ms. Galida that the homeowner has to live with that person and that he would not want to live with someone that he didn't want to live with. A brief discussion ensued between Mrs. Rouleau-Cote and the Board members regarding the use of the ADU and being occupied by a family member previously.

Mr. DiPietro believed they could vote on the Special Exception and then move onto the Variance request.

Mr. Stuart made a motion to vote on the Special Exception application to allow for the Accessory Dwelling Unit for 64 Tanglewood Drive, Tax Map 4, Lot 19-5 as presented tonight. Seconded by Mr. Wirths. Mr. Wirths voted to Grant finding all four (4) factors have been met, Ms. Broom voted to Grant finding all four (4) factors have been met, Mr. Stuart voted to Grant finding all four (4) factors have been met, Mr. Pappas voted to Grant finding all four (4) factors have been met, and Mr. DiPietro also voted to Grant finding all four (4) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro asked Mr. Butts to read the Variance application into the minutes for the record.

Mr. Butts read his application for Variance into the minutes for the record. Mr. DiPietro asked if there were any questions from the Board. None were noted. Mr. DiPietro asked if there were any questions from abutters or interested parties. None were noted. Mr. DiPietro asked Mrs. Rouleau-Cote if she had anything else to add. Mrs. Rouleau-Cote wanted to clarify with Mr. Butts that the storage area is to remain an unfinished area right now. Mr. Butts said yes, there is no carpeting and it's to remain unfinished. Mrs. Rouleau-Cote asked about the mechanical room. Mr. Butts pointed out the mechanical room on the floor plan provided. Mr. DiPietro asked if that unfinished area was included in the 1292 square feet of the basement area. Mr. Butts said yes as he did not know how to obtain the finished square footage of the basement area. A brief discussion ensued with

regard to the finished square footage of the basement. At this time, Mrs. Rouleau-Cote asked Ms. Royce if a copy of the tax card was included in the packet for the Board members. Ms. Royce said yes. The Board reviewed the tax card which indicated the 1292 square feet were included in the finished basement portion.

Mrs. Rouleau-Cote's only concern was the storage area which she would like to know what this area is because if any changes to that area she would like to know what they would be utilizing it as because if they try to turn it into a bedroom there is no egress window in that room. Mrs. Rouleau-Cote did not care if he wanted to utilize it as storage as she only wanted to go through and document everything in 2023 and if it was unfinished, she would like to inform the assessors that they need to remove this area as finished and show it as unfinished.

Mr. DiPietro and Mr. Stuart believed that they could grant the Variance with the understanding to be as represented tonight and as shown on the plan submitted. Mr. DiPietro asked for a motion.

Mr. Stuart made a motion to vote on the Variance application for the Accessory Dwelling Unit as presented tonight and as shown on the plan presented to the Board with the storage area to remain unfinished for 64 Tanglewood Drive, Tax Map 4, Lot 19-5 as presented tonight. Seconded by Mr. Pappas. Mr. Wirths voted to Grant finding all five (5) factors have been met, Ms. Broom voted to Grant finding all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. Pappas voted to Grant finding all five (5) factors have been met, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro informed the applicant that the Board granted the Variance and that he would be receiving a notice from Ms. Royce. Mr. DiPietro also informed the applicant that there was a 30-day appeal period and a two (2) year for substantial completion. Mr. DiPietro thanked the applicant and thanked the abutter for her input. At this time, the discussion ended.

Minutes

Mr. Stuart made a motion to approve the minutes of May 23, 2023, seconded by Mr. Pappas. A vote was taken and, the motion passed.

New Business/Other Business

Mr. DiPietro stated that there would be no meeting in the month of July. Mr. DiPietro thanked everyone and stated that he would entertain a motion to adjourn.

Adjourn

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

The ZBA will NOT be meeting during the month of July. The next meeting is scheduled for Tuesday, August 22nd, 2023 at 7:00pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted on the upcoming Agenda.