

**TOWN OF NORTHFIELD
ZONING BOARD OF ADJUSTMENT
AUGUST 27, 2018
MINUTES**

Present: Kent Finemore, David Curdie, Keith Murray, Kaitlin Lounsbury, Brian Brown and Scott Haskins, Selectmen's Representative, Susan Slack, Representative from the Lakes Region Planning Commission.

Public: Cathy Keyser, John Guay, Byron Dalton, Cynthia Dalton, Steve Partridge, Cory Partridge, Joanne Barton, Syd Barton

Kent – Scott Haskins will be a voting member for the Zoning Board up until Brian Brown arrives.

Meeting Minutes of June 26, 2017: David Curdie made a motion to approve the minutes of June 26, 2017, as written, seconded by Kent Finemore. Unanimous Vote, Minutes Approved.

Meeting Minutes of July 23, 2018: Scott Haskins made a motion to approve the minutes as written of July 23, 2018, seconded by David Curdie. Vote 4-0. **Motion Passed.**

Continuance of Application for Variance submitted by Cathy Keyser and John Guay, 95 Park Street, Northfield, NH, Map U08, Lot 07, requesting relief from Article 7, Table 7.10, of the Northfield Zoning Ordinance, to allow the renovation of the upstairs garages to make an apartment in the R2 Zone.

The reason for the continuance was to get an opinion from counsel. There are several uses on the property including residential and commercial.

Brian Brown arrived at the Zoning Board Meeting at 7:10 pm. Scott Haskins will no longer be a voting member of the board for the evening.

Discussion from the board, the board has read the letter from counsel. The discussion amongst the board is that in the past Applications for Variance to have a second residence on a property has been denied. If the board were to approve the application for variance with conditions, the conditions will go with the property and stay with the property. The only problem will be that it could be hard to enforce. The discussion of the varied definitions of "Hardship" and how it applies to this application, the five criteria that are required to be met in order for a variance to be granted.

Further discussion from the board, none noted.

Open Public Hearing

Cathy Keyser – I had called you shortly after the meeting because I had requested the minutes and it stated that we are located in a Commercial/Industrial Zone and we are not.

Kent Finemore – That was an error on the part of the board last meeting discussing it as though it was in the Commercial/Industrial Zone. It was noted on the application that the property was located in the Commercial Industrial Zone where it should have stated R2 Zone. A couple of years ago or last year, one of the zoning changes was it used to be Commercial Industrial on your side of the street and R2 on the other. The zoning went that way for 10 years, decided to change it to all R2. We discussed it as if it was in the Commercial/Industrial Zone. In all zones, two residential units on one property are not allowed.

Cathy Keyser – In the R2 District according to Article 7, Table 1, you can put a church, country club, all this stuff is permitted, multifamily residence 5 units or more. Do you think it's beneficial if we take the house and those 5 garages that are attached and turn it into one bedroom apartments and rent them all out?

Keith Murray/Kent Finemore – It will be allowed.

Cathy Keyser – It's allowed. Everyone is talking about improving the Main Street of Northfield. That is what we are trying to do is to improve our property, because that is the only other thing we will be able to do. We sold our house across the street. That just means we are going to have to buy another piece of property or another house and keep that as income property. It just doesn't make any sense to, we will just have to turn the properties into apartments and then we will just move out of Northfield and take both the business out of Northfield.

John Guay – It's just not fair, everyone is looking for excuses not to do it. We are not trying to hurt anything, we are trying to improve our property to make it our long term property. It just seems that everyone wants to go against us. We do a lot for the town and to be like, we never approved anything like this and we are not going to. Quite frankly, the last meeting everyone on the board at the time was in favor of this until Wayne Crowley spoke up about setting a precedence. What the precedence Wayne Crowley is setting in this town is that is better for ask for forgiveness that ask for permission. We can show you many examples of that, we are just trying do things right.

Syd Barton – You had some ground rules, the board that you were elected to, that they needed to follow, apparently they followed it, it is out of these minutes things have changed. You are the governing people and they gave you exactly what you asked so anything beyond that to me, that sets a precedence if you want to vote on something beyond that, that's where it should start, not halfway through the game. Am I right or am I wrong?

Kent Finemore – We are not an elected board, we are appointed by the selectmen so the board accepts applications, reviews them and votes on them the best we can under the circumstances. What we try to do, people are asking for relief from zoning, these questions about whether or not something is happening between meetings, we continued it to get an opinion from the town's attorney because it is a very complicated piece of property with several uses. I don't think anything the Zoning Board has done is out of bounds at all.

Syd Barton – Is in favor of the Application for Variance.

Kent Finemore – Further Testimony from the Public.

Byron Dalton – It sounds like you are denying it because the dwelling units are not attached. What if they put a breezeway and connect the buildings.

Kent Finemore – I don't what constitutes being attached as far as a breezeway. That is basically the issue, two separate dwelling units on one property. That is kind of the basis for zoning that is how zoning was first initiated.

Any further testimony from the public

Cathy – the only thing, when I brought up some of the other properties, you said that they were predated, these properties were not predated in 1979. We are trying do the right thing, we are doing it the proper way, going through the proper channels. The ones I mentioned, what happens to these people when you catch up to them?

They built this apartment in this garage, they didn't go through the proper channels, what happens to them?
What do you do to them?

Kent Finemore – I don't know the answer to that question. The Zoning Board accepts applications and deals with what is brought before the board. We do not have any jurisdiction over Code Enforcement and as far as whether those things were built before zoning I don't know. There were a couple of those properties that you mentioned that I thought may have been but I don't know for sure.

Cathy Keyser – We are just trying to improve Park Street just like everyone else is. We just want everything to look nice. We were very fussy with the people we sold our house to. We wanted to make sure it would stay in the condition that it is in, it's going to look nice. They might be putting a business in there as well. Brining businesses into Northfield and making improvements, everybody goes up and down that street, we don't want to have to put five apartments in that one house and garages. We sold our house and we have nowhere to go.

Kent Finemore – I speak for myself and I appreciate everything you have always done.

Further testimony while I have the Public Hearing Open. None Noted.

Kent Finemore – Close Public Hearing but I can reopen Public Hearing at a later time.

We are going to bring this discussion back before the Board.

Keith Murray to Cathy Keyser – The purpose of the zoning as it is written is to prevent overpopulation. If we were to grant the variance for you and/or any other application that comes in, it sets a precedence. We have to look out for what is best for the town. I hope you understand that. I have been the one who supports resident's rights but we also have to do it for the benefit of town as well.

Kent Finemore – Further Discussion from the Board

The Board continued their discussion on the Application.

Kent Finemore – Sometimes when asking the opinion of an attorney it helps cut through the noise it just brings forward the issue, what distinguishes the property from the others in the area. It points out the property is used to a substantial extent, several things going on at the property, some predate your ownership of the property.

Discussion amongst the Board regarding the definition of Hardship, what will happen if someone else came in and requested the same thing, would it be in the spirit of the ordinance? Each application is reviewed individually and the decision is made based on the criteria of the Zoning Ordinance.

Further discussion from the board, none noted.

Kent Finemore – Re-open the Public Hearing

Cathy Keyser – As I sit here listening about precedents, basically the well-being of Northfield, overpopulation, is it in the best interest of Northfield to do something like this and the overpopulation of certain areas. I could see if this was in residential area like around Cornerstone Circle, the abutters could come in and voice their opinion. That is more what I consider residential, all around us are multi-family homes, some are in one dwelling and others are in more than one dwelling. They are not even going to know that we are there. What we are doing is not going to affect anyone. Will they know if we have a multi-unit dwelling unit there, absolutely? That is going to overpopulate and bring more kids into the school system that is going to create

havoc. I am not threatening you that if this doesn't go through that that is what I am going to do. I have lived in Northfield for 27 years and I love this community, all I am trying to do is improve it. I totally understand what you are saying when you say that this person can do it and that person can do it, I think it depends on the individual situation. By reading the other things that allowed in the R2 is ridiculous compared to what we are asking for. If you look at all the things on here that say that you can do in R2, a municipal building, an office, I mean it is ridiculous compared to what we are asking for.

Further Testimony from the Public –

Byron Dalton – What is the definition of a single dwelling? Is it all under one roof?

Kent Finemore – Yes

Further testimony from the Public. None Noted. Close Public Hearing

Further Discussion from the Board

The discussion regarding the R2 Zone, are all R2 zones the same. The R2 Zones are defined by the permitted uses and what corridor they are located, access to services access to roads. Could conditions be set and will the conditions be able to be held up in court. If we could permit this because of the location within the R2 zone, can the spirit of the ordinance be reserved and can we say it at that point because of where of the property is located. The property will be limited to what they can do at the property and they will be limited to three units.

The board's discussion on the criteria of the Application. All five conditions have been met.

Motion made by Keith Murray to Approve the Variance with the following Condition:

The Unit Separate from the Main Residence MUST be Owner Occupied

Motion Seconded by David Curdie. The question brought up by David Curdie is will it be enforceable after it is granted.

Moved and Seconded. Discussion on the Motion

Board Discussed the Motion.

Scott Haskins, Selectman's Representative – I see why you put the condition on the variance and I like the way it was worded. I do have two concerns what Cathy mentioned regarding the people who have already done this and what will happen when they are confronted by Code Enforcement.

Kent Finemore – Selectmen is the Executive Branch.

Kent Finemore – Further Discussion from the board on the Motion. None Noted

Those in favor of Motion to Approve Application for Variance submitted by Cathy Keyser for the property located at 95 Park Street, Map U08, Lot 07, Relief from Article 7, Section 7.10 of the Northfield Zoning Ordinance with the condition noted above. Vote 4-0.

Motion Passed. The Variance is Granted

Byron Dalton – Application for Variance at 199 Park Street, Map U08, Lot 140, in the R2 District, seeking relief from Article 7 Section 7.2 of the Northfield Zoning Ordinance to build a garage 28 x 28 to be attached to an existing barn, on .27 acre of land.

All abutters have been notified.

Introduction of Sue Slack of the Lakes Region Planning Commission. Discussion of the application, the property is pre-existing and non-conforming.

Matter back to the board.

Motion by Keith Murray/Seconded by Brian Brown to accept application as complete.

Byron Dalton – The barn is just for storage, I would not be able to park my vehicles in the barn as the floor is not strong enough to hold the vehicles. The garage will be for parking my vehicles so I don't have to shovel them off in the winter time.

Board discussed the Application for Variance and the location the garage will be built.

Kent Finemore – Further discussion from the board. None noted.

Open Public Hearing

Steven Partridge – I am in favor of this garage, I just wanted to let Byron know that there is a sewer line that runs the back of his property just before the railroad tracks.

Kent Finemore – Further discussion from the Public. None Noted. Close Public Hearing

The Board discussed the Criteria and whether the request for relief meets the criteria. After discussion of each criteria, the board indicated that the request for relief did meet the criteria.

Further Discussion from the Board. None Noted.

Keith Murray made a Motion to Grant the Variance/Seconded by Kaitlin Lounsbury. Vote 4-0. Motion Passed. Variance Granted.

Sue Slack – There are a few changes to the Legislature regarding the voting for the Zoning Board. Some boards do what you've been doing and take one vote on all five criteria. Other towns vote on each criteria individually. The Legislature has decided to leave it up to the towns as to whether they are to take one vote on all five criteria or vote individually on each criteria.

It was also passed by the Legislature that the minutes are to include the members who make a motion and the members who seconds the motion.

Motion to adjourn meeting made by Keith Murray/Seconded by Brian Brown. Vote 4-0. Motion passed.

There being no further business the meeting was adjourned at 8:45 p.m.

Meeting Minutes Approved September 24, 2018.