

**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

July 5, 2022

**APPROVED:** 8/23/22

**AGENDA:** 22VAR03–SPENCER LACASSE–66 SCHOOL ST-#114-028  
22VAR04–TIMOTHY & DONNA HOLLENBECK–39 DANFORTH BROOK RD-#223-048

**ATTENDING:** Alan DeStefano (Chair), Richard LaFlamme (Vice Chair), Larry Denton (Zoom)

**ABSENT:** Melody Mansur, Lorraine Bohmiller, Ashley Dolloff (alternate)

**OTHER:** Lindsay Thompson (Land Use Administrative Assistant), Denice DeStefano (Acting Manager)

Mr. DeStefano called the meeting to order at 6:00 pm with a quorum in person. Mr. DeStefano advised the applicants that they have an option to continue their meetings, as two (2) members were not able to attend tonight's meeting, leaving the three (3) remaining members. This means that all three (3) must agree or the votes will automatically fail. None of the applicants chose to continue their cases.

**MINUTES OF 5/31/22**

Mr. LaFlamme motioned to approve the minutes of May 31, 2022. Mr. Denton seconded. Mr. Denton reported a typo under the signature title of the Land Use Manager, which will be corrected. The minutes as amended were approved 3-0-0.

**22VAR03 – SPENCER LACASSE – 66 SCHOOL ST - #114-028**

Ms. Thompson read the application, abutters notified, and where the hearing was advertised. The application is for a Variance for 66 School Street that is requesting to add a fifth unit to the existing four (4) unit that is recognized by the Town, in a zone that doesn't allow multi-family properties. She added that there were no written comments or telephone messages received from the public. There are Department Head comments submitted. The Water/Sewer Department requires an application for service as their records also indicate only four (4) units. The Fire Department who completed an inspection on July 1<sup>st</sup>, requires a correction of the addressing of the units and repair of ceiling tiles in the front entryway. Per the Fire Department all other items meet the current fire code.

The Board reviewed the application. Mr. Denton motioned that the application is complete. Mr. Laflamme questioned where the application indicates the fifth unit is located and Mr. DeStefano felt that the unit was already existing in the building and therefore isn't shown as being added to the plans. Mr. Laflamme seconded that the application is complete. The motion carried 3-0-0.

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#### **22VAR03 – SPENCER LACASSE – 66 SCHOOL ST - #114-028 (continued)**

Mr. DeStefano opened the meeting to the Board for questions. Mr. Lacasse explained that when he purchased the property, he purchased it as five (5) units, but did not become aware of the issue with the fifth unit until he attempted to refinance. The former owner Mr. Melo added the unit by adding a wall that split one (1) unit into two (2). Mr. DeStefano asked if this multi-family building predated zoning and Ms. Thompson confirmed that it did and is grandfathered as a multi-family, 4-unit building. Mr. DeStefano inquired if the purchase of the building was represented by a realtor and Mr. Lacasse confirmed that it was. Mr. Lacasse clarified that the MLS (sales listing) indicated four (4) units, but when he did the walkthrough there were five (5) units. Mr. Denton inquired if all five (5) units were livable, and Mr. Lacasse confirmed that they are. Mr. Lacasse added that the two (2) items that the Fire Department asked to be addressed have also been taken care of. Mr. DeStefano pointed out that the Water / Sewer Department also shows only four (4) units and Mr. Lacasse confirmed that he has taken care of that additional unit application with the Department. Mr. DeStefano inquired why the application would be allowed for something that was not approved and Mr. Lacasse advised that he took care of the application as he felt it would help his case with the Variance.

The Variance criteria were reviewed with the Board:

- Criteria 1. Not contrary to the public interests – With the current housing shortage crisis, the Variance would allow for the additional unit to help with the shortage.
- Criteria 2. Spirit of the ordinance observed – The property is already a multi-family, and the additional unit will not add to the existing bedroom count. Mr. DeStefano Inquired if they were changing the bedrooms and Mr. Lacasse clarified that although the property card showed 11 bedrooms, there are only 10.
- Criteria 3. Substantial justice – The property is a multi-family and will stay that way. The property has been five (5) units and operated that way since before this owner purchased.
- Criteria 4. Values of surrounding properties would not be diminished – There would be no change in the surrounding property values as there would be no change to the structure. Mr. Lacasse also believes that the value of the property would increase with more units. Mr. DeStefano asked what evidence there was to substantiate this comment and Mr. Lacasse advised that usually a 5-unit apartment building would have more value than 4-unit apartment building.
- Criteria 5AI. Unnecessary Hardship – The purpose of the Village Residential ordinance is to limit property loading and increase of traffic. The property will not change those as it is currently operating as five (5) units. Mr. Denton felt that all things being equal the value of the property would increase. Mr. DeStefano agreed that the property becomes more valuable, but how do you determine the impact on the surrounding properties. Mr. Denton motioned that the applicant has met this criteria. Mr. DeStefano stated that when

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#### **22VAR03 – SPENCER LACASSE – 66 SCHOOL ST - #114-028 (continued)**

- you take a property in a residential neighborhood and add more families to it there's not going to be an increase in value for regular residential properties. Mr. LaFlamme seconded the motion. The motion failed 2-1-0, as there was no evidence supporting the statement that the properties around this property would increase their value and the criteria failed.
- Criteria 5AI. Unnecessary hardship – Mr. DeStefano added that this property is on a one-way street, and near the Elementary School, therefore, it is hard to judge the traffic. Mr. Denton inquired what exactly the noticeable changes would have been based upon and added that unfortunately the building was sold as four (4) units, which would not be an unnecessary hardship based on the Town Zoning Ordinance. Mr. Denton motioned that the applicant has not met this criteria. Mr. Laflamme seconded. Mr. DeStefano added that there is no way to document any noticeable changes or complaints on this and the hardship is really that there is a fifth unit in the structure. The motion carried 3-0-0 and this criteria failed.
- Criteria 5AII. Reasonable use – Mr. Denton motioned that the applicant has met this criteria as the building is a 4-unit apartment building already and adding a unit keeps it being used, right or wrong, in the same manner. Mr. LaFlamme seconded. The motion carried 3-0-0 and the criteria passed.
- Criteria 5B. Hardship – Mr. DeStefano felt that this comes out of more of a financial component as it is more profitable to have the five (5) units than the four (4). He reminded the Board that financial cannot be taken into consideration. Mr. Denton motioned that the applicant has not met this criteria. Mr. Laflamme seconded. Mr. DeStefano pointed out that according to the applicant's testimony there was a wall put up to separate one (1) unit into two (2) and felt that the wall could be taken down. The motion carried 3-0-0 and the criteria failed.

Mr. Laflamme motioned that the application is denied as it did not meet criteria 3, 4, 5A1 and 5B. Mr. Denton seconded. The motion carried 3-0-0. Mr. DeStefano reminded the applicant that there is a 30-day appeal period.

#### **22VAR04 – TIMOTHY & DONNA HOLLENBECK – 39 DANFORTH BROOK RD - #223-048**

Ms. Thompson read the application, abutters notified, and where the hearing was advertised. She added that the applicants are seeking a variance for 39 Danforth Brook Road to change the porch deck into a two-bedroom edition which encroaches on the setback requirements. Ms. Thompson added that we received one (1) telephone call from an abutter who requested meeting information and no other written comments from the public. The Fire Department provided comments regarding the Land Use Permit which will need to include floor plans.

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#### **22VAR04–TIMOTHY & DONNA HOLLENBECK – 39 DANFORTH BROOK RD - #223-048 (continued)**

The Board reviewed the application. Mr. Denton motioned that the application is complete. Mr. Laflamme seconded. The motion carried 3-0-0.

Mr. DeStefano opened the meeting for the applicant and clarified that this is a setback variance. Mrs. Hollenbeck is moving to Danbury NH and their son, and his family are moving into this home, which will require an addition to the existing space for bedrooms. Mrs. Hollenbeck believed that there had been a Variance when the deck was installed but it has not been located in the Town records, therefore, they are applying for the Variance for the addition. Mr. Denton inquired if he was just going to add onto the existing structure. Mrs. Hollenbeck stated that the roof will meet the ridgeline of the mobile home. Mrs. Hollenbeck added that they bought the property in 2001 however they do not know when the deck was added. She stated that it was their understanding that the original deck structure required a variance, and any change of use would require an additional variance. There was further discussion among the Board about the need for the Variance, and it was determined to move forward. Mr. Denton inquired on the camper and Mrs. Hollenbeck stated that the family is living in the camper until the addition is completed.

The Variance criteria was reviewed with the Board:

- Criteria 1. Not contrary to the public interest - The proposed change to the existing structure would be a much more attractive change and the family would be able to utilize the property better.
- Criteria 2. Spirit of the ordinance would be observed - The proposed changes would be using the existing footprint of the deck.
- Criteria 3. Substantial justice - The property is an extremely small lot, and it is difficult to upgrade the property without encroaching on the setbacks. This will provide suitable housing for the family.
- Criteria 4. Values would not be diminished - A conversion of the porch into two (2) bedrooms would increase surrounding property values and once completed, would make it a more attractive home.
- Criteria 5A1. Unnecessary hardship - The applicant is not asking for a Variance to change the use of the existing structure or one that is inconsistent with the residential zone. The addition of bedrooms on the side of the structure will add a quiet use in comparison to a workshop or something of a similar nature.
- Criteria 5A2. Reasonable use - Constructing two additional bedrooms for use in a residential zone.
- Criteria 5B. Hardship - The existing small lot makes it ridiculously hard to improve or increase the existing home on the property. The new space will be for bedrooms.

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#### **22VAR04–TIMOTHY & DONNA HOLLENBECK – 39 DANFORTH BROOK RD - #223-048 (continued)**

Mr. DeStefano inquired if the intent is to remove the camper once the bedrooms have been added. Mrs. Hollenbeck stated that the camper would no longer be occupied but would remain on the property. Mr. DeStefano opened the meeting to those in favor of the project and there were no comments. Mr. DeStefano opened the meeting to those against the application. Ivonne Monroe, an abutter, has three (3) major concerns: first there is a brook that runs near the mobile home that she would like assurances that the brook would not be impacted; second is regarding a 2002 temporary tent that was installed that has never been removed; third is a concern with a mini-junkyard behind the mobile home that includes truck parts, car parts, etc. Ms. Monroe would like to see the Variance not allowed until the property is cleaned up. Donald Monroe who is going to be purchasing the property from his mother has concerns that the property owner works on vehicles at all hours of the night. He would not like another junkyard behind his house either. Ms. Monroe feels it impacts the value of her property. Mrs. Hollenbeck addressed concerns along the brook and feels that the plantings that have been added will help with any runoff and erosion. This was done to retain the banking. She also acknowledged the fact that there is a lot of stuff on the property and that they are working through sorting the material to go to Danbury to the new property. Mrs. Hollenbeck reports that they have a shop they work out of now and that work is not happening at this location anymore.

Mr. DeStefano advised that from a Zoning Board perspective the powers of the Board are limited to the application itself, and the concerns should be brought to the Land Use Department. Mr. DeStefano stated that if the Variance was approved that there could be stipulations added for any construction to protect the brook. Mrs. Hollenbeck added that she thought there would be some type of silt fencing or construction barrier during construction. With no other questions from the Board or the public, Mr. DeStefano closed the public hearing at 7:20pm and the criteria of the Variance was reviewed by the Board:

- Criteria 1. Not contrary to the public interest – Mr. Laflamme made a motion that they have met this criteria. Mr. Denton seconded. Mr. Denton felt this was a reasonable use for the area. The motion carried 3-0-0.
- Criteria 2. Spirit of the ordinance would be observed – Mr. Laflamme made a motion that they have met this criteria. Mr. Denton seconded. Mr. DeStefano pointed out that it is a Village Residential property, and the spirit of the ordinance reflects a residential property. The motion carried 3-0-0.
- Criteria 3. Substantial justice – Mr. Denton motioned that the applicant meets this criteria. Mr. Laflamme seconded. The motion carried 3-0-0.
- Criteria 4. Values would not be diminished – Mr. Denton motioned that the applicant meets this criteria. Mr. Laflamme seconded. Mr. DeStefano stated that the values would

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**22VAR04–TIMOTHY & DONNA HOLLENBECK – 39 DANFORTH BROOK RD - #223-048 (continued)**

not be diminished and that taking down the porch and adding two bedrooms would not decrease the area property values. The motion carried 3-0-0.

- Criteria 5A1. Unnecessary hardship – Mr. Denton added that the lot is small, which makes it hard to make any improvements. Mr. Denton motioned that they meet met this criteria. Mr. Laflamme seconded. The motion carried 3-0-0.
- Criteria 5A2. Reasonable use – Mr. Denton motioned that the applicant has met this criteria. Mr. Laflamme seconded. The motion carried 3-0-0.
- Criteria 5AB. Hardship – Mr. Denton motioned that the applicant has met this criteria as the lot is so small and there is little room to make additional space for the home. Mr. Laflamme seconded. The motion carried 3-0-0.

Mr. Laflamme motioned to approve the Variance for 39 Danforth Brook Road. Mr. Denton seconded. The motion carried 3-0-0. Mr. DeStefano reminded the applicant of the 30-day appeal period.

**COMMUNICATIONS**

None

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

None

**NEXT MEETING**

The next meeting is scheduled for August 2, 2022. There are currently two (2) Special Exceptions scheduled.

With no other business to come before the Board, Mr. Laflamme motioned to adjourn at 8:32 pm. Mr. Denton seconded. The motion carried 3-0-0.

Respectfully submitted,  
Christina Goodwin  
Land Use Manager