

Westmoreland Zoning board Minutes of June 17, 2015

These minutes are unapproved until voted on by the Board

Present: Chairman, Peter Remy; Vice-Chairman, Barry Shonbeck; Brian Merry; Russ Huntley; Nancy Ranson; Alternate, Ernie Perham.

Chairman Remy called the meeting to order at 7:00 pm and asked the Board to review the minutes of the previous meeting of May 18, 2015.

Mr. Merry asked the Chairman if he had specifically asked Attorney Davis whether the Derjue property was on four separate deeds. Chairman Remy said that he had asked and was told that they were on separate deeds.

Mr. Merry made a motion to include that information in the minutes and Mrs. Ranson seconded and all voted in favor.

Mr. Perham moved to accept the minutes with the addition of the added information and the correction of two typographical errors. Mrs. Ranson seconded and all voted in favor.

Chairman Remy told the Board that an appeal had been filed by Andy Russell, an abutter, to reconsider the Board's vote to grant two Variances to Walter Derjue on May 18, 2015. Mr. Remy said that they needed to set a date for a hearing on whether to reconsider or not.

Mr. Shonbeck asked if there was a time issue involved. Mr. Russell, who was present, said there was not. Mr. Shonbeck made a motion to hear the appeal for reconsideration at the next regularly scheduled meeting on Wednesday, July 15, 2015. Mrs. Ranson seconded and all voted in favor.

Chairman Remy brought up the change proposed by the Planning Board to the fifth principle for granting a Special Exception. The Planning Board suggests changing the word 'shall' to 'may' resulting in the statement, "The Board may seek the recommendation of the Planning Board." Chairman Remy said that the Town Attorney, Sy Little, had suggested doing away with that principle as it could lead to going around in circles. Mr. Remy said that the statement could potentially include other town agencies or individuals such as the Select Board, the Conservation Commission, the Building Inspector, the Zoning Administrator, etc. Mr. Perham said that it could be cumbersome to seek everyone's views. The clerk pointed out that the other agencies were notified of the hearings and could weigh in if they chose. No action was taken on the proposed change but Chairman Remy urged the Board to consider what action they would like to take.

O'Connor Hearing

At the advertised time of 7:30pm Chairman Remy opened the hearing for granting a Special Exception to Marjorie O'Connor to add an Accessory Dwelling Unit to her property at 13 London Road, Map U-2, Lot 19 as required by the Westmoreland Zoning Ordinance Section 407.2.

Chairman Remy invited Mrs. O'Connor's representative, Attorney Michael Bentley to address the Board on her behalf. Attorney Bentley said that Board Alternate, Ernie Perham could do a better job at telling the history of the home as he and his cousin had built it.

Mr. Perham said that in 2004, it was the home of his aunt, Mary Perham, and the house was in quite bad shape so her sons decided it should be torn down and replaced. Leonard and Ernie built a new house for Mary and a small apartment over the garage where Leonard could live.

Mrs. O'Connor bought the house about two months ago and lives there with her husband and her grandson lives in the apartment over the garage.

Attorney Bentley provided the Board with pictures and the layout of the house and the real estate listing information. During the sale it was discovered that the septic system had failed and as part of the sale a new system approved by the state for four bedrooms and two bathrooms was installed. The house closed on May 20, 2015.

Attorney Bentley listed the criteria for an approved ADU:

- a. It has to be secondary to a one family dwelling.
- b. It must have a minimum of 300 square feet. This apartment is 349.5 square feet.
- c. There can be only one ADU per lot.
- d. The ADU does not alter the appearance or character of the house.
- e. There must be two means of egress.
- f. There must be an adequate septic system.
- g. There must be off street parking for vehicles and safe ingress and egress and turning room.
- h. The Building Permit must be issued before the ADU is constructed.

Mr. Perham was asked about a Building Permit from 2004. He said that Junior Starkey was the building Inspector at the time and he became ill and died before the house was finished. Mr. Remy said that in 2004 there was no ordinance allowing Accessory Dwelling Units.

Attorney Bentley admitted that they are seeking an after-the-fact-approval. Chairman Remy asked Attorney Bentley to address the criteria for granting the Special Exception.

1. The specific site is an appropriate location for such a use.
2. Such approval would not reduce the value of any property within the district, or otherwise be injurious, obnoxious, or offensive to the neighborhood.
3. There will be no nuisance or hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Attorney Bentley felt that each of these criteria was fulfilled by the property in question.

Mr. Merry asked how many cars would be parked there. Two. He asked whether approving this ADU would mean that the property would permanently be a two family unit. Chairman Remy answered that it would not. If the house were sold, it could only retain the ADU as long as the owner occupied the house.

Mr. Shonbeck asked about the tax ramifications for the ADU as there did not seem to be any mention of it in the materials submitted to the Board. Chairman Remy asked the Clerk to notify the Selectmen's Office of the situation.

Mr. Huntley inquired about the septic system. He said that there should be a different capacity for a four bedroom house than there is for a three bedroom house plus a one bedroom ADU. The ADU will also have a kitchen and perhaps could have more than one occupant resulting in the need for a larger capacity septic system than one dwelling unit with four bedrooms.

Mr. Shonbeck asked if the Board could control the number of people who could live there. There does not appear to be an ordinance addressing the number of occupants.

The Board asked to see the approved septic plan but it had not been sent to the town by the state as of the hearing.

Mr. Merry expressed concern that there is no paper trail of this apartment in the tax file or the property file.

Mr. Huntley said he would like to make sure that the septic system was specifically designed for the main unit plus the ADU and not just for the number of bedrooms. He would like to have a letter from the engineer who designed the system, Peter Bissell.

Attorney Bentley found a letter from Peter Bissell detailing that the design had been for the main house and the apartment. Mr. Huntley was satisfied by the document.

As there were no other questions Chairman Remy closed the public session and the Board addressed the criteria for granting the Special Exception.

Chairman Remy explained that the five regular members of the Board would be the only voting members.

1. The specific site is an appropriate location for such a use. All agreed.
2. Such approval would not reduce the value of any property within the district, or otherwise be injurious, obnoxious, or offensive to the neighborhood. All agreed.
3. There will be no nuisance or hazard to vehicles or pedestrians. All agreed.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. All agreed.

Before drafting a motion the Board attached two conditions to approving the Special Exception.

1. A letter from the septic system design engineer should be submitted to the Board assuring that the capacity of the new system is for two units and not just the number of bedrooms.

2. A current Certificate of Occupancy will be issued by the Building Inspector and a copy submitted to the Board.

Mr. Shonbeck moved to approve the Special Exception for the ADU at 13 London Road subject to the aforementioned conditions. Mrs. Ranson seconded the motion and all voted in favor.

Jim Larkin Request

Copies of a letter from James Larkin, owner of a property on Route 12, were distributed to the Board. The letter explained that Mr. Larkin had developed health problems and was still waiting for the sale of some property he owns to go through in order to fund the remainder of the Route 12 project. The Board was sympathetic to Mr. Larkin.

The Board requested that Mr. Larkin go through the process of formally applying for another extension.

Brian Merry made a motion to ask Mr. Larkin to apply through David Wirth the Zoning Administrator. Nancy Ranson seconded the motion and all voted in favor.

Nancy Ranson made a motion to adjourn at 9:10pm and Russ Huntley seconded. All voted in favor.

Respectfully submitted by Jackie Cleary, Zoning Board Clerk
June 24, 2015