

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
January 8, 2019

A public hearing of the Zoning Board of Adjustment was held on Tuesday, January 8, 2019 at 6:30 PM in the Auditorium, 229 Main Street, at City Hall.

Members in attendance were:

JP Boucher, Chair
Jack Currier
Rob Shaw
Steve Lionel
Mariellen MacKay
Jay Minkarah

Carter Falk, Deputy Planning Manager/Zoning

Mr. Boucher explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Boucher explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Boucher also explained procedures involving the timing light.

**1. Arthur P. & Diane T. Dionne (Owners) Nick Dionne (Applicant)
26 Lafrance Avenue (Sheet 48 Lot 130) requesting variance from
Land Use Code Section 190-264 for accessory use area, 40%
allowed - 68% proposed - to construct a 20'x40' carport in
back of garage. RA Zone, Ward 3.**

Voting on this case:

JP Boucher
Jack Currier
Rob Shaw
Steve Lionel
Mariellen MacKay

Nicholas Dionne, 8 State Street, Hudson NH. Mr. Dionne said that his parents are looking to install a carport behind their existing garage to house a camper.

Mr. Boucher said that the house is somewhat small, on a large lot.

Mr. Falk said that the reason they are here is that the house is 1,927 sq.ft of finished space, and adding the size of the carport at 800 sq.ft and the smaller sheds in the yard, totaling 518 sq.ft, there is a total of 1,318 sq.ft of accessory, detached structures, and that is the 68% accessory use area.

Mr. Dionne said it is a ranch house, with a garage.

Mr. Lionel asked what the peak height of the carport will be.

Mr. Dionne said he's not sure, but the camper is about 13'-6" to the top of the air conditioning units.

Mr. Lionel asked how far it would be to the lot line, as it's somewhat difficult to tell from the drawing.

Mr. Dionne said it would be more than 10 feet to the property line, there is plenty of room. He said the walls are 14 feet high, with a 4-pitch, not very steep. He said that they also have a vintage car, and a flatbed trailer.

Mr. Dionne said that the current attached garage is about 15-20 feet, or probably more, from the side property line, and you can drive a car down the side easily with the camper.

Mr. Currier said that the proposed carport is pretty large.

Mr. Dionne said that the house is the highest part of the lot, and from the back of the house, the land slopes down.

Mr. Currier asked how it would look from the street.

Mr. Dionne said that there is about a 15-20 foot section of land on the left of the house, then the garage, about 30 feet wide, and it has a decent sized roof on it, as the back of the garage has a wall, and another 10 feet of space in the back for lawnmowers, so the roofline of the garage is a little taller than the house, and stated that he doubted that anyone could see the carport behind the garage, at least from the front.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Boucher said that the house is a modest house, with a large lot, and 68% sounds like a lot, but due to where it would be situated, doesn't see any issues with it, and is in favor of the application.

Mr. Currier agreed, and thought when he saw the photo that it was already constructed and that this was a violation, but it isn't built yet. He said that there hasn't been any negative testimony. He said it is a large lot, and is glad to hear that the topography slopes down and it may not be visible from the street, and looks to be the largest lot around, and there is some power company easement on the other side.

Mr. Shaw concurred, and said that it would be great if the applicant tries to exceed the 10 foot side yard setback.

Mr. Lionel said he is in support, and all his questions were answered.

Mrs. MacKay said that she is also in support. She said that they have a big lot, and there is plenty of room, and it shouldn't be seen from the front of the property.

MOTION by Mr. Currier to approve the request on behalf of the owner as advertised. He said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, it is a modest house on a large lot, so even though the 68% is pretty far in excess of the 40%, the Board finds that it is reasonable to allow this rather large carport to house their vehicles. He said that the Board finds another special condition is that the house is situated on the highest point of the property, and the topography drops off behind, and therefore, the impact of this large structure, per testimony, will barely be visible, if not at all, from the street.

Mr. Currier said that it is within the spirit and intent of the ordinance, it will not have any negative impacts on property values of surrounding parcels.

Mr. Currier said that it is not contrary to the public interest, and substantial justice would be served.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

2. John S. & Dawn M. Artur (Owners) 79 Westwood Drive (Sheet B Lot 1832) requesting the following: 1) Special exception from Land Use Code Section 190-15, Table 15-1 (#3) to allow an accessory (in-law) dwelling unit; and, 2) Variance from Land Use Code Section 190-32 to exceed maximum size of accessory dwelling unit, 750 sq.ft allowed - 896 sq.ft proposed, to construct a two-story addition on right side of house with garage space on first floor, and the accessory dwelling unit on the second floor. R9 Zone, Ward 9.

Voting on this case:

JP Boucher, Chair
Jack Currier
Steve Lionel
Mariellen MacKay
Rob Shaw

John & Dawn Artur, 79 Westwood Drive, Nashua, NH. Mrs. Artur said that they are requesting the in-law apartment so that her parents can move in and they can better prepare for them as they age.

Mr. Artur said that the garage underneath the house will be turned into living space, and the new 3-car garage will now face the street, and the new living space will be above the garage. He said that access to their apartment will be through the garage or through the house, and maybe a back door.

Mr. Boucher asked the applicant to explain why they are exceeding the maximum size of the unit.

Mr. Artur said the requested size won't look awkward to what is there. He said the extra space will give a little extra room.

Mrs. Artur said that some of the extra square footage comes in with the extra garage bay, and the reason for that is that they

have two vehicles, and her parents have a vehicle, so there won't be any extra vehicles in the driveway.

Mr. Lionel asked about the existing driveway width.

Mr. Artur said that they will have to make the driveway wider, and the mailbox would have to be moved too. He said that he is aware that driveways cannot exceed 24 feet in width.

Mr. Falk said that he has discussed the driveway dimensions with the owner.

Mr. Boucher asked about the accessory dwelling unit special conditions, and read them.

Mr. Artur said that they would meet all of them.

Mr. Currier said that if they were to adhere to the 750 sq.ft, instead of a 32 foot wide space, it would be 27 feet wide. He asked if it were more problematic for the garage or the space above for the unit.

Mrs. Artur said that they want to make sure that there is enough room in the garage for all their vehicles, and the living space above the garage is what led them to exceeding the 750 sq.ft of accessory dwelling space.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

None.

Mr. Currier said he has no issues with the special exception. He said that he is still considering issues about the accessory dwelling unit space. He said that the 750 sq.ft is supposed to be incidental, and it seems as if 750 sq.ft would work for the unit itself. He said that due to the topography of the lot, the

second story really looks like the first story, so it may not look that big, as the roof line is below the second story.

Mr. Boucher said that they could build a 3-car garage by right, with a family room above it, except in this case it will be an accessory dwelling unit.

Mr. Shaw said that this is not an atypical thing to have some space over a garage for living, and it's not grossly over, the only thing is that it will be a new space, it's not like they are using predefined existing space, but the motivation to have the third garage stall forces them to use the square footage above, so it's a reasonable condition and situation.

Mr. Lionel said that there is a mix of small and midsized houses in the neighborhood, and this addition would look a little big compared to the neighbors, but they could build a three car garage with a family room on top by right.

Mrs. MacKay said that she concurs with what others have already stated.

MOTION by Mr. Boucher to approve the special exception as advertised on behalf of the owner. He stated that the use is listed in the Table of Uses, Section 190-15, Table 15-1 (#3).

Mr. Boucher stated that the use will not create undue traffic congestion or unduly impair pedestrian safety.

Mr. Boucher stated that the use will not overload public water, drainage, sewer or other municipal systems.

Mr. Boucher said that all special conditions are met, and will be fulfilled with the approval of the variance to exceed the maximum size of the accessory dwelling unit.

Mr. Boucher stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to health, morals or welfare of the residents.

SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0.

MOTION by Mr. Boucher to approve the dimensional variance as advertised on behalf of the owner. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the applicant has plenty of room to construct a three-car garage, and there is more than 750 square feet above the garage, and the Board finds that the extra space for the accessory unit is reasonable, and there are no other incursions, so the addition will fit in this situation, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, and to cut up a small section above the garage does not present a benefit for the applicant.

Mr. Boucher said that it is within the spirit and intent of the ordinance, and it will not have any negative impacts on property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice would be served.

SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

MINUTES:

12-11-18:

MOTION by Mr. Currier to approve the minutes as presented, waive the reading, and place the minutes in the file.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

REGIONAL IMPACT:

The Board did not see any cases from the next Agenda that have

Regional Impact.

MEMBER NEWS:

This is Mr. Minkarah's first meeting.

SLATE OF OFFICERS FOR 2019:

MOTION by Mr. Currier for the following:

Mr. Boucher remain as Chair
Mr. Lionel for Vice Chairman
Mrs. MacKay remain as Clerk.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

ADJOURNMENT:

Mr. Boucher called the meeting closed at 7:20 p.m.

Submitted by: Mrs. MacKay, Clerk.

CF - Taped Hearing