

**MINUTES**  
**ZONING BOARD OF ADJUSTMENT**  
**TOWN OF PETERBOROUGH**

Wednesday, September 8, 2010 – 7:00pm  
1 Grove Street, Peterborough, New Hampshire

**Present:** Chair Waitkins, Alice Briggs, Jim Stewart, Sharon Monahan, Joanna Eldredge-Morrissey

**Also Present:** Tom Weeks, Code Enforcement Officer; Nicole MacStay, Assistant to the Town Administrator

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Chair Waitkins called the meeting to order at 7:00pm, reviewed the rules of procedure, appointed Ms. Eldredge-Morrissey to sit on both cases and read the notice:

**Case No. 1160 Janice LaRoche for David W. Crooker Sr.** request for a Variance to Article VII, §245-32B(1) of the Peterborough Zoning Ordinance in which the Applicant requests the Boards approval to construct one parking space on each lot that does not meet the front and side setback requirements on properties located at 73 & 75 Main Street, Parcel ID Numbers U017-113-000 & U017-112-000 in the General Residence District. There was no objection to the notice.

Kevin Chapman spoke for the applicant, explaining that there are two buildings constructed in 1850 that were divided into apartments in the 1950's. There is a dilapidated stairwell which will be filled, the retaining wall would be continued, and a parking space would be located in its place. A second parking place would be located adjacent to the retaining wall, clear of the driveway. Mr. Chapman showed on a diagram where the parking spaces would be located. The goal is to eliminate tenant parking on Main Street.

Ms. Briggs asked if the steps would be removed completely; Mr. Chapman said that they would. Chair Waitkins said that in the end 73 Main Street will have two parking spaces on the site and 75 Main Street will have three; Mr. Chapman said that is correct. Mr. Weeks explained that the parking requirements are two spaces per unit. They are currently legally nonconforming, and this will bring them closer to conformance. Chair Waitkins asked what will be required. Mr. Weeks said that they will need a building permit for the retaining wall, and they should have engineering done. Ms. Monahan asked what is the hardship of the current parking, and said that to her it appears that the existing parking lot (against the porch of 75 Main Street) is more conforming, and it is being replaced by a more nonconforming lot. Mr. Chapman said that his concern is that there is no place to turn around and drive forward to leave the driveway; it is a blind driveway and very dangerous. Kevin Sweeney added that when a car is parked next to the porch there is not enough room to back a vehicle from any of the parking spaces. Chair Waitkins asked if anyone wanted to speak in favor of the application. Fran Chapman said that he thinks it is a great idea and a great improvement. Chair Waitkins asked if anyone wanted to speak in opposition to the application. Hearing none, Chair Waitkins closed the public hearing.

Chair Waitkins read the notice of the next case:

**Case No. 1161 James Newell Kelly** request for a Special Exception to Article IV, §245-24.1B of the Peterborough Zoning Ordinance in which the Applicant requests the Boards approval to build an accessory dwelling on property located at 200 C East Mountain Road, Parcel ID Number R006-045-000 in the Rural District. There was no objection to the notice.

Scott Swanson, architect representing the applicant presented the case. He explained that they are looking to build an accessory dwelling on the lot. He presented the Board with a diagram of the lot and the abutters, and pointed out that there is a common driveway which feeds 200 East Mountain Road A, B and C. The lot is 22.7 acres, and meets the 6 acre minimum. There will be plenty of parking; currently there is enough for four cars all together. The plan is to extend the driveway to the site and also to provide a parking place next to the accessory dwelling itself.

Ms. Briggs asked what the house will be used for. Mr. Swanson said that it will be a guest house, and not be in use all of the time. Ms. Briggs asked for a rough estimate of how much of the year it will be used for. Luke Kelly, son of the applicant, said that it will be used mostly in the summer months. Ms. Briggs asked if they would be private guests or paying guests. Mr. Kelly said that they would be private guests. Ms. Briggs asked how many square feet is the main house. Mr. Swanson said between 1,800 and 2,000 square feet.

Ms. Briggs then asked for an explanation of the exclusionary zone. Mr. Swanson said that the house is surrounded by a conservation easement; the site in question is within the exclusionary zone. Ms. Monahan asked if the existing primary structure is grandfathered, and if this is an existing substandard lot. Mr. Weeks responded that this is an existing, legally nonconforming lot based on the lack of road frontage. He added that according to the Town Attorney, this is an accessory use to the existing house. Ms. Monahan asked if they are planning on having a shared septic. Mr. Swanson said they are, but at this time they are not sure what is underground. The septic designer will be at the property tomorrow. Ms. Briggs said that there is a note here that the accessory dwelling will only be visible in the far distance, and asked for an explanation. Mr. Swanson said that Elizabeth and Steven Thomas may be able to see the accessory dwelling. Ms. Briggs then asked what the size of the accessory dwelling will be and how many stories it will have. Mr. Swanson said that it will be less than 1,000 square feet and will maybe have a sleeping loft.

Chair Waitkins then asked if anyone present wanted to speak in favor of the application. Heather Peterson said that she is in favor of the application. Tom Weeks asked how wide the driveway is. Ms. Peterson said that the right of way is sixteen feet for the entire length. Kevin Sweeney said that he maintains the driveway, and the roadway is roughly twelve feet wide. As there were no further comments, Chair Waitkins closed the public hearing.

#### Motion:

In a motion made/seconded (Briggs/Stewart) in **Case No. 1160 Janice LaRoche for David W. Crooker Sr.** request for a Variance to Article VII, §245-32B(1) of the Peterborough Zoning Ordinance in which the Applicant requests the Boards approval to construct one parking space on each lot that does not meet the front and side setback requirements on properties located at 73 & 75 Main Street, Parcel ID Numbers U017-113-000 & U017-112-000 in the General Residence District is hereby **GRANTED**.

#### The Board finds:

1. The granting of the variance will not be contrary to the public interest because it will promote public safety by allowing vehicles to enter Main Street moving forward rather than in reverse, and will reduce on street parking.
2. The spirit of the ordinance is observed because two additional onsite parking spaces will lessen parking congestion on Main Street without substantially increasing congestion onsite.
3. Substantial justice is done because existing nonconforming parking is made more conforming.

4. Values of surrounding properties are not diminished because no evidence has been presented to show that property values of surrounding properties would be diminished by the addition of these parking spaces.
5. Special conditions of the property distinguish it from the surrounding properties because it is elevated above the road way, the lots are tiny, and the parking serves five dwellings.
6. Owing to these special conditions, no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because the location of the buildings already intrudes substantially into the setbacks, and the additional parking places would not further erode the setbacks.
7. The proposed use is a reasonable one since it allows an increase in parking which brings the lots into further conformance with the Town's parking ordinance.

**The Board imposes the following conditions:**

1. The retaining wall will be engineered by a New Hampshire licensed structural engineer, with input from the Public Works Director.
2. Wheel stops will be installed for all new parking spaces.

Vote:

Ms. Briggs, Mr. Stewart, Ms. Monahan, Chair Waitkins and Ms. Eldredge Morrissey voted in favor of the motion; the motion carried.

Motion:

In a motion made/seconded (Stewart/Briggs) in case **Case No. 1161 James Newell Kelly** request for a Special Exception to Article IV, §245-24.1B of the Peterborough Zoning Ordinance in which the Applicant requests the Boards approval to build an accessory dwelling on property located at 200 C East Mountain Road, Parcel ID Number R006-045-000 in the Rural District is hereby **GRANTED.**

**The Board finds:**

1. The accessory dwelling will not be sold separately without subdivision approval as understood by the owner.
2. The occupants of the accessory dwelling will be family and guests or employees.
3. The property contains 22.27 acres, which is more than the minimum of six acres required by the ordinance.
4. There is existing parking for 2 additional vehicles.
5. The accessory dwelling will be subordinate and clearly secondary to the primary dwelling because of its lesser square footage.
6. The accessory dwelling will not alter the general character of the neighborhood or reduce the value of surrounding properties because it is rural and isolated.
7. The location will provide adequate water, sewage and drainage and should pose no public problem because a new septic system is planned to serve the accessory dwelling.
8. The site will be able to accommodate the proposed accessory dwelling without environmental damage because there are no known jurisdictional wetlands near the proposed building site.
9. Adjoining premises and the neighborhood should not be negatively affected by the accessory dwelling because the area is largely undeveloped.
10. There will be no impact on the views from the public way and minimal impact on the views from developed properties.
11. Parking will not be visible from a public street.

12. Access to the location will not create congestion because the existing driveway is 12 feet wide or more.

**The Board imposes the following condition:**

1. The building must meet all setbacks.

Vote:

Mr. Stewart, Ms. Briggs, Chair Waitkins, Ms. Monahan and Ms. Eldredge-Morrissey voted in favor of the motion; the motion carried.

As there was no further business, the meeting adjourned at 8:44pm.

Respectfully Submitted,

Nicole MacStay, Assistant to the Town Administrator