



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, October 27, 2020 at 6:30pm
Town Hall, 231 Atlantic Avenue
North Hampton, NH 03862**

These Minutes were prepared as a reasonable summary of the essential content of the Meeting, not as a transcription. All exhibits mentioned, or incorporated by reference, in these Minutes are a part of the official Case Record and available for inspection at the Town Offices.

In attendance: Mark Janos, Chair; Jonathan Pinette, Vice Chair; Members Robin Reid, Rick Stanton, and Audrey Prior; and Recording Secretary Rick Milner.

I. Preliminary Matters.

Chair Janos called the meeting to order at 6:35pm

All potential witnesses were sworn in.

Mr. Janos presented the minutes of the July 28, 2020 meeting.

Mr. Stanton moved that the ZBA accept the minutes of the July 28, 2020 meeting as written. Second by Ms. Prior. The vote was unanimous in favor of the motion (5-0).

II. New Business.

1. Case #20:06 – Applicants: Donald and Amy Humpton, 254 Atlantic Avenue, North Hampton, NH 03862. The Applicants request variances from Section 203.1 - Yard and Lot Requirements of the Town of North Hampton Zoning Ordinance to allow construction of a building addition within the structure setbacks and Section 202.9 to expand a non-conforming use. Property Owners: Donald and Amy Humpton, 254 Atlantic Avenue, North Hampton, NH 03862; Property Location: 254 Atlantic Avenue; M/L: 014-032-000; Zoning District: R-1, High Density District.

In attendance for this application:

Donald Humpton, property owner; James Scully, attorney.

Mr. Scully addressed the Board. Mr. Scully stated that the applicant proposes to add a 32 foot by 24.4 foot addition off the back of the existing home on the 254 Atlantic Avenue property. The applicant also proposes to add an extension to the existing deck off the back of the existing deck and the proposed building addition. The westerly edges of the proposed building and deck additions will be consistent with the westerly edge of the existing home. Mr. Scully presented a site plan to the Board which will require the following variances to the 25 foot side yard setback distance from the westerly lot line for the proposed additions:

- a. a side yard structural setback of 20.6 feet from the westerly lot line to the furthest extending most northerly portion of the proposed building addition,
- b. a side yard structural setback of 17.7 feet from the westerly lot line to the furthest extending most southerly portion of the proposed building addition, and
- c. a side yard structural setback of 17.9 feet from the westerly lot line to the furthest extending portion of the proposed deck extension.

Disclaimer – these minutes are prepared by the Recording Secretary within five (5) business days as required by NH RSA 91A:2,II. They will not be finalized until approved by majority vote of the Zoning Board of Adjustment.

Mr. Scully also explained that the existing home is a non-conforming use due to the fact that the existing home encroaches upon the side yard setback along the westerly lot line. Therefore, the proposed plan will require a variance to allow the expansion of a non-conforming use.

Mr. Scully addressed the five criteria for granting a variance identified in the State of NH RSA's.

1. Granting the variances would not be contrary to the public interest because the proposed additions would not change the essential character of the neighborhood or threaten the public health, safety, or welfare. The proposed building addition would maintain a roofline consistent with the existing home.

2. The spirit of the ordinance would be observed in that the proposed additions will be a considerable distance from the lot line similar to the setback distance of the existing home.

3. Substantial justice would be done by granting the variance in that the public would gain no advantage by denial of the variance. A denial of the variance would be a significant loss to the applicant

4. The value of the surrounding properties will not be diminished by the proposed additions in that the existing home is currently non-conforming. Also, the new additions will add value to the existing home; thereby having a positive impact on surrounding property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The unique conditions associated with the narrow lot shape, the unique size and shape of the existing home, and location of existing driveway and accessory structures on the lot make placement of the proposed additions in any other location not feasible.

Mr. Pinette asked if any abutter objections have been raised.

Mr. Milner stated that no abutter objections have been raised.

Mr. Janos asked if the applicant had any architectural renderings to show that the proposed building addition would be consistent with the current home design.

Mr. Scully responded that architectural renderings have not yet been developed. However, the intention of the applicant is to construct a proposed building addition completely consistent with the existing home design.

Mr. Janos stated that the unique lot and existing structure conditions satisfy the requirements for granting a variance.

Mr. Janos asked for public comments. No comments were made.

Ms. Prior agreed with the applicant's statement that no other possible location for the proposed additions was feasible due to the current location of the existing home on the narrow lot.

Mr. Stanton stated that he was pleased with the proposed plan.

Mr. Janos closed the public hearing at 6:50pm.

94 **Mr. Stanton moved that the Zoning Board of Adjustment grant variances from Sections 203.1 and**
95 **202.9 of the Town of North Hampton Zoning Ordinance for proposed building and deck additions at**
96 **254 Atlantic Avenue as represented in the application presented to the Board to allow:**

97 **a. a side yard structural setback of 20.6 feet from the westerly lot line to the furthest extending most**
98 **northerly portion of the proposed building addition,**

99 **b. a side yard structural setback of 17.7 feet from the westerly lot line to the furthest extending most**
100 **southerly portion of the proposed building addition,**

101 **c. a side yard structural setback of 17.9 feet from the westerly lot line to the furthest extending**
102 **portion of the proposed deck extension, and**

103 **d. the expansion of a non-conforming use (additions to existing home and existing deck within the**
104 **structural setback).**

105 **Second by Mr. Pinette. The vote was unanimous in favor of the motion (5-0).**
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107 **2. Case #20:07 – Applicant: 28 Cedar Road, LLC, P.O. Box 1740, North Hampton, NH 03862.** The
108 Applicant requests a variance from Section 203.8 of the Town of North Hampton Zoning Ordinance to
109 allow a residential use prohibited by the zoning ordinance. Property Owner: 28 Cedar Road, LLC, P.O.
110 Box 1740, North Hampton, NH 03862; Property Location: 28 Cedar Road; M/L: 007-050-000; Zoning
111 District: I-B/R, Industrial – Business/Residential District.
112

113 In attendance for this application:

114 Andrew Janiak, facilities manager for the applicant
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116 Mr. Janiak addressed the Board. The property at 28 Cedar Road is approximately 3 acres in size. There
117 are two buildings on the commercial property in the Industrial – Business/Residential District. One
118 building toward the rear of the property has no proposed changes. The applicant is requesting that the
119 building at the front of the property which currently has three commercial office space units on two
120 floors be allowed to convert the second floor to a single residence. The property is bounded by a
121 proposed bike and pedestrian trail on the westerly side and Hampton Airfield to the east. The lot is
122 heavily wooded in the front of the lot and along the westerly lot line. There is sufficient parking on the
123 site to accommodate a residential use. The applicant was granted a variance to allow a similar
124 residential use in the same building in 2017. However, the variance was not acted upon and expired.
125

126 Mr. Janiak presented to the Board a picture of the building and a floor plan which depicted the
127 conversion of the 28 foot wide by 40 foot long second floor office space into a two bedroom apartment
128 with a kitchen/dining room and a living room. Mr. Janiak also presented a site plan for the 28 Cedar
129 Road property which depicted the two existing buildings, septic systems, paved driveways, parking
130 spaces, fencing, and wooded areas.
131

132 Mr. Janiak addressed the five criteria for granting a variance identified in the State of NH RSA's.

133 1. and 2. Granting the variance will not be contrary to the public interest and the spirit of the ordinance
134 will be observed in that the characteristics of the neighborhood will not be substantially altered. There
135 will be no exterior changes to the building. The property is well buffered with existing trees and
136 vegetation that will remain.
137

138 3. Substantial justice would be done in that the property owner will be allowed a reasonable use of the
139 property. Other residential uses are allowed in the zoning district and exist on the same road. The
140 commercial use limitation on the property has resulted in persistent vacancy. Residential use will fill
141 vacancy and add needed housing to the community.

4. Surrounding property values will not be diminished by granting the variance. The proposed two bedroom apartment residential use transition will create a very minimal increase to the residential density of the neighborhood.

5. There are special conditions associated with the property which prevent the proper enjoyment of the property if the zoning ordinance is adhered to strictly. The property is bounded by a trail on one side and an airfield on the other side. The lot is heavily wooded. The relatively remote location makes it undesirable for potential commercial renters. Also, there are no unhealthy commercial uses on the site which are incompatible with a residential use.

Mr. Stanton stated his concern that the gate on the property may prevent Fire Department access to the site in case of an emergency at the proposed residence. He suggested that the Fire Department be notified of how many people will be living in the residential unit during the occupancy inspection process.

Mr. Janiak stated that a previous owner used the gate. The gate has not been closed by the current owner since it purchased the property in 2002. He stated that the current owner will not close the gate in the future.

Ms. Reid asked how long the second floor unit has been vacant and whether any more residential units beyond the one unit noted in the application are being considered for the property.

Mr. Janiak responded that the second floor unit has been vacant for approximately six years. There are no other residential units being contemplated for the property at this time.

Ms. Reid expressed her concerns with the mixed use characteristics being proposed for the property. The objectives of the Master Plan limiting conversion of business uses to residential uses and lot size requirements for residential uses are not being met by this application. She also stated her concern that, if the variance were granted, it would be easier to add more residential units to the site in the future.

Mr. Janos asked for public comments. No comments were made.

Mr. Janos stated that the ability to expand the use of an existing building is reasonable. The heavily wooded, remote location wedged between the old railroad corridor and the airfield is a unique condition which may prevent the property from being reasonably used in strict conformance to the ordinance. A variance may be necessary to allow the reasonable use of the property.

Ms. Reid stated that, despite her Master Plan objectives concerns, she recognizes the need for housing alternatives.

Mr. Stanton moved that the Zoning Board of Adjustment grant a variance from Section 203.8 of the Town of North Hampton Zoning Ordinance to allow the conversion of the second floor unit of existing office building to a residential use prohibited by the zoning ordinance for property located at 28 Cedar Road as represented in the application presented to the Board. Second by Mr. Pinette. The vote was unanimous in favor of the motion (5-0).

190 **III. Other Business.**

191 The Board discussed the 2021 Zoning Board of Adjustment meeting schedule.

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193 **Mr. Stanton moved to adjourn the meeting at 7:31pm. Second by Ms. Reid. The vote was unanimous**
194 **in favor of the motion (5-0).**

195

196 Respectfully submitted,

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199

200 Rick Milner

201 Recording Secretary