



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, September 24, 2019 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 David Buchanan and Robin Reid; Alternate Member Audrey Prior; and Recording Secretary Rick Milner.

I. Preliminary Matters.

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

Ms. Prior was seated for Mr. Bernardo.

Mr. Janos presented the minutes of the August 27, 2019 meeting.

**Mr. Pinette moved that the ZBA accept the minutes of the August 27, 2019 meeting as written.
Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).**

Mr. Janos presented the minutes of the September 16, 2019 meeting.

**Mr. Pinette moved that the ZBA accept the minutes of the September 16, 2019 meeting as written.
Second by Mr. Buchanan. The vote was 4-0-1 in favor of the motion with Ms. Prior abstaining.**

II. New Business.

A. Case #19:05 – Applicants: Shawn Padulo and Diana Adams, 29 Mill Road, 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 from Section 202.9.B – Non-Conforming Uses to allow expansion of a non-conforming use. Property Owners: Shawn Padulo and Diana Adams, 29 Mill Road, North Hampton, NH 03862. Property Location: 29 Mill Road; M/L: 003-014-000; Zoning District: R-1, High Density District.

In attendance for this application:

Shawn Padulo and Diana Adams, property owners; Joseph Pepe, architect.

All potential witnesses for Case #19:05 were sworn in.

Mr. Pepe addressed the Board. Mr. Pepe presented a septic system design plan for the 29 Mill Road property which indicated the locations of the existing home within the structural setback, a proposed 27 foot by 30 foot building addition approximately 22 feet in height attached to the existing home, a proposed septic system, topographical contours, and precise measurements of all significant features of the plan. Mr. Pepe also presented a drawing showing the location of a new driveway and rock-lined drainage swale near the westerly property line. Mr. Pepe noted the following building addition features:

- a. a two car garage on the ground floor
- b. a one bedroom accessory dwelling unit approximately 800 square feet in size on the second floor

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- c. location for new septic system behind the home
- d. slider door entrance for the accessory dwelling unit in rear of the addition at the top of a staircase to an elevated deck
- e. approximately 13.8 foot front yard setback and 18.9 foot westerly side yard setback from the addition foundation to the lot lines and approximately 19.9 foot front yard setback and 15.6 foot easterly side yard setback from the existing home foundation to the lot lines
- f. floor plan for the proposed accessory dwelling unit.

Mr. Pepe stated that the applicant was seeking variances to allow construction of the building addition within the front yard setback and the side yard setback and to allow expansion of a non-conforming use (existing home within the structural setback).

Abutter Joseph DeFelice addressed the Board. Mr. DeFelice stated that he owns the abutting property to the west of 29 Mill Road. Mr. DeFelice has discussed the proposed building plan with the applicants and does not oppose the variance application.

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

1. Granting the variance would not be contrary to the public interest. It will increase the value of the property, as well as the adjacent properties.

2. Granting the variance would be consistent with the spirit of the ordinance. An Accessory Dwelling is permitted in the R-1 Zone as defined by the ordinance.

3. Substantial justice would be done by granting this variance. The accessory dwelling is being built for the occupant's 88 year old mother who requires additional care to perform her activities of daily living.

4. Granting the variance would not diminish the values of the surrounding properties. On the contrary, the values of the 29 Mill Road property and surrounding properties will rise.

5. The proposed use of the Accessory Dwelling is very reasonable. If required to conform to the front and side yard setbacks, the denial of the variance request would render the project unbuildable; thereby creating unnecessary hardship on the property owners and the proposed tenant.

Mr. Janos noted that the property had an unusual trapezoidal configuration which limited the available space to build an addition. Mr. Janos asked if the applicant had considered other building design options which may not require a variance.

Mr. Pepe responded that the applicant explored several design options. However, the proposed design placing the addition on the westerly side of the home proved to be the only practical solution due to the existing home floor plan layout and locations of wetlands and septic system behind the home. Other construction designs would also disrupt the natural profile of the land. The proposed design also creates improved water drainage by solving water accumulation problem on westerly side of the property.

Ms. Reid asked for clarification of how adding a significant amount of impervious driveway as proposed would not create increased water run-off onto the abutting property.

Mr. Pepe stated that the proposed drainage swale would keep water run-off on the 29 Mill Road property and direct the run-off towards the wetlands in the back of the property. Also, Mr. DeFelice's property was at a higher elevation than the 29 Mill Road property.

Mr. DeFelice confirmed that his property was at a higher elevation. He was comfortable with the proposed building design at 29 Mill Road.

Mr. Janos closed the public hearing at 6:57pm.

Mr. Pinette and Mr. Buchanan stated that they were in favor of granting the requested variances.

Ms. Reid stated that the proposed use of the building addition is exactly what the accessory dwelling unit ordinance is meant to provide for residents.

Mr. Milner suggested that any variance request approval should indicate:

- a. distances to the furthest extending portion of the proposed addition, such as overhanging eaves
- b. approval is conditional upon applicant receiving all required federal, state, and local permits.

Mr. Pepe stated that eaves would extend two feet out from building addition foundation location shown on the septic system design plan.

Mr. Pinette moved that the Zoning Board of Adjustment grant variances from Section 203.1 and 202.9.B of the Town of North Hampton Zoning Ordinance for a proposed building addition at 29 Mill Road as represented in the application presented to the Board to allow:

- a. a front yard structural setback of 11.8 feet from the Mill Road lot line to the furthest extending portion of the proposed addition,**
 - b. a side yard structural setback of 16.9 feet from the westerly lot line to the furthest extending portion of the proposed addition, and**
 - c. the expansion of a non-conforming use (addition to existing home within the structural setback).**
- The granting of the variances is conditional upon the applicant submitting evidence of the receipt of all required federal, state, and local permits and approvals, including, but not limited to, NHDES subsurface system and NHDOT driveway permits.**

Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).

Mr. Pinette moved to adjourn the meeting at 7:06pm. Second by Mr. Buchanan. The vote was unanimous in favor of the motion (5-0).

Respectfully submitted,

Rick Milner
Recording Secretary