

TOWN OF JAFFREY NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
April 5, 2022

Present: Chairman Lee Sawyer, Members Marc Tieger, Walter Batchelder, Erlene Brayall, Carl Jevne, Judy Lucero (alt), Phil Cournoyer (alt)

Absent: David Jeffries (alt)

Other: David and Nancy Belletete, Charlie Turcotte, John Lucero, Elizabeth Webster, Conservation Commission

Staff: Code Enforcement/Building Inspector Rob Deschenes, Recording Secretary Newton

MEETING MINUTES APPROVAL

On a **motion** by Jevne seconded by Batchelder the minutes of March 1, 2022, were approved as submitted. (5-0-0)

PUBLIC HEARING

Chairman Sawyer called the public hearing to order at 6:01 pm. Notice of hearing for case No. ZBA 22-03 and ZBA 22-04, as advertised in the *Monadnock Ledger*, copies were posted in the Town Office building, the Library and the town website; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen; and notice of hearing was sent by certified mail to all abutters whose names were provided by the applicant.

PUBLIC HEARING NEW ITEMS

1. ZBA 22-03 Charles Turcotte & Laurel McKenzie, Owners
78 Fitch Rd Map 245 Lot 129.16 Zone: Rural, without town water

Special Exception – The applicant requests a special exception to allow the construction of an Accessory Dwelling Unit (Land Use Code, Zoning Ordinance Section V, 5.4)

Variance – The applicant requests a variance to allow the construction of an Accessory Dwelling Unit that is not owner occupied. (Land Use Code, Zoning Ordinance Section V, 5.4.2)

M Tieger recused himself, J Lucero will vote

Presentation: Charlie Turcotte

Roughly ten years ago Mr. Turcotte and his wife purchased a house lot at 103 Fitch Road where they built their home. Recently, they purchased a lot across the street at 78 Fitch Road. Mr. Turcotte's mother-in-law is 85-years-old and is having accessibility issues and difficulty managing the stairs at her home on Hadley Road. The house is located on a steep hill and the living area is on the second floor.

They are proposing to build a single-story, 3-bedroom, ADA accessible home with a 688 SF accessory dwelling unit (ADU) over the garage. Mrs. McKenzie would live in the main house and the ADU would be occupied by a full-time caregiver allowing her to remain in her home and age in place. The house would have Town sewer and a well.

They are requesting a special exception for the ADU which is an allowed use, and all of the criteria for the ADU will be met. A variance is being requested because the zoning ordinance states that either the primary structure or

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the ADU must be owner-occupied. In this case, the owner of the property lives across the street, approximately 200 steps away. Ultimately, Mr. Turcotte and his wife would take up residence in this home when they are ready to downsize.

C Jevne asked if the property could be put in Mrs. McKenzie's name or in a trust so that a variance would not be needed? Mr. Turcotte stated that they did explore that option, however, it was too complicated.

C Jevne asked can a conditional approval be granted so that the variance is only in effect as long as Mrs. McKenzie occupies the property? W Batchelder noted that RSA 674:33 specifically addresses this scenario. 674:33 allows the ZBA to grant a variance, without finding a hardship, to accommodate an individual with a disability and that the variance shall survive only so long as that particular person has a continuing need to use the premises.

R Deschenes clarified that the special exception for the ADU would remain once it has been approved. The variance request, if approved, only survives as long as Mrs. McKenzie occupies the premises. He added that the State developed these ADU statutes to allow some flexibility in zones that don't allow two-family dwellings.

On a **motion** by Brayall, seconded by Batchelder the Board voted to waive the site visit. (5-0-0)

2. ZBA 22-04 David & Nancy Belletete, Owners
88 McCoy Rd Map 230 Lot 15 Zone: Rural, without town water

Special Exception – The applicant requests a special exception to allow the construction of an Accessory Dwelling Unit (Land Use Code, Zoning Ordinance Section V, 5.4)

Variance – The applicant requests a variance to allow the construction of an Accessory Dwelling Unit that exceeds the size limits. (Land Use Code, Zoning Ordinance Section V, 5.4.3)

M Tieger will vote

Presentation: David Belletete

Mr. & Mrs. Belletete are before the board to request a Special Exception to allow an ADU and a variance because the requested ADU is larger than the allowed size. There is an existing ADU on the site, which would be demolished and replaced by the proposed new dwelling. L Sawyer asked are you using the same footprint as the existing ADU? Mr. Belletete responded no.

The existing main house is a historic structure with several levels which would be difficult to modify if mobility becomes a challenge for the owners. The handicapped accessible ADU would allow the owners peace of mind knowing that they will be able to remain on the property as they age. The proposed ADU is not intended as a rental unit.

Reading from his variance application Mr. Belletete went through his answers to the five criteria questions. The proposed structure would be hidden from all neighboring structures. The design would complement the existing house and have no negative effect on the neighbors or property values as the lot is over 14 acres. The spirit of the ordinance would be observed because the purpose of the ordinance is to accommodate the living needs of the owners. A handicap accessible ADU would allow the owners to age in place. Justice would be served by allowing them the option of one-story living as well as to provide additional studio space for creative work. A hardship would result because the owners would be forced to vacate the property in their senior years when mobility

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becomes a challenge. Mr. Belletete noted that it is difficult to design a full accessible ADU within the confines of the 750 SF requirement.

The footprint of the existing ADU will change so that new structure will align with the main house. W Batchelder asked how is the ADU accessed now? Mr. Belletete responded by foot. At one time it had a driveway but that has been landscaped. The plan depicts a new driveway on the class VI portion of McCoy Road. L Sawyer asked will the driveway go up to the ADU? Mr. Belletete responded yes.

W Batchelder asked is the ADU a two-story structure? Mr. Belletete responded yes.

M Tieger asked what is the square footage of the proposed structure compared to what is allowed? R Deschenes responded that the existing main house has 2,676 SF of conditioned space. By calculating 30% of the conditioned space of the primary structure, the permitted size of the ADU would be 802 SF. The proposal is for a two-story, 1,864 SF structure with an additional 1,500 SF of space for the basement/workshop. The existing ADU is 850 SF.

W Batchelder asked wouldn't it be easier to subdivide the property and build the house you want? Mr. Belletete responded that he will not subdivide the property. M Tieger noted that the minimum lot size to subdivide would be three acres. M Tieger asked is the property in Current Use? Mr. Belletete responded yes.

An email was submitted by Todd Croteau, Supt. of Highways and Facilities, stating that he would not recommend a second driveway entrance for the proposed ADU on McCoy Road without having the lot subdivided. Mr. Belletete stated that the alternate driveway plan would be a shared driveway with the main house if the proposed driveway plan is not acceptable to DPW. R Deschenes confirmed that the location of the driveway would have to be approved through the Select Board as it is on the Class VI portion of the road.

M Tieger clarified that the idea is to be able to build this structure to be used by the Belletete family and guests now and for future use by Mr. & Mrs. Belletete as they age.

M Tieger asked about the septic system and water supply. Mr. Belletete responded that there is a separate septic system for the existing ADU that would need to be updated. The water currently feeds off the main house however, he would like to have a separate system for that as well.

W Batchelder noted that the application states that the benefit of the oversized ADU is to create a single-story living space, is the intent not to use the upper level? What is the purpose of the second floor? Mrs. Belletete responded that space is for an art studio with the basic living on the main floor. Mr. Belletete added that his children and/or grandchildren may sleep up there.

E Brayall asked what happens to the main house when you move into the ADU? Mr. Belletete responded it will be used by the family. It will not be rented.

W Batchelder stated that this is a big ask. The request is for a house, not an ADU. The proposed structure would not be subordinate to the main house in any way. It is way over the allowed square footage. L Sawyer stated he doesn't see how this would negatively affect the neighborhood. W Batchelder noted that he does not see any hardship in this application. L Sawyer added that approving this variance would allow them to keep the property whole. He is not in favor of subdividing larger lots. Mr. Belletete stated that his two closest abutters have larger ADUs.

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M Tieger agreed that the problem with the application is the size of the ADU. An ADU should be accessory thereto. Would this hurt the neighbors?

R Deschenes suggested another option would be an open space development, which allows more than one dwelling unit in the rural zone.

E Brayall asked does the 1,868 SF include the workshop and how much of what they are asking for is living space? R Deschenes responded that it does not include the workshop area, the 1,868 SF living space of the proposed structure includes the first and second floor, plus an additional 1,500 SF in the basement. DES will not approve a septic for less than a two bedroom. The Building Code considers the loft a sleeping area. E Brayall asked what happens if the proposed driveway is denied? R Deschenes responded that he cannot issue a building permit unless the Select Board and DPW approve the driveway. D Belletete added the alternate driveway plan is a shared driveway.

M Tieger noted there is no abutter objection and it is not out of character for the neighborhood. He asked have you considered a smaller building? D Belletete responded this is the third version of the plans and is the smaller option.

C Jevne asked at what point is an ADU too big?

L Sawyer noted that the proposed structure is double the size of the existing ADU footprint.

On a **motion** by Batchelder, seconded by Jevne the Board voted to waive the site visit (5-0-0)

DECISIONS

1. ZBA 22-03 Charles Turcotte & Laurel McKenzie, Owners
78 Fitch Rd Map 245 Lot 129.16 Zone: Rural, without town water

Special Exception – The applicant requests a special exception to allow the construction of an Accessory Dwelling Unit (Land Use Code, Zoning Ordinance Section V, 5.4)

Variance – The applicant requests a variance to allow the construction of an Accessory Dwelling Unit that is not owner occupied per RSA 674:33. (Land Use Code, Zoning Ordinance Section V, 5.4.2)

On a **motion** by Batchelder, seconded by Brayall the request for variance to allow the construction of an Accessory Dwelling Unit that is not owner occupied was approved as presented per testimony given. Per RSA 674:33 the variance would be in effect as long as Mrs. McKenzie occupies the property. (5-0-0)

On a **motion** by Batchelder, seconded by Jevne the request for a special exception to allow construction of an Accessory Dwelling Unit was approved as presented per testimony given. (5-0-0)

2. ZBA 22-04 David & Nancy Belletete, Owners

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On a **motion** by Tieger, seconded by Jevne the request for a special exception to allow construction of an Accessory Dwelling Unit was approved as presented per testimony given. (5-0-0)

On a **motion** by Tieger, seconded by Batchelder to approve the request for variance to allow the construction of an Accessory Dwelling Unit that exceeds the size limits as presented per plan submitted. (5-0-0)

Plans include: 2-Lot Subdivision of Land in Jaffrey, NH, owned by David and Nancy Belletete. Site Plan Showing Proposed ADU. Dated Sept. 20, 1990.

OTHER BUSINESS

Appointments – Lee Sawyer was elected Chair and Marc Tieger Vice-Chair by unanimous decision.

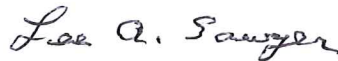
ADJOURNMENT

The meeting adjourned at 7:37 pm
Submitted:



Rebecca Newton, Recording Secretary

Attest:



Lee A. Sawyer, Chairman, Jaffrey ZBA