

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

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

**Absent:** Judy Lucero (alt)

**Other:** Elizabeth Webster, Conservation Commission, Don & Pat MacIsaac, Anne & Cassius Webb, Sadie Halliday, Doug & Chauntelle Carty, Tom O'Hare, Ann Royce, Ashley Saari, Louisa Thoron, James & Ellen Smith, Katy Wardlaw, Donna Garner, Tanja Short, Janet Grant, John Noonan, Fieldstone Land Consultants.

**Staff:** Code Enforcement/Building Inspector Rob Deschenes, Fire Chief David Chamberlain, Recording Secretary Newton

**MEETING MINUTES APPROVAL**

On a **motion** by Brayall seconded by Batchelder the minutes of June 7 & June 13, 2022 were approved as submitted. (5-0-0)

**PUBLIC HEARING**

Chairman Sawyer called the public hearing to order at 6:00 pm. Notice of hearing for case No. ZBA 22-14 (continued) & ZBA 22-16, 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**

ZBA 22-16 Doug & Chauntelle Carty, Owners  
368 River St Map 225 Lot 2.1 Zone: Rural District, without town water

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

Presentation: Doug Carty

Mr. and Mrs. Carty are proposing to add a 740 SF ADU (Accessory Dwelling Unit) to their home. The plans call for a new, two-car garage with an ADU above. The site is appropriate and will match the home and would not be detrimental to the neighborhood. Mr. Carty shared the architectural drawings with the board. The plans meet all the requirements of article 5.4 of the zoning ordinance for an ADU and will not encroach on any setbacks. Mr. & Mrs. Carty will reside in the main house.

E Brayall asked is septic adequate for the expansion? D Carty responded yes, they have a four-bedroom septic system. The existing house has three bedrooms and the ADU would add one additional bedroom.

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

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**PUBLIC HEARING CONTNUED ITEMS**

**Chairman Sawyer reopened the hearing for ZBA 22-14**

ZBA 22-14 LR3 Development LLC, Owner, Fieldstone Land Consultants, Agent  
Dublin Rd Map 229 Lot 8.10 Zone: Mountain Zone, without town water

Variance – The applicant requests a variance to allow the construction of multi-family residential use in the Mountain Zone (Land Use Code, Zoning Ordinance Section IV, 4.8.3)

Chairman Sawyer read the following correspondence into the record:

**Kenneth Campbell** – opposed

*As a former member of the ZBA who lives in the Mountain Zone, I thank you for serving on this Board. You sometimes have to make difficult decisions.*

*This proposal basically violates the regulations and the spirit of the Mountain Zone. Denying this proposal is not a difficult decision, in my opinion.*

*A key purpose of the Mountain Zone is to "limit development to patterns consistent with the Zone's rural character." This proposal fails that purpose in many ways. Multi-family zoning is not permitted in the Mountain Zone. This parcel should have 15 buildable acres to justify these five units at the foot of Mt. Monadnock. I am opposed to this proposal to create five attached town houses, each 25' by 50' or 51', on a 7-acre parcel of vacant land in the Mountain Zone.*

*It is proposed that these five households and the four households next door - in the 1912 Shattuck Annex building - be required to share the Shattuck Annex's 65 Dublin Road driveway with potentially 18 (or more) automobiles in the nine households. This is rural zoning? On two parcels with nine households on a total of 9.13 acres?*

*The Shattuck Annex zoning of four units on 1.75 acres is not comparable as a precedent because its zoning served the purpose of saving an historic, vacant and architecturally significant 1912 building.*

*Some questions that need answers:*

*How much wetlands and buildable acres are on this plot?*

*How many stories are proposed for these units and what is the square footage of the units? Will they have basements or be on slabs?*

*What will they look like, next to the Shattuck Annex building?*

*Please deny this proposal. One house would be appropriate. Thank you.*

**Jack & Stephanie Minter** – opposed

*I am writing in regards to the application for a variance, ZBA 22-14, and I am an abutter to this property on its northern boundary. My understanding is that a variance is desired to build a 5-unit townhouse on 7.4 acres in the Mountain Zone.*

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*I am opposed to the granting of a variance for a variety of reasons. This 7.4 ac parcel both resides in the Mountain Zone (MZ) and along a designated scenic backroad. As you are well aware, the MZ was created by the Town of Jaffrey and agreed to by the other towns that abut Mt. Monadnock three decades ago. Just this year the 2022 Jaffrey Land Use Code states that the MZ is "to protect and preserve the rural, scenic beauty of Mount Monadnock, (and) its associated highlands ... " as well as "to protect the area in Jaffrey's Mountain Zone against commercialization and/or exploitation". This attempted rezoning of the of Upper Dublin Road not only impacts Jaffrey, it is a violation of our understanding with the other towns who agreed with us to form the MZ.*

*The MZ stipulates the minimum acreage per dwelling unit is 3 acres. Additionally, multi-family dwellings are not permitted in the MZ per 4. 7.3 of the 2017 Jaffrey Land Use Code. The Annex was granted a variance under extenuating circumstances, but for this application none of that history exists. It is an open lot with moderate wetlands within the MZ.*

*When I look at the five variance criteria:*

- 1. Multi-family dwellings are not the character of the Upper Dublin Road. People come to Mt. Monadnock for the rural, scenic beauty. It is this beauty and rural character of Jaffrey-and the Mountain Zone in particular-that is the area's most significant and compelling drawing card.*
- 2. A five-unit multi-family building is in violation of the spirit of the ordinance. The rural zone was established around Mt. Monadnock for the reasons mentioned above and allowing townhouses is against the spirit and intent of the ordinance and violates the ordinance's basic zoning objectives.*
- 4. The surrounding properties (except for the Annex, as discussed earlier) would be diminished in value because all are rural and single family, typical of the Upper Dublin Road. A five-unit multi-family building next to the Upper Dublin Road would change the character of that rural road.*
- 5. The 7.4-acre lot, which has significant wetlands, is best suited for a single-family house, not the equivalent of five houses.*

*In summary, there is little about this application that is in the best interest of Jaffrey, the Mountain Zone or the abutters, and the application violates Jaffrey's Land Use Code.  
I urge the ZBA to deny the variance.*

**Jim Rothnie** – opposed

*Thank you for your service on this important Board.*

*I believe that you are considering an application to build a 5-unit condominium on a 7-acre parcel abutting the Annex on Dublin Rd. I don't think this proposal should be approved.*

*My wife and I live at 142 Dublin Road. We do not abut the proposed project but we could hit it with a well thrown stone. We understand that properties along this road are in the Mountain Zone, an area intended to maintain a rural and scenic character specifically by avoiding multi-family buildings. We greatly value this concept. We moved into this area because of its rural and scenic character. We'd hate to see anything done to diminish it.*

*Approving the multi-unit status of the Annex made sense because of that building's history and prior use. To me, approval for a vacant lot does not make sense and in fact approval would seem to suggest that the Mountain Zone and its implementing ordinances are null and void.  
Please do not approve this application.*

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**Southwest Regional Planning Commission – Lisa Murphy** – no comment

*Thank you for providing the opportunity to review the Development of Regional Impact for the application submitted by LR3 Development, LLC for a variance to allow the construction of a multi-family residential use in the Mountain Zone. This variance application does not have a direct regional impact at this stage of the proposal; however, we may have comments relative to regional impact if the subdivision or site plan application is submitted to the Planning Board. Therefore, we have no comment on the application at this time.*

**Dan Rogalski** – opposed

*I am a Monadnock Advisory Commission representative appointed by the Town of Marlborough. I am also a SPNHF (Society for the Protection of New Hampshire Forests) land steward. My assigned stewardship consists of the Stowell lots off Shaker Farm Road North. A large portion of my stewardship land is actually in the town of Jaffrey.*

*I have had a keen interest in Monadnock Mountain and its environs for over 60 years now. I feel it is a near place of refuge and recreation for all sorts of folks from all over the world. One of the draws of this place is that it is relatively protected from all sorts of commercial enterprises and attractions.*

*This feature did not happen without the efforts of many people who also share this thinking.*

*The establishment of the "mountain zone" and the structures permitted and allowed was a long and hard-fought undertaking.*

*I just learned that there is a proposal to allow a 5-unit townhouse to be constructed within the area bounded by the zone. I read the Town of Jaffrey Land Use Code and find that this proposal seems to be explicitly prohibited in section 4.8-4 (a). I may not be interpreting this wording correctly, but it appears to me to be prohibiting this sort of construction and use.*

*I am unable to attend this meeting scheduled for next week, but am asking that this proposal be denied.*

**Dave Adams** - opposed

*As a member of Monadnock Advisory Committee representing Troy, I hope that the Jaffrey Board of Adjustment will consider the intent of the Mountain Zone as approved by our abutting towns that surround Monadnock. The proposed 5-unit townhouse development on Dublin Road appears to be inconsistent with the permitted uses within the Mountain Zone.*

*Thank for your consideration of my input.*

Tom O'Hare, abutter. Mr. O'Hare recently moved into the Annex building and is opposed to this proposal. He feels that this will set a bad precedent. Could the owners come back and ask for more units later if this is approved? Currently there are six or seven cars using the driveway, this proposal would add 10 more cars to that driveway. He does not want to live next to a construction site.

Don MacIsaac, abutter. Mr. MacIsaac shared the history of the Mountain Zone (MZ) which was formed in 1992 to foster and encourage a consistent pattern of protection of these areas by all towns surrounding Mt. Monadnock and protect the area against commercialization and/or exploitation.

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The MZ ordinance was formed in cooperation with the surrounding towns of Dublin, Marlboro, and Troy “to preserve to the extent practical land in its natural state,” and limit development to patterns consistent with the Zone's rural character.” Jaffrey's MZ ordinance was approved overwhelmingly at Town Meeting. The surrounding town's ordinances are as follows:

- Dublin - Mountain District; single-family houses only permitted
- Troy - Mountain District; only one and two-family dwellings are permitted
- Marlboro - Scenic Rural District; Multi-family by Special Exception; cluster development Not Permitted

Per Jaffrey's Master Plan, any growth should enhance the Rural Character of Jaffrey and not detract from it. *Creep* and *spot zoning* should be avoided while keeping the focus on this jewel of Jaffrey.

This proposal should be judged with consideration of the effect on the whole area. A multi-family dwelling is out of character with the District and Mountain Zone.

According to the tax roles: There are 123 Multi-family and Duplex houses in the Town of Jaffrey.

- Most (84.6% (104)) are in RES A RES B and GB.
- Some (13.8% (17)) are in the Rural District.
- There are 2 (1.6%) in the Mountain Zone. Both homes significantly predate the Mountain Zone ordinance
- In the 30 years the MZ has been in effect, there have been NO multi-family or duplex homes built in the MZ
- Not only does this proposed project violate the multi-family restriction, but it also violates the character of the MZ; Per 6.3.2, in Rural Districts, the maximum number of living units in a multi-family building is 4. The proposal is a 5-unit building

Mr. MacIsaac addressed the Variance Criteria

1. Granting the variance would be contrary to the public interest because; it will not be in harmony with the neighborhood and potentially alter the essential character and safety of the neighborhood. Mr. MacIsaac's home is on 4+ acres and his neighbors, also single-family homes, are on significantly (40+ acres) larger parcels. Dublin Rd. is classified as a scenic road; a gateway to the bible camp, Monadnock State Park, town beach, and boys' and girls' camps. This proposal includes a shared driveway which will more than double in usage from 8 to 18 vehicles and compromise safety.
2. The overarching purposes of the Mountain Zone District are “to preserve to the extent practical land in its natural state and limit development to patterns consistent with the Zone's rural character,” the proposed variance is NOT consistent with the spirit of the ordinance and the Zone's rural character. A shared driveway with 18 vehicles is not Rural Character.
3. Substantial justice would not be done. To the contrary, granting the variance would be an injustice; there would be no apparent gain to the general public.
4. If the variance were granted, the values of the surrounding properties could actually be diminished because the proposed use is inconsistent with adjacent properties as described earlier.
5. Unnecessary Hardship. The general public purpose of the ordinance is to maintain the natural state of land, rural character and natural resources within the surrounding areas of Mt. Monadnock. The proposed multi-

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family structure will not meet the general public purpose as a single-family dwelling reasonably could. The proposed property could be reasonably used in strict conformance with the ordinance with a single-family dwelling. The multi-family use is not in harmony with the current character of the neighborhood. The proposed use would be contrary to the public interest as this project could alter the essential character of the neighborhood. The values of the surrounding properties could be diminished.

Tanja Short, abutter. Is not in favor of having townhouses located near the entrance of her driveway. They moved to the area because of the MZ and would like to protect it. This proposal is more than a home, it is a development. She is concerned that the proposed building is close to the road and it could take years for the vegetative buffer to sufficiently block the view of the building. She believes that precedent would be set if this is approved. This is not an allowed use in the MZ and there is no hardship.

James Smith, abutter. Mr. Smith moved into the Annex building in December. He is concerned with increased traffic and establishing a maintenance plan for the shared driveway. He has a beautiful view of the mountain from his deck and does not want it to be impacted. He also feels the approval could set a precedence. It was his understanding when he purchased his unit that the lot next door was approved for a single-family home. He believes this will alter the character of the neighborhood.

Katy Wardlaw, Monadnock Advisory Commission Rep. for the Town of Dublin. She agrees with the views expressed by Dan Rogalski. This development is not permitted in the MZ district.

Donna Garner, Dublin resident. She noted that the Mountain Zone was created to protect the viewshed.

Ann Royce, resident. Multi-family units are not permitted in the MZ, as stated in the regulations.

D. MacIsaac asked are there specifics available for what the proposed units would look like including elevations? John Noonan answered no, they have not yet been designed. He noted that they could be designed to be consistent with other buildings in the neighborhood.

**The hearing was adjourned to the site walk.**

**SITE WALK**

At the site John Noonan identified the staked-out area that designated the front of the proposed multi-family unit and the parking area. The structure would extend 50 feet back from those stakes. The proposed building would be two-stories with walk-out basements. The units would be 30' x 50' each floor, 1,500 SF. The building would be oriented at the drop-off so that the garages would be at grade level, with a floor above and the walk-out basement below. There would be no impact to the wetland or buffer area.

E Brayall asked how much of the 7.5-acre parcel would be used? J. Noonan responded roughly 12 ½% of the parcel which equals less than an acre.

**Chairman Sawyer closed the public hearing.**

**DELIBERATION**

W Batchelder noted that this use is specifically prohibited by the ordinance. He does not believe that the applicant meets three of the five criteria; public interest, spirit of the ordinance, and hardship

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L Sawyer agrees, the MZ states that multi-family dwellings are not allowed. Variances are granted to ease a regulation; this request is much more than that.

E Brayall agrees that this would change the character of the neighborhood. It's a larger parcel, 7 ½ acres, however all five units would be located in one building on less than an acre. This would look out of place for the area.

**DECISION**

ZBA 22-16 Doug & Chauntelle Carty, Owners  
368 River St Map 225 Lot 2.1 Zone: Rural District, without town water

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

On a **motion** by Brayall, seconded by Batchelder to approve the request for a special exception to allow construction of an ADU as presented per testimony given per plan submitted. (5-0-0)

Plans include: Carty Residence Partial Second Floor Plan – New Construction, Map 225 Lot 2.1, dated 4/14/2022.

ZBA 22-14 LR3 Development LLC, Owner, Fieldstone Land Consultants, Agent  
Dublin Rd Map 229 Lot 8.10 Zone: Mountain Zone, without town water

Variance – The applicant requests a variance to allow the construction of a multi-family residential use in the Mountain Zone (Land Use Code, Zoning Ordinance Section IV, 4.8.3)

On a **motion** by Tieger, seconded by Jevne to deny the request for a variance to allow the construction of a multi-family residential use in the Mountain Zone. (5-0-0)

Reason for denial: the application is inconsistent with the spirit and purpose of the Mountain Zone in which the property is located.

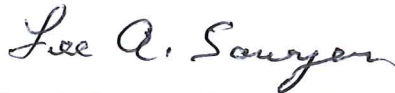
**ADJOURNMENT**

The meeting adjourned at 8:06 pm  
Submitted:

Attest:



Rebecca Newton, Recording Secretary



Lee A. Sawyer, Chairman, Jaffrey ZBA