

Final



WEARE ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
March 2, 2021

PRESENT VIA ZOOM: JACK DEARBORN, CHAIRMAN; MICHAEL MEYER, VICE CHAIRMAN; MALCOLM WRIGHT, MEMBER; MARC MORETTE, MEMBER; BOBBI-JO PLAMONDON, MEMBER; GARY SHELTO, ALTERNATE; KELLY DEARBORN-LUCE, LAND USE COORDINATOR

ZOOM INVITES: Pauline Faucher, Victor Martin, Betty & Frank Arcand, Arthur Siciliano, Attorney Jeffrey Christensen, Bryan Pellegrino, Leslie Pellegrino, Mannie Pellegrino

ZOOM HOST: Naomi Bolton, Town Administrator

Chairman Dearborn called the meeting to order at 7:30 pm.

I. INTRODUCTION/ADMINISTRATIVE ITEMS:

Chairman Dearborn stated there are two cases before the Board. First, Case #03-2021 application for a Special Exception for Rene Anderson, 72 Deerhaven Road, Tax Map 412, Lot 65 in a Residential District. Secondly, Case #40-2021 application for a Variance for Manuel and Leslie Pellegrino, 19 Sunrise Lane, Tax Map 202, Lot 10.4 in the Rural Agricultural. Chairman Dearborn explained all questions come through the Chair, who will read a brief synopsis and then request the Board offer a motion to accept the application to ensure information is complete. Once accepted, the Chair will ask the Board if they have any questions, next the applicant will read their application in its entirety. All points of hardship with the variance requirement, all five points. The Board may ask questions. Next, approving abutters, disapproving abutters, public at large and other boards to speak. Applicant will then rebut, followed by second round of abutters, public and boards. All speakers to state their name and address. The Chair will then close the hearing, each prong considered, motion made in the positive, second and then a discussion. Then voting begins, three out of five yes votes needed. Point 1 usually with conditions added.

Chairman Dearborn instructed Vice Chairman Mike Meyer to make all motions and Bobbi-Jo Plamondon to second all motions, as there are many participants this evening. Gary Shelto, alternate member, was excused, as all five Board members were in attendance for voting.

II. PUBLIC HEARING

A. Continuation of Case #03-2021 Application for a Special Exception for Renee Anderson for property at 72 Deerhaven Road, Tax Map 412 Lot 65 in the Residential District. The applicant would like to construct a new garage with an apartment above (ADU). Article 19, section 19.1.10 in the Weare Zoning Ordinance allows for an ADU by a special exception.

Board members hearing this case are Chairman Dearborn, Vice Chairman Mike Meyer, Malcolm Wright, Bobbi-Jo Plamondon, and Marc Morette. The Chair reviewed Case #03-2021, Victor Martin, contractor, to present for owner Rene Anderson, adding a two car garage with in-law apartment above and breezeway. Plot Plan provided by J.E. Belanger Land Surveying, PLLC., NH License #758.

Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept #03-2021 application as complete. Passed 5-0-0.

Victor Martin, 123 Contracting & Home Repair, LLC., read the following seven (7) conditions per Article 6, Section 6.1.4 of Zoning Ordinance which must be met in the positive to warrant the granting of a special exception;

1. The specific site is an appropriate location for such a use or uses in terms of overall community development: *Single-family area locating in-law above two-story garage.*
2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area: *Will improve property value by adding square footage and is a preferred use of space.*
3. The proposed use will not be a nuisance or serious hazard to vehicular traffic or pedestrians: *On private property set back from road.*
4. The proposed use will not cause an undue burden on the Town through the provision of basic Town services: *No additional services needed.*
5. Adequate off-street parking be provided if determined necessary by the Zoning Board of Adjustment: *Same parking, adding garage and in-law.*
6. A buffer may be required to screen neighboring uses from the proposed use. Buffers may be fence screens, dense planting of suitable trees and shrubbery, or naturally occurring shrubs and trees: *Property surrounded by trees.*
7. The Zoning Board of Adjustment, in granting any special exception, may include such restrictions or conditions to ensure compliance with this section: *Meets all requirements.*

Chairman Dearborn specified:

1. Under requirement 19.10, 1 – 8, what is the parking, will the garage have two stalls? Victor Martin replied yes, two-car garage and two spaces on the left of proposed garage.
2. Under requirement 19.1.10.5, no entrance or exit to accessory dwelling unit shall be constructed facing the front of the single-family dwelling, front plain of the property. Not to resemble a Duplex, options are to place

the door on left-hand side, looking at the garage or move garage three feet closer to the road with door on the side of the building. Victor Martin asked if the door could be on the breezeway. Chairman Dearborn answered no because it would face the road/front of the house. Victor Martin to move garage closer and place door on either sidewall. Chairman Dearborn shared the best option is to place door on right hand side, going into breezeway.

The Chair asked for approving abutters to speak.

Bethany Arcand, 73 Guys Lane, stated proposed application would have no impact on neighborhood, barely visible in winter, many trees, not encroaching.

The Chair asked for additional approving abutters, disapproving abutters, public at large and other boards. There was none.

The Chair asked contractor Victor Martin to speak. He is all set.

The Chair asked for a second round of abutters, public and boards. There was none.

The Chair closed #03-2021 hearing at 8:02 pm.

Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept/approve the Special Exception for this application with the condition the garage people door to be on the side of the building, not the front. Passed 5-0-0.

Special Exception granted.

B. Case #04-2021 Application for a Variance for Manuel and Leslie Pellegrino for property at 19 Sunrise Lane, Tax Map 202 Lot 10.4 in the Rural Agricultural. The applicant is proposing to construct a new 2-story shed as a retail venue to operate their business of selling/trading cards and other collectibles. Article 17.3.6 and 17.3.7 in the Weare Zoning Ordinance does not list retail as a permitted use.

The Chair reviewed Case #04-2021, the property is 1.06 acres, single-family residence, and applicant proposes to construct a two-story storage shed for a retail venue of selling/trading cards and collectables. Mannie Pellegrino, 19 Sunrise Lane, granted permission for his Attorney Jeffrey Christiansen to present on his behalf.

Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept #04-2021 application as complete. Passed 5-0-0.

The Chair clarified this proposed build is not for commercial business, but to expand 17.3.7 current Home Business. Attorney Christensen responded essentially.

The Chair stated the application for a building permit shows the building to be 600 sq. ft. Only allowed 500 sq. ft. otherwise by variance. The Chair asked would the building be 500 or 600 square feet.

Attorney Christensen stated the variance application is not to do with the shed itself, it relates to the use of the shed.

The Chair asked is this a dual use shed. If the building is 600 sq. ft., used exclusively for your business, then 600 sq. ft. can be for your home business. Attorney Christensen replied it would not be exclusively for the business; only a portion will be for the retail use.

The Chair asked for a clearer description as to exactly what the building will be used for. Will there be a lot of pickup and delivery by commercial transportation, Fed Ex or UPS. Attorney Christensen replied no, once per month or less. Operating as a trading card/collectables internet business currently, to expand the business many vendors require a physical retail location. This shed will be storage and satisfy the vendors by having a retail space.

The Chair asked if shipping of the items would be over the internet, no physical products leaving the property. Mannie Pellegrino stated he would be delivering to/shipping from the Post Office and Country Three Corners. No regular pickup at his location. This building is to only fulfill the vendor's request of a retail location. Not to be used as such, an online business.

The Chair asked why a room in the house would not be adequate. What is the distinction of a separate building? Attorney Christensen answered for convenience. The shed will keep everything segregated. Though it could be in the house, the shed is more convenient. The purpose of the variance is to allow the use on the property. At some point as necessary, this business could be moved into the house.

Attorney Christensen proceeded with the five points of hardship as follows:

1. The Variance will not be contrary to the public interest: *The variance will not be contrary to the public interest because it does not unduly or in a marked degree conflict with the ordinance such that it violates the basic zoning objectives, for the reasons set forth in more detail in the attached document.*

2. Please describe how the spirit of the ordinance is observed: *The spirit of the ordinance is observed because the proposal is consistent with the express purposes of the Zoning Ordinance and the Master Plan for the reasons set forth in more detail in the attached document.*

3. Please describe how substantial justice is done: *The variance will result in substantial justice because the loss to the individual by its denial will outweigh the gain to the general public, and the proposal is consistent with the area's present use for the reasons set forth in more detail in the attached document.*

4. Please describe how the values of surrounding properties are not diminished: *The variance will not diminish the value of the surrounding properties because there will be no adverse impacts on the surrounding properties for the reasons set forth in more detail in the attached document.*

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

A. Please describe the special conditions of the property that distinguish it from other properties in the area: *The property is uniquely suited to the expansion of its use for the reasons set forth in more detail in the attached document.*

i. Owing to the special conditions identified above, please indicate how no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property: *There is no fair and substantial relationship between the purposes of the Zoning Ordinance and preventing the limited retail use on the property for the reasons set forth in more detail in the attached document.*

ii. Owing to the special conditions identified above, please indicate how the proposed use is a reasonable one: *The proposed use is reasonable for the reasons set forth in more detail in the attached document.*

B. Please describe the special conditions of the property that distinguish it from other properties in the area: *not addressed*

i. Owing to the special conditions identified above, please indicate how the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it: *not addressed*

Description of proposed use:

The applicants intend to use a portion of a two-story shed for limited retail use to satisfy vendor requirements for their collectibles business, set forth in more detail in the attached document.

Attorney Christensen noted the Board is in receipt of the details set forth in the attached document referenced throughout.

Summary as follows: the property, single-family residence at 19 Sunrise Lane, is in the Rural Agricultural District, next to the North Weare Village District. The application is to build a two-story shed, fully compliant with Zoning Ordinances, for personal use. The attached rendered photo demonstrates the aesthetic style matching existing residence. Proposed use is a portion of the shed for expanded online business, trading cards & collectables, offering a physical location to satisfy vendors. The owners would otherwise have to rent a separate location, outside of Weare. Negligible in foot/vehicle traffic, mostly an online business. Location off property is not feasible, cost prohibitive. Though, there are many commercial or retail uses permitted in the Rural Agricultural District, this particular retail use build is not permitted, hence the variance for Section 17.3 of the Zoning Ordinance. The proposed variance will have no greater impact on the neighborhood, on the town or public than any other permitted use in this District. No change physically as the shed is permitted; variance has no impact on density of the land. The shed exists either way. Other permitted uses under the Zoning Ordinance would be more impactful, ex. Beauty Shop. The proposed new business shed, shielded from road by vegetation, would have an extremely low-impact to the town of Weare, with no adverse effects. The retail use will be extremely light, negligible.

The Chair asked for approving abutters to speak. There were none present. The Chair read aloud letters in the affirmative from Christopher R. & Angela D. Mancini of 18 Sunrise Lane, Meaghan & Brandon Beaulieu of 26 Sunrise Lane, and Joseph Denapoli of 55 Pine Hill.

The Chair asked for disapproving abutters to speak. Arthur Siciliano, Lots 10.2, 10.3, 10.7, 10.8, 10.9 Sunrise Lane, asked to see the plan. The Chair held the plan up to his laptop camera. Arthur Siciliano asked Mannie Pellegrino if the build would be sited next to his driveway. Mannie Pellegrino replied at the end of his driveway a spot is cleared twenty feet into the woods on the right-hand side. Arthur Siciliano asked the dimensions of the shed. Mannie Pellegrino answered 16 ft. x 20 ft. build with a double shed door facing the driveway and two dormers. Arthur Siciliano stated he has not put any covenants on this subdivision. He asked would there be a sign for the business. Mannie Pellegrino stated no sign. Arthur Siciliano asked what kind of people would come. Mannie Pellegrino stated nobody coming. Retail portion to be setup as a retail spot, for viewing by a vendor. It will sit there, not being used. LUC Dearborn-Luce emailed the application to Arthur Siciliano.

Arthur Siciliano became an approving abutter.

The Chair asked for abutters, public or boards to speak. There was none.

The Chair asked for Attorney Christensen if he wanted to rebut. He replied there is nothing to rebut.

The Chair asked for a second round of abutters, public or boards. There was none

The Chair closed the hearing at 8:34 pm., requested a motion in the affirmative to approve the application #04-2021 with the condition the portion of the shed for the retail business be 500 sq. ft.

Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept Case #04-2021 with the amendment that the retail portion of the shed not to exceed 500 sq. ft., point 1. Passed 5-0-0

Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept point 2. Passed 5-0-0

Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept point 3. Passed 5-0-0

Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept point 4. Passed 5-0-0

Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept point 5 in its entirety. Passed 5-0-0

Chairman Dearborn stated the motion passed.

III. OTHER BUSINESS: to resend minutes just prior to meeting.

IV. MINUTES:

December 8, 2020 Site Walk Minutes: tabled

January 5, 2021 Minutes: tabled

Being that there was no more business to come before the Board, Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to adjourn the meeting at 8:39 pm., passed 5-0-0.

ADJOURNMENT

A True Record.

Karen Nelson

Karen Nelson transcribed from
Zoom recording, TA Bolton notes
& LUC Dearborn-Luce notes