

**TOWN OF EPPING, NEW HAMPSHIRE**  
**ZONING BOARD OF ADJUSTMENT**

**Tuesday September 29, 2009**

**PRESENT:** Dave Mylott, Bob Jordan, Ron Nowe, Paul Brown, Mike Yergeau; Alternate Patrick Pagnani; Secretary Phyllis McDonough.

**CALL TO ORDER:** Chairman Mylott called the meeting to order at 7:00 P.M.

**DAVID BROWN** – Chairman Mylott read notice for a Variance, concerning Article VI, Section 6.13, **Accessory Dwelling Unit** of the Zoning Ordinance. Parcel is located at 6 Plumer Road, as seen on (Tax 022 Map – Lot 064), in the High Density Residential Zone.

Abutters present: Sutcliffe, Hayes, Ladd & Gibbard.

Dave Brown came before the Board with the proposal for an in law apartment and explained the location is an adjacent property that he owns which is somewhat attached and explained on the same deed with two parcels.

Dave Brown addressed five criteria with the following responses:

1. The proposed use would not diminish surrounding property values because:
  - Will increase the value of the property and make it look better than what is there.
2. Granting the variance would be of benefit to the public interest because:
  - Will no longer be a garage access and hoping to make his neighbor happy and will eliminate the front access it will be all out in the rear.
3. Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property that distinguish it from other properties similarly zoned:
  - Not asking for anything else that is not already in town with an apartment overhead.
4. Granting the variance would do substantial justice because:
  - Improve the value of the surrounding properties.
5. The use is not contrary to the spirit of the ordinance because:
  - Will help reduce the noise and less traffic and will help neighbors enjoy their property.

Nowe questioned with the business that is on the site where they park and where would the in-law apartment residents' park. D. Brown explained the parking would be on the side driveway and will not change.

Chairman Mylott asked about the two lots that are deeded together and what prevents them from being separated. D. Brown explained there is one deed with two parcels on it.

Nowe noted the lots could be sold individually. D. Brown answered that is correct although this particular lot has no road frontage.

Abutton Tom Sutcliffe came before the board. Sutcliffe requested Paul Brown to recues himself from the board as he has made unnecessary comments to his family when at D. Brown's residence. Brown explained he is friends with D. Brown and also knows Mr. Sutcliffe from being on television. P. Brown stated he does not feel he should recues himself.

Chairman Mylott noted the Board will acknowledge the request from Sutcliffe, although feels since P. Brown refuses to step down he is in agreement with Brown to remain sitting for the hearing.

Sutcliffe addressed the board with his concerns and explained he has a considerable problem with this proposal because of an agreement and presented it to the board. He noted with this proposal it would bring more parking and traffic at the entrance way into his driveway that he owns and pays taxes on. Sutcliffe asked where the door will be. D. Brown's son responded it will be on the side of the apartment with no main door for the apartment and no main front door. Sutcliffe informed the Board that the shop on the property has been rented and reiterated, with another resident, there will be more ingress and egress traffic. D. Brown explained there will only be his son which is the same traffic that is already there.

Sutcliffe noted if a variance is given that doesn't say what could happen in the future. Nowe explained if this request does pass as an in-law apartment and is sold in the future the in law-apartment would no longer be, which will be stipulated in the minutes.

Paul Brown questioned what will be done with the garage door. Brown's son explained the door will come out of the side and two windows to match the other building to make the whole property look uniformed. He explained lawn will be put in and the parking issues will go away as there will be no access and the parking will be on the side other than the business that is there that has deeded parking spots.

Chairman Mylott closed the public hearing.

Chairman Mylott advised the Board to address the five criteria.

1. The proposed use would not diminish surrounding property values because:
  - Jordan explained it will not detract from the adjacent property changing to a residential use will be an improvement.
  - Nowe explained it would make it better than the commercial venture that is there now, although is still not convinced this is the way to go.
  - P. Brown explained if it becomes residential it cannot go back to working on cars.
2. Granting the variance would be of benefit to the public interest because:
  - Has concerns how the site could be used in the future and what that impact of multiple vehicles being there with it being a residence there on nights and weekends and not during working hours.
3. Denial of the variance would result in unnecessary hardship to the owner because of the following

special circumstances of the property that distinguish it from other properties similarly zoned:

- Chairman Mylott noted looking at the property, he feels the proposal does not meet the hardship criteria as there are no unusual circumstances to the property.

4. Granting the variance would do substantial justice because:

- P. Brown stated he feels it will look better and alleviate the problems that are already there.
- Jordan noted he sees this proposal as beneficial to the façade of the building.

5. The use is not contrary to the spirit of the ordinance because:

- Nowe stated his problem with the application is that the in-law apartment intent was to be for an existing residential building and this is trying to take a commercial building and making it habitable, which is not attached to the property and doesn't meet the criteria in the spirit of the ordinance.

Jordan stated he understands what Mr. Brown is trying to do for his son though noted there are two of the criteria, the spirit of the ordinance and the hardship that are not met. Nowe concurred.

Nowe moved, Jordan seconded the motion to deny the Variance in the spirit of the ordinance as it's not an in-law apartment be added 1/3 to an existing building. The motion carried 4 – to – 1 to deny the variance, with P. Brown in favor of the variance.

Paul Brown explained his feeling is the Browns are trying to making the house look better and trying to solve the traffic problems, feels the application should be granted.

Jordan explained he concurred with P. Brown that D. Brown is trying to do for his son, although two of the criteria are not met therefore he moved to deny application for the variance.

Nowe explained he made his decision on what the ordinance calls for, and reiterated if the existing garage was on the existing home he would not have a problem with the request.

Jordan explained there are five criteria for the board to follow in order to make a decision and reiterated this application does not meet all five. Yergeau concurred.

**MINUTES OF JUNE 17, 2009 FOR APPROVAL** -- Jordan moved, Brown seconded the motion to approve the minutes as amended. The motion carried 4 -1 with Nowe abstaining.

**MINUTES OF MAY 20, 2009 FOR SIGNATURE** -- The minutes of May 20, 2009 were duly signed.

**SIGNATURES OF APPOINTMENT SLIP FOR ALTERNATE ROBERT SILVA** -- the appointment slip was duly signed.

**ADJOURNMENT:** Nowe moved, Jordan seconded the motion to adjourn the meeting at 8:00 pm. The

motion carried unanimously.

**APPROVAL NOTIFICATION: September 29, 2009 - Minutes of June 17, 2009 were approved. Minutes of May 20, 2009 were duly signed duly signed.**

Respectfully submitted,

Phyllis McDonough,  
Zoning Board of Adjustment Secretary