



TOWN OF WAKEFIELD, NEW HAMPSHIRE

LAND USE DEPARTMENT

2 HIGH STREET
SANBORNVILLE NH 03872
TELEPHONE: (603) 522-6205 X308
FAX: (603) 522-2295

Notice of Decision Map 009, Lot 047 ZBA Variance - Granted

Applicant: Derek Robertson and Stephen Masella

Date: March 19, 2024

Owner: Derek Robertson and Stephen Masella

Location: 111 Towle Farm Road, Unit B, East Wakefield, TM 009-047

Subject: Request for a variance seeking relief from Wakefield Zoning Ordinance, Article 23D, Section G, Accessory Dwelling Unit, in order to allow for additional square footage of an Accessory Dwelling Unit.

Findings:

1. The Zoning Board of Adjustment (ZBA) conducted a site walk on March 9, 2024 to view the subject property.
2. The ZBA held a hearing on March 14, 2024 to consider the Variance Application.
3. Mr. Stewart explained to the applicant that there was not a full board present at the meeting. The applicant consented to proceed with only 4 members of the board present.
4. The subject parcel is .66 acres located in the Residential II Zone.
5. There is an existing 680 square foot residential structure on the property.
6. The applicant was granted a building permit to construct an accessory dwelling unit (ADU) on the property in compliance with the Zoning Ordinance. The original plans for that structure were just under 700 square feet of livable area.
7. During the design build process, there were changes to the original ADU plans including adding a landing on the stairs and relocation of the external door. As a result, the as-built conditions now exceed the allowed 750 SF maximum for an ADU. The overall footprint of the structure remains unchanged.
8. The applicant has a pending building permit application to construct an addition to the existing residential structure. If granted, there would be two residential structures in excess

of 800 SF (the existing structure and new ADU) on the property. The applicant does not have adequate buildable land area to permit two single family homes on the lot.

9. If the new ADU "tree house" were to be granted the variance, the original structure would be restricted to serving as the ADU and the new treehouse the primary dwelling unit to ensure the property is compliant with zoning.
10. Mr. Stewart advised the applicant that there is a 30-day appeal period. Any work conducted before conclusion of that period is at the applicant's risk. It is recommended to wait until the appeal period is concluded before commencing the proposed improvements.

Decision:

Relative to each of the following five variance criteria, the board voted 4-0-0 to use the applicant's submission, and approve the criteria.

1. The value of surrounding properties would not be diminished, because it aligns with the area's development trends and enhances the overall quality and appeal of the area.
2. The variance is not contrary to the public interest because it promotes responsible growth and development and contributes positively to the neighborhood's vitality and appeal.
3. Granting the variance would do substantial justice because it enables the applicants as homeowners to utilize their property more effectively while maintaining the integrity of the neighborhood.
4. The spirit of the ordinance would be observed because it respects the intention of the zoning regulations as the additional square footage is comprised of a utility room, storage, and entry that will not be utilized as "living space" and enhances the functionality and value of the property without altering the residential character of the neighborhood.
5. Literal enforcement of the ordinance would result in an unnecessary hardship because it would hinder the applicants ability to utilize their property effectively while still maintaining compliance with other zoning requirements and without negatively impacting the surrounding neighborhood.

The board voted 4-0-0 to GRANT the variance request with the following conditions:

- 1. The currently pending building permit application for the existing residential structure is to be voided and/or withdrawn, further there shall be no future additions to the existing house that would exceed 750 sf.**
- 2. The original/existing residential structure shall become the ADU and the new structure shall become the primary residence.**

Please note that the selectmen, any party to the action, or any person directly affected has the right to appeal this decision within 30 days from the Notice of decision. Before any appeal to the courts, the appellant must apply to the ZBA for a rehearing of the original application, but submitting a signed written request for hearing and specifying therein all grounds on which the rehearing is requested. See RSA 677:2 and 677:3 to ensure full compliance. See also RSA 677:4 for appeal procedures, in the event of a decision by the Board on motion for rehearing. The statutes are available online or in the Wakefield Land Use office.



Don Stewart, Zoning Board of ZBA

3/20/2024
Date

