

**TOWN OF DEERFIELD, NH**  
**ZONING BOARD OF APPEALS**  
 George B. White Building  
 8 Raymond Rd. Deerfield, NH 03037

November 28, 2023  
**Meeting Minutes**

Meeting called to order at 7:15 PM.

Pledge of Allegiance

**Roll Call:** Present - Spencer Tate, Amy Lockwood, George Thompson, James McDonald, Jeff Caira, Robert Prieto, Kendra Cohen Not Present - Anthony DiMauro, Skip Kelley

The board appointed Mr. Caira as a voting member for this meeting.

**Approval of Minutes:** Ms. Lockwood made a motion to approve the minutes of the 10/24/23 meeting, seconded by Mr. McDonald. All in favor, motion passed.

**Case 23-15: 1 Blue Heron Lane Jean Jensen Required: Article II, Section 204.1 & 207.3: Setbacks to side yard property lines 37.5 feet Variance Requested: 20-foot setback from south side property line for a 320 square foot shed:** Mr. Thompson made a motion to accept the application, seconded by Mr. Tate. Ms. Lockwood stated that she had sent a request for more information to the applicants. The applicants stated they had sent additional drawings to Kris Robert. All in favor, motion passed. The applicants answered questions from the board.

**Public Comments:** Alan O'Neal, abutter, said he has no issue with the request. Mr. McDonald made a motion to grant approval, seconded by Mr. Thompson. All in favor, motion passed.

**Case 23-16: 232A Raymond Road Calgary MacKenzie Required: Article III, Section 331.2.F: An ADU may have habitable floor area of up to 35% of the primary dwelling unit's living space, or 750 square feet in habitable floor area, whichever is greater. An ADU may be less than 750 square feet. Variance Requested: Applicant requests a variance to allow approximately 1,150 square feet of habitable floor area in an ADU:** Mr. McDonald recused himself from this case. Ms. Cohen was appointed as a voting member for this case. Ms. Cohen made a motion to accept the application, seconded by Ms. Lockwood. All in favor, motion passed. Mr. Caira also recused himself from this case. The board appointed Mr. Prieto as a voting member on this case. The applicant and his attorney, as well as the building inspector, answered questions from the board. The applicant's attorney and the building inspector both stated that the applicant has completed renovations to a structure that already existed on the property and that the applicant is seeking relief for work that has already been done.

**Public Comment:** Peter Clees, Raymond NH, stated opposition, explaining that he is opposed to an ADU with more than one bedroom. He feels that more than one bedroom is not an ADU. He feels the applicant should subdivide even though that would be costly.

Joe Perkins, abutter, is not opposed to the request. He said the applicant has made significant improvements to the property and you can't tell from outside that there is more than one bedroom.

Ms. Lockwood clarified that Deerfield's ADU ordinance does allow two bedrooms in an ADU.

James McDonald, speaking as an abutter, not as a member of the board, asked for clarification on allowance of multi-family on a property of a certain amount of acreage, whether or not it is in current use or how much land use is needed to have multiple units. He wondered whether it could be removed from current use and subdivided. He acknowledge that building a road is costly, but economic reasons are not cause for hardship.

The board deliberated. Mr. Tate stated that ADUs are allowed up to 750 square feet, two bedrooms. He said the request to finish 371 square feet of an existing building previously used for other purposes makes sense to him. He doesn't see an issue with the request. Mr. Thompson agreed and said the additional square feet would fall under the same code enforced by the building inspector and that he would vote to approve the application. Ms. Lockwood does not approve of the request. She stated that the applicant had multiple in person discussions with the building inspector, then did what he wanted to do anyway, and now wants a variance so he can sell the property for more than a smaller unit would sell for. That does not demonstrate hardship in her opinion. She also stated that the applicant also addressed affordable housing, which is important to her, but acted in a way that is in opposition to the tool that Deerfield has to address affordable housing in a rural setting. Ms. Cohen agrees with Ms. Lockwood. She agrees that affordable housing is important but feels it is a bigger discussion to have. She does not feel that hardship has been demonstrated other than the project is finished and doesn't feel that is a hardship when a building permit has been issued. Mr. Prieto asked if the ZBA will cause hardship by not granting the variance. Ms. Lockwood said the ZBA does not cause the hardship by asking the property owner to adhere to the permit already issued.

Mr. Prieto asked what happens if the variance is denied where the work is already done. Mr. Tate asked the applicant if there was a way to make the space compliant. Mr. Mackenzie's attorney said the existing building was 1121 square feet inside. She stated that the applicant finished more than the permit allowed and agreed he should have asked for permission first, but also asked if it made sense to take out the finished work. She also asked for findings of fact. Ms. Cohen said it sets a dangerous precedent that the only hardship is that the work is already done. Mr. Tate said the building was there and that the space could have been labeled as "shop" space and it would be allowed. Ms. Cohen said she doesn't see hardship when the space can be easily modified and designated as non living space to be compliant. Mr. Thompson made a motion to approve the variance, seconded by Mr. Tate. A roll call vote was taken: Yay - Mr. Tate, Mr. Thompson, Nay - Ms. Lockwood, Mr. Prieto, Ms. Cohen. Motion failed, variance not granted. Mr. Mackenzie was advised of the thirty day window of appeal.

**Case 23-17: 232A Raymond Road Calgary MacKenzie Required: Article VI, Definitions, requires a two-family dwelling be comprised of individual attached dwelling units. Variance Requested: Applicant requests a variance to allow two detached dwelling units to qualify as a two-family dwelling.:** Ms. Cohen made a motion to accept the application, seconded by Mr. Prieto. All in favor, motion passed. Mr. Mackenzie through his attorney and the building inspector again answered questions from the board.

**Public Comments:** Joe Perkins stated he is not opposed to this request. He said another neighbor has a similar situation on his property so he's not sure why this is a big deal for Mr. Mackenzie. Peter Clees, of Raymond, said other abutting properties are single family. He said he is happy that the property has been improved but he doesn't want the definition of the property changed. Jeff Caira, speaking as a member of the public, not as a board member, said he is in favor of the request upon approval by the Planning Board.

The board deliberated. Mr. Thompson stated that the two buildings have existed since the 1700s and there doesn't appear to be any further use of the property due to frontage requirements. All code requirements would be met per the building inspector in the prior case, therefore he doesn't have any opposition to granting this variance. Ms. Cohen said she is opposed. She feels changing the definition would unfairly impact the applicant where many others also have detached additional structures on their properties that could potentially become multi-family. She said that is not the spirit of the ordinance in her opinion. The ordinance states that a permit must be obtained prior to construction of the unit. This wasn't planned for as a multi-family by the Planning Board and it has to be part of the town plan. Ms. Cohen feels no hardship has been presented and this is not a fair use of the ZBA's authority for granting variances.

Mr. Tate expressed preference for the allowance under ADU. He said that ordinance is set up to facilitate multiple family members on a property but multi-family has potential to change the characteristics of the neighborhood. He can see potential for this throughout the town, changing the character of neighborhoods. He also feels that there is possibility to subdivide again. Mr. Thompson made a motion to grant variance, seconded by Mr. Tate. A roll call vote was taken. Yay - Mr. Thompson, Nay - Mr. Tate, Ms. Lockwood, Mr. Prieto, Ms. Cohen. Motion failed, variance not granted. Mr. Mackenzie was advised of the thirty day window of appeal.

### **Public Comments**

Erroll Rhodes gave a brief update of digitizing records.

Meeting was adjourned at 10:17 PM.

These minutes were transcribed and respectfully submitted by  
Tina St. Peter, Recording Secretary