

TOWN OF BEDFORD
March 7, 2016
PLANNING BOARD
MINUTES

A meeting of the Bedford Planning Board was held on Monday, March 7, 2016 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Jon Levenstein (Chairman), Harold Newberry (Vice Chairman), Chris Bandazian (Town Council), Jim Scanlon (Town Council Alternate), Jim Stanford (Public Works Director), Karen McGinley, Philip Cote, Alex Rohe (Alternate), and Becky Hebert (Assistant Planning Director)

I. Call to Order and Roll Call

Chairman Levenstein called the meeting to order at 7:00 p.m. Mr. Dermody and Alternates Mr. Fairman and Mr. McMahan were absent. Mr. Rohe was appointed a voting member. Ms. Hebert reviewed the agenda.

II. Old Business - Continued Hearings: None

III. New Business - Application Acceptance and/or Public Hearings on Applications:

1. Robert and Sandra Sullivan (Owners) and Michael and Susan Bradford (Owners) – Request for approval of a lot line adjustment between Lot 22-86-1 & Lot 22-91 at 149 & 153 County Road, Zoned R&A.
2. Richard Kiernan (Owner) – Request for approval of a waiver to Article 275-61, Permitted Uses, to allow an accessory apartment within an existing single family residence at 9 Eastman Avenue, Lot 46-14, Zoned PZ.

IV. Concept Proposals and Other Business: None

Ms. Hebert stated for the new business items the applications are complete, abutters have been notified; it is the opinion of Planning Staff that none of the items are of regional impact, and the agenda is ready for the Board's acceptance.

MOTION by Vice Chairman Newberry to approve the agenda as submitted. Ms. McGinley duly seconded the motion. Vote taken – all in favor. Motion carried.

- 1. Robert and Sandra Sullivan (Owners) and Michael and Susan Bradford (Owners) – Request for approval of a lot line adjustment between Lot 22-86-1 & Lot 22-91 at 149 & 153 County Road, Zoned R&A.**

A staff report from Becky Hebert, Assistant Planning Director, dated March 7, 2016 as follows:

I. Project Statistics:

Owners: Robert & Sandra Sullivan and Michael & Susan Bradford
Proposal: Lot Line Adjustment
Location: 149 & 153 County Road (Lots 22-86-1 & 22-91)
Existing Zoning: "R&A" –Residential & Agricultural
Surrounding Uses: Residential

II. Background Information:

The home at 149 County Road was originally constructed in the late 1800's, the adjacent house at 153 County Road was constructed in 1984.

III. Project Description:

The purpose of this plan is to relocate the lot line between Lots 22-86-1 & 22-91. Currently both lots are located in the Residential & Agricultural District and have houses which are serviced by onsite wells and septic systems. The lot line relocation will straighten out the line between the properties and convey 1.86 acres of back land from 153 County Road to 149 County Road.

Area of Parcels for Adjustment

<i>Lot</i>	<i>Existing</i>	<i>Proposed</i>	<i>Change</i>
<i>22-86-1</i>	<i>5.0000</i>	<i>3.1382</i>	<i>-1.8618</i>
<i>22-91</i>	<i>1.6960</i>	<i>3.5578</i>	<i>+1.8618</i>

The town maintains a closed drainage system along the south side of County Road. In accordance with Section 231.1.7 of the LDRC, the Applicant needs to provide a drainage easement to the Town for the existing system (condition #4). The location of the easement needs to be a 10 foot off-set along the front lot line.

A portion of the protective well radius for the well at 153 County Road crosses onto the property at 149 County Road. The plan includes a well easement for the benefit of 153 County Road (condition #3).

IV. Waiver Requests:

The applicant is requesting the following waivers of the Land Development Control Regulations for which the Board will need to take action (please see the attached letter):

- 1. Section 218.1.11 that requires existing topography to be shown;*
- 2. Section 218.1.12 that requires HISS mapping to be shown;*
- 3. Section 218.1.13 that requires Wetland mapping to be shown; and*
- 4. Section 231.2.1 Lot Size by Soil Type.*

The Planning Staff has no objection to the waivers, as the smaller lot is becoming larger and the proposed area of both lots is larger than the required minimum lot size. There is municipal water

and sewer along this section of County Road and the lots could tie in to the sewer in the future, should their existing septic systems fail.

V. Staff Recommendations:

The Planning Board needs to vote on whether or not to grant the waivers from the Bedford Land Development Control Regulations, for Sections 218.1.11, 218.1.12, 218.1.13, & 231.2.1 as previously described.

The Planning Staff recommends that the Planning Board grant final approval of the lot line adjustment plan, Robert & Sandra Sullivan and Michael & Susan Bradford (Owners), 149 & 153 County Road, Lots 22-86-1 & 22-91, Zoned R&A as shown on plans by TF Moran, Inc., last revised February 16, 2016, with the following precedent conditions to be fulfilled within one year:

- 1. Any waivers granted by the Planning Board shall be noted on the plans.*
- 2. All recording fees shall be submitted to the Planning Department at the time of recording.*
- 3. A well easement shall be provided from lot 22-91 for the benefit of lot 22-86-1.*
- 4. Drainage easements for the existing town drainage system along County Road shall be reviewed and approved by Staff and recorded with the plan.*
- 5. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor, certifying that all boundary monumentation has been set as noted on the approved plan, or in lieu of a letter, the final subdivision plan to be recorded may be submitted noting that the bounds have been set.*

Jim O'Neil, T. F. Moran, was present to address this application for a lot line adjustment for the applicants. Mr. O'Neil stated the Sullivan's own a 5-acre lot on County Road, and the Bradford's own a 1.69-acre lot and they abut each other. We are looking to transfer 1.8618 acres from the Sullivan's lot to the Bradford's lot. It is a fairly straightforward lot line adjustment. What we're looking to do is that the Sullivan's lot will end up at 3.1382 acres and the Bradford's lot will end up at 3.5578 acres. There are a couple of things to note: We found in our research during the course of our survey that there were drainage improvements done on County Road. The improvements were very close to the front right-of-way line; staff recommended, I believe through Public Works, that we add a 10-foot drainage easement along the front of both lots, which we have done. We also did notice that with the well on the Sullivan lot the radius went over the lot line just under 30 feet, so we have prepared a proposed well easement for that radius area that crosses the lot line.

Mr. O'Neil stated there are some waivers included in this request. We did ask for waivers from topography, HISS mapping, wetland mapping, and lot size by soil type. There is a pond at the rear of the property. The original subdivision that we did back in 1979 when we actually created these lots, just barely crosses the back edge of the property. I have walked it; I personally am not a wetland scientist but I did not notice any wet areas on the back of the property. It is definitely wet around the pond but it is not going to be any kind of impact as to where this lot line adjustment is. As far as topography; I didn't feel it necessary to spend the additional cost to do full topography on 8 acres where we're transferring a piece of back land that both lots are fully developed. I did

also want to mention that there is water and sewer in County Road. I think the sewer may be forced main, I'm not positive on that. So there is availability for both of those services on County Road.

Chairman Levenstein asked for comments or questions from the audience. There were none.

MOTION by Mr. Cote that the Planning Board to grant the waivers from the Bedford Land Development Control Regulations, for Sections 218.1.11, 218.1.12, 218.1.13, and 231.2.1 as described in the staff report dated March 7, 2016. Ms. McGinley duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Mr. Cote that the Planning Board grant final approval of the lot line adjustment plan for Robert and Sandra Sullivan and Michael and Susan Bradford (Owners), 149 and 153 County Road, Lots 22-86-1 and 22-91, Zoned R&A as shown on plans by T. F. Moran, Inc., last revised February 16, 2016, with the following precedent conditions to be fulfilled within one year:

- 1. Any waivers granted by the Planning Board shall be noted on the plans.**
- 2. All recording fees shall be submitted to the Planning Department at the time of recording.**
- 3. A well easement shall be provided from lot 22-91 for the benefit of lot 22-86-1.**
- 4. Drainage easements for the existing town drainage system along County Road shall be reviewed and approved by Staff and recorded with the plan.**
- 5. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor, certifying that all boundary monumentation has been set as noted on the approved plan, or in lieu of a letter, the final subdivision plan to be recorded may be submitted noting that the bounds have been set.**

Vice Chairman Newberry duly seconded the motion. Vote taken - all in favor. Motion carried.

- 2. Richard Kiernan (Owner) – Request for approval of a waiver to Article 275-61, Permitted Uses, to allow an accessory apartment within an existing single family residence at 9 Eastman Avenue, Lot 46-14, Zoned PZ.**

A staff report from Becky Hebert, Assistant Planning Director, dated March 7, 2016 as follows:

I. Project Statistics:

Owner: Richard Kiernan
Proposal: Waiver to permit accessory apartment
Location: 9 Eastman Avenue, Lot 46-14
Existing Zoning: "PZ" – Performance Zone
Surrounding Uses: Retail & Residential

II. Project Background:

The property is located on the south side of Eastman Avenue in the Performance Zone. The house was originally constructed in the late 1960's and residential uses surround the property on all sides.

III. Waiver Request:

The Applicant is requesting a waiver of Section 275-61, Permitted Uses, to allow an accessory apartment in the Performance Zone within an existing single family residence, where residential uses and accessory apartments are not permitted. The existing house is a pre-existing non-conforming use within the district and is located in an established residential neighborhood off of Eastman Avenue. The neighborhood pre-dates the creation of the Performance Zone and residential uses are no longer permitted, unless approved as a mixed use development through the River Corridor Smart Growth Overlay District.

The proposed apartment was constructed by the previous owner without permits or approvals and the Applicant is seeking approvals to use the apartment. The home is a split level ranch and the 430 square foot apartment is located on the lower level, with a kitchenette, bedroom, bathroom and living area. Access to the main portion of the house and the apartment is through the front doorway. The house is also connected to municipal water and sewer.

Accessory apartments elsewhere in Town are permitted in the Residential Agricultural (R&A) District and General Residential (GR) District by Special Exception provided the criteria listed below have been satisfied. The 2016 ballot includes a zoning amendment that would permit accessory apartments in the R&A and GR by right, but subject to the same standards that exist today (see below).

- 1. An accessory apartment shall be clearly incidental to the primary use of the property for a single dwelling, and such accessory living space shall not exceed 1,000 square feet;*
- 2. An accessory apartment shall either be constructed within or attached to a single dwelling;*
- 3. At least one interior connecting door or other access for persons to pass between the primary residence and the accessory apartment shall be provided;*
- 4. Septic system design/capacity shall be approved by the New Hampshire Department of Environmental Services;*
- 5. No new entrance or exit to an accessory apartment shall be constructed facing the front of the single dwelling;*
- 6. One parking space shall be provided for an accessory apartment, and no new curb cut from the street shall be constructed; and*
- 7. Exterior construction and materials shall be uniform with the single dwelling.*

The Zoning Ordinance permits a waiver in the Performance Zone where the applicant demonstrates substantial compliance with the five purpose statements listed below:

- A. *To attract environmentally acceptable commercial, industrial, recreational, institutional, and residential uses to the District;*
- B. *To encourage diversity in the community tax base through appropriate flexibility in land use and land use development;*
- C. *To optimize financial return on public infrastructure investments and expenditures, including municipal sewer, municipal water supply, the Manchester Airport, Class I and II public highways, and the Merrimack River amenities;*
- D. *To minimize adverse traffic impacts on U.S. Route 3, the I-293/NH Route 101 Interchange, and surrounding local streets and roadways; and*
- E. *To preserve valuable historical, cultural, and natural features within the district and to minimize adverse environmental impacts such as water, air, light, noise pollution, flooding, clear cutting of vegetation, and the blocking of scenic views.*

The proposed apartment meets all of the Town's requirements for an accessory apartment. Staff does not object to the proposed waiver and feels the use is consistent with the purpose statements of the Performance Zone. In August 2012, the Board also granted a similar waiver for a property at 9 Wathen Road.

IV. Staff Recommendation:

The Planning Staff recommends that the Planning Board approve the waiver to Article 275-61, Permitted Uses, to allow the creation of an accessory apartment at 9 Eastman Avenue, Map 46-14, in accordance with the application prepared by the Applicant, with the following condition:

- 1. A Certificate of Compliance shall be applied for and issued by the Building Inspector prior to use of the accessory apartment.*

Richard Kiernan, owner, was present to address this application for a waiver to allow an accessory apartment in the Performance Zone. An aerial view of the Mr. Kiernan's property was posted on the screen. Mr. Kiernan stated I'm asking the Bedford Planning Board to grant a waiver of Section 275-61, Permitted Uses, for an accessory apartment. As of October I am the new owner of a split-level house at 9 Eastman Avenue near the Manchester line off from South River Road, which is in the Performance Zone. My home was built in the late 1960's and has an accessory apartment of 430 square feet in the basement, which predates the Performance Zone requirements. The accessory apartment in the lower level has a full bath with washer and dryer hook-ups, bedroom, kitchenette, and living area, there is a separate double wide driveway, and the house is connected to municipal water and sewer. My family is in transition in a variety of ways and my home will be underutilized, and I primarily intend to offer the accessory apartment to my older children or in-laws visiting or friends in need of a small apartment or to rent it. I visited with all of my abutting neighbors, some are owners and some are renters, and they were supportive of my waiver and they have signed their names to confirm this. They told me the accessory apartment had been used in the past without any issues. I consulted with Ms. Hebert and Mr. Richardson and their report confirms that the accessory apartment conforms to the Town requirements for an accessory apartment and the staff "does not object to a proposed waiver and feels that the use is consistent with the five purposes of the statement of the Performance Zone." In August of 2012 the Planning Board also granted a similar waiver for a property at 9 Wathen Road, which is the next street south

from my property. In conclusion, the Bedford Planning staff recommends that the Planning Board approve the waiver to this article of permitted uses to allow the creation of accessory apartment a 9 Eastman Avenue in accordance with the application prepared with one condition that a Certificate of Compliance shall be applied for and issued by the building inspector prior to the use of the accessory apartment. One of my neighbors, Ed Beaudet, is here.

Chairman Levenstein stated the reason for needing this waiver is because it's not a permitted use in the Performance Zone. Ms. Hebert responded that is correct.

Vice Chairman Newberry stated you had to remove the appliances from the kitchenette. Mr. Kiernan responded yes. Vice Chairman Newberry asked will that be refurbished? Mr. Kiernan replied yes. Vice Chairman Newberry asked so it will be a functional kitchenette? Mr. Kiernan replied yes. Vice Chairman Newberry asked and the apartment has one bedroom? Mr. Kiernan replied yes. Councilor Bandazian asked is the entrance to the accessory apartment the door that is next to the garage door? Mr. Kiernan replied the house is a split-level so the entrance to the alcove is where there are stairs going down and then there is a main entrance to the accessory apartment. And it also has access from the garage. There are two ways to access the accessory apartment. Councilor Bandazian stated the first one you described is the access from the interior of the building. Are there any doors that separate the interior of the building from the accessory apartment? Mr. Kiernan replied yes. In the picture posted of the house you can see the main door, which is where you enter, and then to the left you go down the stairs and then the door to the accessory apartment is separately keyed. Councilor Bandazian asked those stairs are open to the main residence? Mr. Kiernan replied yes.

Chairman Levenstein asked for comments or questions from the audience.

Mr. Beaudet stated I have no objection to the waiver. My brother is the one that owns the lot behind it.

MOTION by Councilor Bandazian that the Planning Board approve the waiver to Article 275-61, Permitted Uses, to allow the creation of an accessory apartment at 9 Eastman Avenue, Map 46-14, in accordance with the application prepared by the Applicant, with the following condition:

- 1. A Certificate of Compliance shall be applied for and issued by the Building Inspector prior to use of the accessory apartment.**

Vice Chairman Newberry duly seconded the motion. Vote taken - all in favor. Motion carried.

V. Approval of Minutes of Previous Meetings:

Amendments: Page 1, "Chairman Levenstein called the meeting to order." should be "Acting Chairman Newberry called the meeting to order." and Page 10, 9 lines up from bottom, "limbs" should be "items."

MOTION by Councilor Bandazian to approve the minutes of the February 8, 2016 Planning Board meeting as amended. Ms. McGinley duly seconded the motion. Vote taken; motion carried, with Mr. Rohe and Chairman Levenstein with abstaining.

VI. Communications to the Board:

Ms. Hebert stated there are no new applications for the March 21st Planning Board meeting, so that meeting will be cancelled.

Ms. Hebert stated the Performance Zone Subcommittee has scheduled a special presentation on March 28th by New Hampshire economist Russ Thibault to present to this Board and extends the invitation to others. The meeting will be held in the BCTV meeting room at 7:00 PM. Mr. Thibault has been looking at Bedford and how we compare to some of the original growth trends, is analyzing some of Bedford's data and should have an interesting presentation.

Ms. Hebert stated Encore is coming back to the Planning Board with a concept on April 11th. They would like to talk to the Board about some of the waivers that were introduced during their first presentation.

VII. Reports of Committees: None

VIII. Adjournment:

MOTION by Ms. McGinley to adjourn at 7:21 PM. Vice Chairman Newberry duly seconded the motion. Vote taken – all in favor. Motion carried.

Respectfully submitted by
Valerie J. Emmons