



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

Stratham Zoning Board of Adjustment
Meeting Minutes
March 5, 2024
Stratham Municipal Center
Time: 7:00 pm

Members Present: Drew Pierce, Chair
Bruno Federico, Member
Jameson Paine, Member
Lucy Cushman, Alternate

Members Absent: Frank MacMillan, Member
Brent Eastwood, Vice Chair

Staff Present: Mark Connors, Director of Planning and Community Development
William Dinsmore, Building Inspector and Code Enforcement Officer

1. Call to Order/Roll Call

Mr. Pierce called the meeting to order at 7:01 pm and took roll call. Mr. Pierce appointed Ms. Cushman as a voting member for this meeting.

2. Approval of Minutes & Finding of Fact:

a. February 6, 2024

MOTION by Mr. Paine to approve the February 6, 2024, meeting minutes. Mr. Federico seconded the motion. All voted in favor and the motion passed.

b. Case #675 (62 College Rd) Findings of Fact

c. Case #676 (Rear Lovell Rd) Finding of Fact

MOTION by Mr. Paine to approve Case #675 and Case #676 Findings of Fact. Mr. Federico seconded the motion. All voted in favor and the motion passed.

3. New Business:

a. Request for Rehearing. The Zoning Board will determine whether to grant a rehearing, requested by the Select Board, of the following application on January 9, 2024:

Case #674: Green & Company (Applicant), Boulders Realty Corp. (Owner), 13 & 15 Stoneybrook Lane, Tax Map 4, Lots 1 & 7, Zoned Special Commercial. Request for a variance from Table 3.6, *Table of Uses*, to permit the development of single-family dwelling units in a district where the use is not permitted. The applicant proposes 59 single-family dwellings on a single property under a

45 condominium form of ownership.

46 Mr. Pierce stated that there was an email received from Town Administrator David Moore, who
47 acting at the request of the Select Board, requesting that the Board postpone to the next scheduled
48 meeting when hopefully a full board of 5 members will be present to consider the application on April
49 2, 2024.

50
51 **MOTION by Mr. Paine that the Zoning Board of Adjustment postpone the request for rehearing**
52 **to the next scheduled meeting on April 2, 2024.**

53
54 **Ms. Cushman seconded the motion. All vote in favor. Motion passed.**

55
56 Mr. Federico asked if postponing will affect RSA 677 3 part 2 and Mr. Connors replied that yes, that
57 if the board was going to postpone the meeting that they will have to suspend the decision to grant the
58 variance until April 2, 2024.

59
60 **MOTION by Mr. Paine to suspend the zoning board's decision to grant a variance for Case #674**
61 **pending consideration of the motion for a rehearing to the next scheduled meeting on April 2,**
62 **2024.**

63
64 **Ms. Cushman seconded the motion. All vote in favor. Motion passed.**

65
66 Kevin Baum, an attorney representing Green & Co., asked what time that email from Mr. Moore was
67 sent to the Board and Mr. Pierce replied that it was received at 4:30 PM tonight on March 5, 2024. Mr.
68 Connors added that there is a section of the rules and procedures that states that if there are not 5
69 members of the board present for a meeting a postponement can be granted.

70
71 **b. Case #677: 325 Portsmouth LLC (Applicant & Owner), 325 Portsmouth Ave, Tax Map 22,**
72 **Lot 33, Zoned Route 33 Heritage.** Request for a special exception under Section 5.1.3 Expansion
73 of Non-Conforming Structures, to permit the construction of a second-story deck and staircase that
74 encroached into the 20-foot side setback.

75
76 Mr. Pierce invited the applicant to present his case. Mr. Dodge stated that the house at 325
77 Portsmouth Ave has an addition on the back side of the house that acts as a carriage house and barn
78 and the deck will reside within the existing two buildings.

79
80 Mr. Dinsmore suggested that the application that was filled out was an application for a special
81 exception for a different type of special exception of the zoning ordinance. Mr. Dinsmore then
82 suggested that perhaps the chair reads the questions, and the applicant can respond to those actual
83 questions for this specific exception application so it can be recorded. Mr. Pierce asked Mr.
84 Dinsmore if the board members go through the questions on the back of the staff memo and Mr.
85 Dinsmore answered yes because the file that they have for the application is not the right special
86 exception application. Mr. Pierce asked if the wrong application was filed because that file on the
87 website was the wrong application and Mr. Dinsmore replied that the form needs to be updated by
88 the Town and approved by the ZBA. Mr. Dinsmore stated that he has seen at least one application,
89 and it was for a different part of the ordinance and that the zoning department draft a new application.
90 Mr. Connors replied that it will be revised for you to review at the next scheduled meeting.

91
92 Mr. Pierce stated that the applicant and the Board will go through those questions required to grant
93 a special exception application under Section 5.1.3. The Zoning Board will need to determine that the

94 following criteria exist before issuing the special exception:

95
96 *Criteria a. The proposed expansion must intrude no further into any setback area than does the*
97 *existing structure:*

98
99 Mr. Dodge answered yes, this is true of this application.

100
101 *Criteria b. The expansion must have no further adverse impact on the view, light, and air of any*
102 *Abutter:*

103
104 Mr. Dodge replied, the applications does not have any adverse impacts.

105
106 *Criteria c. The expansion must not cause property values to deteriorate:*

107
108 Mr. Dodge answered it will improve values by having two means of egress from two apartments
109 instead of one.

110
111 *Criteria d. The expansion must not impede existing rights of access or egress:*

112
113 Mr. Dodge replied the application will not impede access or egress.

114
115 *Criteria e. That portion of the proposed expansion, which will intrude into the setback must, in no*
116 *event, exceed the footprint square footage of that portion of the structure which presently intrudes*
117 *into the setback, regardless of the number of applications made over time under this subsection:*

118
119 Mr. Dodge replied that it does not and the part of the carriage house, barn and the main house which
120 is triple the amount of the proposed deck.

121
122 Mr. Federico asked, relating to the last question, the portion of the proposed expansion that will
123 intrude into the setback must not exceed the footprint, and on the third page of which is a picture of
124 the deck, that Mr. Dodge is proposing an expansion in the middle of the alcove and will not extend
125 out past the house. Mr. Dodge replied no and that it might look like it does in the picture but that is
126 only due to the angle of the picture. Mr. Federico then asked for clarification of the building location
127 in relation to 323 Portsmouth Avenue. Mr. Dodge is stated that it's the whole building in the plans
128 and that 323 Portsmouth Ave is an abutter.

129
130 Mr. Paine asked is the purpose that is driving this hearing for the need for egress and Mr. Dodge
131 replied yes, from the two apartments. He only has one egress for the two apartments and a ladder for
132 the third story living space. Mr. Paine asked Mr. Dodge if he is being driven by code or
133 documentation purposes and Mr. Dodge answered code reasons.

134
135 Mr. Pierce asked what the height limit is in the zone where 325 Portsmouth Ave is located. Mr.
136 Dinsmore replied 35 feet. Mr. Dodge added that the deck will be 12 feet above grade and that the
137 deck will go from the ground to the sill plate between the first and second story floors.

138
139 Mr. Federico asked Mr. Dodge if the deck will be used for the second story living space and Mr.
140 Dodge replied yes. Mr. Federico then asked if Mr. Dodge planned to have a means of egress off the
141 deck. Mr. Dodge replied yes.

143 *Criteria f. In the event the non-conforming structure contains a commercial use, there must be no*
144 *adverse impact on access, traffic, parking, lighting, or other safety or visibility features of the*
145 *existing structure:*

146
147 Mr. Dodge replied that this is a three-unit apartment building and there is no retail or vending
148 existing at this location.

149
150 *Criteria g. A special exception under this subsection may be granted only as to expansions into the*
151 *side, front, and rear setbacks, and is not available for expansions which violates height restrictions*
152 *of this ordinance:*

153
154 The application is to allow an expansion into the side setback.

155
156 Mr. Pierce opened the forum to the public. Mr. Pierce added that since there were no members of
157 the public present at the meeting the public portion would be closed, and the Board would move to
158 deliberations. Mr. Pierce asked to review the draft motion or make a motion and Mr. Federico
159 replied that he will make a motion. Mr. Dinsmore added a suggestion is to indicate that the special
160 exception will be valid for two years or that could be a condition. Mr. Connors added that it should
161 be a condition to expire on March 5, 2026.

162
163 **MOTION by Mr. Federico that the Zoning Board of Adjustment grant the Special Exception**
164 **application of 325 Portsmouth Avenue LLC for 325 Portsmouth Avenue, Tax Map 22, Lot 33,**
165 **Zoned Route 33 Heritage, for the proposed expansion of the non-conforming structure to allow**
166 **a two story deck to be built that will encroach into the side setback area because the facts of the**
167 **case show that this expansion meets all of the criteria for the special exception under Stratham's**
168 **Zoning Ordinance Section 5.1.3 with the following condition:**

169
170 **1. The special exception, if not exercised, will expire two years from the date of the hearing on**
171 **March 5, 2024.**

172
173 **All voted in favor. Motion passes.**

174
175 **4. Adjournment**

176
177 **Mr. Pierce stated that the meeting adjourned at 7:21 p.m.**