

Approved: _____
Approved with changes: _____
Unapproved: _____

Effingham Zoning Board of Adjustment
June 20, 2018

Members Present: Dave Strauss, Tom Hart, Mike Cahalane (A), Chuck Fuller, Jory Augenti, Tim White

Members Absent: None

Others Present: Dianne Park, Sharon Libby, George Bouchicas

Public Hearing (continued)

Case #088 a Special Exception Application for Roland Davis Tax Map 413 Lot 209 of 44 Champion Hill Rd. A Special Exception for a multi-family dwelling unit. Sharon Libby is representing the applicant.

For the purpose of this hearing Mike Cahalane is a full member in place of Jory Augenti and Jory Augenti is an alternate.

Public Hearing called to order at 7:03pm without Tim White. Sharon Libby agrees to hold the hearing without Tim and Jory was not comfortable sitting on the board in place of Tim. Tim arrived 7:05pm.

Each member of the board was roll called by verbal confirmation. Dave read the rules for the hearing.

Sharon informed the board that there was a rope ladder in the second floor apartment for emergency egress and the tenant in that apartment has been given a 30 day eviction notice. Sharon was asked to clarify how many bedrooms exist in the residence, 1 bedroom in Eva's apartment, 2 in the main house and 1 in the second floor apartment.

Facts of Case

- 2 Units are occupied by family
- 1 Unit occupied by non-family
- Eva is handicapped and can no longer do stairs
- A septic upgrade took place in 2007
- No documentation for the second septic system
- 2 Units create rental income
- 3 Kitchens exist in the residence
- 4 Bedroom exist in the residence
- 3 ½ Bathrooms exist in the residence
- Owner is not living at the address
- Abutter has a concern about the driveway safety egress
- Abutter has a concern about a future multi-family usage
- Current driveway exists on a steep hill

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Sharon stated that the owner wanted the board to know that the apartment Eva is in is a grandfathered unit. George informed the board that the grandfathered unit has always had kitchen facilities.

Dave explained the deliberative phase to those present. Saying the board can deliberate and take as long as necessary. Once a decision has been reached it will be sent to the applicant in a certified letter and once the public hearing is closed there can be no more public comment. Sharon asked the board to consider Eva has been there 45+ years as well as the family wanting to keep her there until she dies.

A motion was made by Mike, seconded by Tom, to close the public hearing and move into deliberation. All were in favor.
Public Hearing closed at 7:20pm.

Minutes

A motion was made by Chuck, seconded by Tim, to approve the minutes from June 6, 2018 as amended. All were in favor.

Page 1, Under 'Public Hearing', change 'conformation' to 'confirmation'.
Pages 3, fifth paragraph, delete 'what'

A motion was made by Tom, seconded by Mike, to approve the minutes from June 12, 2018 as amended. All were in favor.

Under 'Public Hearing', change 'conformation' to 'confirmation'
Sixth paragraph, last sentence, change 'three bedrooms' to 'two bedrooms' and 'a bathroom' to '1/2 bath'

Deliberation Case #088

Dave passed out a letter from the Zoning Enforcement Officer as well as a pre-inspection letter from the Effingham Fire Chief.

Discussion on the following points:

- Verbal timeline is confusing
- 2 Permits in land use file
 - One for the addition of a deck
 - One for the addition of a shed
 - DES permit for 1 septic system
- Date Zoning started in Effingham, September 1999
- Assessor picked up the fact that the house was on a sharp corner
- Assessor picked up the second floor apartment in 2010
- Change on outside stairs and porch in 2015
- In 2005 Eva's new apartment was not listed by Assessor
- In 2010 Eva's new apartment was listed by Assessor

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- 2007 Addition of shed
- 2009 Addition of farmer's porch
- Septic issues

Criteria
Article 9

A. The specific site of the proposal is in an appropriate location for that use.

- Hazardous driveway egress
- Owner could expand the multi-family usage if approved
- Parking issue in winter with snow removal

B. The proposed use will not reduce property values in the district due to incompatible land use.

- Non-Issue, nothing concrete to go on

C. The proposed use will not harm the community or neighborhood.

- Non-Issue

D. Adequate facilities will be provided which are appropriate to the proposed use.

- Fire Chief reported the facilities are not adequate
- House construction does not meet state codes for multi-family
- No concrete evidence of 2 working septic systems
- State Inspection

E. Adequate on-site parking is to be provided appropriate to the proposed use.

- Non-Issue

F. The proposed use will not result in any nuisance or hazard as outlined in the Section 902 'Obnoxious Use' above.

- Driveway egress is on a sharp corner and steep slope

G. There is adequate area for safe and sanitary sewage disposal.

- Applicant did not provide documentation of the existence of the second septic system
- NHDES does not have any permit for the second septic system

H. There are no valid objections from abutters based on demonstrable fact.

- Abutter concern on driveway egress safety
- Abutter concern on expansion of multi-family

I. The installation of monitoring wells or other appropriate environmental monitoring systems may be required.

- N/A

There was a motion by Dave, seconded by Chuck, asking for a straw vote. All were in favor.

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Mike – Deny
Tom – Deny
Dave – Deny
Tim – Deny
Chuck – Deny

There was a motion by Dave, seconded by Chuck, stating ‘I move to deny the applicant’s request for a special exception per Article 9 Section 902 and 904 of the Zoning Ordinance to permit a multi-family dwelling shown on Tax Map 413 Lot 209.’

Reason/Facts

1. The property does not meet the appropriate location for a multi-family dwelling due to access/egress hazards. An extreme slope is present in the road and the entrance/exit is located on a curve in the slope. Adding additional traffic would be dangerous to the public. Driveway Regulations for Effingham, NH require a specific line of sight that this driveway is not in compliance with.
2. Abutter concerns of a dangerous access/egress due to multi-family dwelling approval were documented in the June 6th 2018 public hearing.
3. Adequate facilities were not appropriate to the proposed use. Safety code violations were documented by Effingham Fire Rescue in a letter dated June 12, 2018.
4. The property has 4 bedrooms, 3 complete kitchens and 3 ½ baths. On file one state approved septic system was installed in 2007 for a 3 bedroom design. Applicant states another septic system is installed but they did not provide any documentation of its existence. A visual inspection of the suspected area could not confirm its existence. Based on the above the board cannot confirm the existence of adequate sanitary sewage disposal. Per attachment #1 no documentation exists at the state level for additional septic design.

All were in favor.

There was a discussion on amending Reason/Fact #4 by adding how many gallons per day the existing septic system has. A motion was made by Dave, seconded by Tom, to amend Reason/Fact #4 to read ‘The property has 4 bedrooms, 3 complete kitchens and 3 ½ baths. On file one state approved septic system was installed in 2007 for a 3 bedroom design with a capacity of 450 gallons per day. Applicant states another septic system is installed but they did not provide any documentation of its existence. A visual inspection of the suspected area could not confirm its existence. Based on the above the board cannot confirm the existence of adequate sanitary sewage disposal. Board agreed to include the ZEO letter dated June 19th 2018 as attachment #1 to the decision. Per attachment #1 no documentation exists at the state level for additional septic design.’ All were in favor.

Recordings of Meetings

Discussion on how long Public Hearing recordings must be kept. Officially they only need to be kept until the minutes are approved but the town attorney wants the board to keep all recordings.

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Dianne pointed out that the recorder broke and the initial hearing dated June 6, 2018 for case #088 and the public hearing was not recorded.

There was a motion by Dave, seconded by Chuck, to cancel the ZBA Meeting originally scheduled for July 4, 2018. All were in favor. July meeting dates are July 11, 2018 and July 18, 2018 at 7:00pm.

Handouts

Dave passed out proposed changes to applications. The board went through all changes.

- Page 4, After #4 add:

‘If you are appealing for a Special Exception explain how the proposal meets the special exception criteria as specified in Section 904 of the Effingham Zoning Ordinance (list responses to all criteria from the ordinance. For example “Criterion 1: then your response”, etc.) Use a separate sheet if necessary.’

- Page 5, After #3 add:

4.—for each Abutter on the Notification List:

- a) Complete a #10 business size envelope, with return address on each addressed to: Town of Effingham, ZBA, 68 School Street, Effingham, NH 03882. Hand printed or computer generated label.
- b) Fill out the ‘Return for Certified Mail’ (see sample provided).
- c) Fill out the ‘Return Receipt Post Card’ (see sample provided)
- d) **Do not stuff or seal envelopes**, place ‘Return for Certified Mail’ and ‘Return Receipt Post Card’ under envelope flap and submit with your application package.

Dave will make all changes.

There was a discussion on 30 day time period and abutter list language.

A motion was made by Tom, seconded by Tim, to adjourn the meeting.
Meeting adjourned at 9:25pm.