



Office of
The Zoning Board of Appeals
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 APR 18 2023

TOWN OF TOWNSEND
 TOWN CLERK

William Cadogan, Chairman
 Sean Pearson, Member

David Chenelle, Clerk
 Vicky Janicki, Member

Darlene Sodano, Vice Chair
 David Funaiole, Assoc. Member

ZONING BOARD OF APPEALS MINUTES

Wednesday, November 2, 2022 at 5:30 pm.

**on Zoom remotely accessible only
 Join via the Zoom link:**

Meeting ID: **857 6190 5759**
 Passcode: **758429**

All are welcome to attend

1 PRELIMINARIES: votes may be taken.

- 1.1 Call the meeting to order and roll call. Present: William Cadogan, Chair, Darlene Sodano, Vice Chair, Clerk, Vicki Janicki, David Funaiole, Assoc. Member. Sodano moved to open the meeting at 5:35pm. D. Funaiole seconded. Roll call vote was taken as follows: YES - D. Funaiole, D. Sodano, V. Janicki, and B. Cadogan. The motion carried 5-0-0. Chairman Cadogan appointed Assoc. Member David Funaiole as full Member for the meeting. Members Absent: David Chenelle, Sean Pearson.
- 1.2 Notice of Zoning Board of Appeals vacancies – review volunteer response forms received. Non received.
- 1.3 Chairman's additions or deletions. Added to the agenda. The draft minutes of 9-21-22 for approval, add PB referral for zoning amendments, add two correspondences received regarding 2022 Special Town meeting and 3 Wheeler Road.
- 1.4 Approval of Zoning Board of Appeals meeting minutes October 19, 2022.

2 PUBLIC HEARINGS:

- 2.1 **5:45 pm virtual public hearing** on the application of **Joseph Z. Shank** for a **Special Permit** under Zoning Bylaw §145-36 pursuant to §145-65. The applicant is proposing to construct an accessory apartment over an attached garage at **5 Madison Ave** (Map 31 Block 28 Lot 10) - RB2 Zoning district. The legal notice was read. Present for the applicant: Joseph Shank. Property owner Aaron Williams.

Mr. Shank presented his proposal to construct an accessory apartment above the proposed garage to be built as an addition to his daughter and son-in-law's residence at 5 Madison Ave. He has sold his primary residence and would like to reside in the accessory apartment with his wife. The existing residence is a four bedroom and Mr. Shank stated he has worked with the Board of Health on approval of a plan to upgrade the septic system to accommodate the accessory apartment. D. Sodano tried to verify the calculations of the living space for the existing home and proposed addition. There were no plans for the existing residence. During conversation, the applicant commented that stairways weren't included. D Sodano expressed concern with the definition of living area, claiming that the footprint of buildings has historically been used to make this calculation. She later realized that the stairway was access from the lower-level garage which will be an unfinished, unheated, separate ingress to the apartment.

After several attempts to calculate a figure that could be agreed upon, the Board felt that the dimensions of the proposed apartment were over the maximum allowable of 800 sq. Ft. Mr. Shank requested that a condition be placed on the special permit that he provides a revised drawing to the Board which confirms the final sq. Footage of the apartment to be less than 800 sq. Ft. The matter was discussed at length and the final proposed floor area of the accessory apartment was calculated at approximately 26% of the floor area of the principal residence and the apartment combined which is well below the 35% maximum limit in the bylaw.

The proposed floor area, according to the Building Commissioner's calculation is 786 sq. ft. and was provided by the Applicant's engineer at 795.17 sq. ft., Both calculations are less than 800 sq. ft. and compliant with the maximum allowance for an accessory apartment. The referral comments received from the Planning Board, Board of Health report, Board of Selectmen, Conservation Commission, and Building Commissioner were read into the record. Discussion ensued and the Board considered the application pursuant to Townsend Zoning Bylaw §145-36(C)(1-7), Accessory Apartments in a Residential District, the Board found the following:

1. The applicant has sought determination from the Board of Health and shall complete the requirements in the Board of Health report which include but are not limited to; 1.) upgrading the existing septic system to accommodate a five (5) bedroom system capacity and. 2.) completing a Title V Inspection of the sewerage disposal system to accommodate

- the accessory apartment and, 2.) completing a Title V Inspection of the sewerage disposal system to accommodate the accessory apartment.
2. The applicant stated in the public hearing that a Notice of Intent is being prepared for the Conservation Commission to comply with the required filing.
 3. Adequate provision has been made for ingress and egress.
 4. The construction and occupancy of the accessory apartment is not detrimental to the neighborhood in which the lot is located, and evidence has been provided to affirm the proposal has satisfied Section 145-36 C (2) (d).
 5. The lot contains 3.050 acres which exceeds the minimum 0.75-acre requirement.
 6. Adequate provision has been made for off-street parking of motor vehicles and is consistent with the character of a single-family residence.
 7. There is no other apartment on the lot on which the accessory apartment is located.
 8. In terms of Townsend Zoning Bylaw §145-65(F)(1)(a-g) the Board found as follows:
 - a) The lot is adequate in terms of size for the proposed use; the lot is 3.050 acres, and over the minimum requirement. The use is a residential use in a residential neighborhood.
 - b) The lot is zoned residential, and the accessory apartment is residential use.
 - c) There is no impact on traffic flow or safety.
 - d) There is no impact on neighborhood visual character, including views and vistas.
 - e) The method of proposed sewage disposal system installation; source of water and drainage are adequate; the applicant shall comply with the requirements in the Board of Health report including, but not limited to, upgrading the system to accommodate a 5-bedroom system capacity and Title V inspection certification.
 - f) Utilities and other public services are adequate.
 - g) There is no discernable impact on ground and surface water quality and other environmental and natural resource considerations.

Darlene Sodano moved that based on the above findings, the proposed use as an accessory apartment will not have adverse effects which would overbalance the beneficial effects on the neighborhood or the town, in view of particular characteristics of the site. Victoria Janicki seconded the motion, and a roll call vote was taken as follows: William Cadogan-yes, Darlene Sodano - yes, Victoria Janicki – yes, David Funaiole – yes. The motion carried. Darlene Sodano moved to grant a Special Permit to Joseph Z. Shank to construct an accessory apartment over an attached garage at 5 Madison Ave. subject to the submission of a plan confirming the area of the accessory apartment is 800 square feet or less and pursuant to Zoning Bylaw §§145-36 and 145-65 with the following conditions: The Special Permit shall terminate upon the transfer and conveyance of 5 Madison Ave. (Assessor's Map 31, Block 28, Lot 10). Victoria Janicki seconded the motion, with a roll call vote as follows: William Cadogan-yes, David Funaiole -yes, Victoria Janicki -yes, and Darlene Sodano-yes. The motion carried. Darlene Sodano moved to approve Chairman William Cadogan to sign this Decision on behalf of the Zoning Board of Appeals Members who participated in the vote. Victoria Janicki seconded the motion, with a roll call vote as follows: Yes - William Cadogan, David Funaiole, Vicky Janicki, Darlene Sodano. The motion carried.

V. Janicki moved to approve the September 21, 2022, minutes. D. Sodano seconded the motion. A roll call vote was taken as follows: YES – B. Cadogan, V. Janicki, D. Funaiole. D. Sodano abstained. The motion carried: 3-0-1. D. Sodano made a motion to approve the October 19, 2022, minutes. V Janicki seconded the motion. A roll call vote was taken as follows: YES – B. Cadogan, V. Janicki, D. Funaiole, D. Sodano. The motion carried. 4-0-0.

3 WORKSESSION: votes may be taken.

- 3.1 Hazard Mitigation Plan/Municipal Vulnerability Preparedness Plan review/discussion. Admin has been attending Board and Committee meetings to discuss the Plan. The Zoning Board of Appeals does not have any implementation responsibilities.
- 3.2 Planning Board referral for the public hearing scheduled for November 16, 2022, for proposed additional amendments to 145-54.1 Age restricted development and proposed amendments to 145-42 Site plan review special permit. Chairman Cadogan noted no comment at this time but would plan to attend the public hearing.

4 CORRESPONDENCE: votes may be taken.

- 4.1 Memo to: ZBA (Zoning Board of Appeals) from Sabrina Moore re: 2023 License Renewals - Alcohol and Common Victualler. Note: Admin will go through the list and check for any non-compliance and follow up with the Board of Selectmen.
- 4.2 3 Wheeler Road Earth Excavation special permit - Letter to the Zoning Board of Appeals was received from Gary Shepard, who has taken ownership of the property. The request is to change the owner of the property from Ambros Corp to Gary Shepard. The letter is attached to the Special permit on file which is due to expire in 2023.
- 4.3 Memo to Zoning Board of Appeals from the Board of Selectmen regarding the opening and closing of the Warrant for Special Town meeting on November 15, 2022. Warrant articles will be accepted prior to 4pm on November 11, 2022. A special Town meeting is scheduled for December 13, 2022, at 7:00pm in the Great Hall.

D. Sodano then requested that for future accessory apartment applications, dimensions be submitted for the primary residence and the proposed apartment as part of the application.

Items on file:

- 1. Application for accessory apartment at 5 Madison Ave.
- 2. Letter from Gary Shepard documenting ownership of 3 Wheeler Road and acknowledging responsibility for the Earth excavation special permit.
- 3. Memo to Zoning Board of Appeals from Sabrina Moore regarding license renewals for alcohol and victualler.
- 4. Memo to the Zoning Board of Appeals re: 2022 Special Town meeting.
- 5. Planning Board referral re: additional amendments to Townsend Zoning bylaw 145-54.1 Age restricted development, and amendments to Townsend Zoning bylaw 145-42 site plan review special permit.

D. Sodano made a motion to adjourn the meeting at 7:00pm. V. Janicki seconded. A roll call vote was taken as follows: YES – D. Funairole, V. Janicki, B. Cadogan, D. Sodano.

Respectfully submitted:

Approved on: April 12, 2023

Elizabeth Faxon, Zoning Board of Appeals Admin Asst.