

TOWN OF WILTON

ZONING BOARD OF ADJUSTMENT

JUNE 7, 1995

VOTING BOARD: Chairperson Neil Faiman; members Steve Blanchard & Jim Tuttle;
alternate members Joanna Eckstrom & Carol Roberts.

CLERK: Diane Nilsson

AGENDA: Grayson L. Parker - Variance and Special Exception

Mr. Faiman called the meeting to order at 7:37 p.m.

Case 5/10/95-1 PARKER

Grayson L. Parker, Lot J-116, 42 Island Street, in the Residential District, requested a Variance and a Special Exception under the terms of Section 5.3.7 of the Wilton Zoning Ordinance to permit the conversion of unused space in a single-family home into a one-bedroom apartment.

Mr. Faiman stated that all Board members are either familiar with the lot in question or visited the site with Mr. Parker before the meeting.

Mr. Parker stated that his lot is small (.22 acres) with 55% open space and 45% building. It was not clear whether driveways and parking were included in the building percentage. There are two single-family houses on the lot that touch each other in a corner creating a 600 sq. ft. area of unused space. Mr. Parker felt it originally was used as a pantry or as an entryway for the two houses.

Mr. Faiman pointed out that normal zoning for the Residential district allows 1 dwelling per minimum $\frac{1}{2}$ acre lot. But the ordinance specifically allows multi-family conversion in the compact village area, where this lot is located, up to a maximum of 2 dwelling units per lot less than $\frac{1}{2}$ acre in size. This is allowed if Town water & sewer are available, if 2 9' X 18' parking spaces per dwelling unit are provided on site, not in the setback, and if there is open space in an amount equal to two times the total area occupied by driveways, parking spaces and all buildings on site. Mr. Parker is asking for 3 dwelling units on less than $\frac{1}{2}$ acre and a waiver of the open space requirement. In essence, the Board is hearing two separate applications; a Variance to waive the lot size and open space requirements and then if the Board votes to grant the Variance, a vote on a request for a Special Exception.

Mr. Blanchard stated that these homes were built 70-80 years ago and were grandfathered on that lot when the zoning regulations were adopted. Mr. Parker stated that his lot size is typical of other lots on Island St. He then read the five criteria that he felt supported the Variance request. He stated that if his Variance is granted, he will pave the parking area, landscape the area and re-side the entire building. There will be six parking spaces and a turn-around spot.

Ms. Eckstrom asked how long the houses have been used for two-family residences. Mr. Parker answered that it has been at least 45 years. She also asked if the parking has always been as it is today and Mr. Parker confirmed that it has. Ms. Eckstrom asked if the two newly-created parking spaces would be in the setback. Mr. Parker answered that the landscaping and paving would keep all six spaces out of the setback but the turn-around space will be in the setback. Ms. Eckstrom wanted to know how Mr. Parker will police the turn-around area so that cars will not park there. He responded that he will post no-parking signs.

Mr. Blanchard noted that Mr. Parker's lot does not now and will not meet the open space requirement as set out in the zoning ordinance.

Mr. Tuttle wanted to know if second story bedrooms of the proposed apartment would have windows for fire escape. Mr. Parker answered that they will and the tenants will be able to get out onto the roof via these windows.

Mr. Faiman stated that since Mr. Parker already has two rental units on the lot, he is not being denied any use of the property. The ordinance clearly sets limits on how much acreage is required in order to have a third unit. The spirit of the ordinance is fairly clear in this area and he personally did not feel that the hardship criteria meets the spirit of the ordinance in this case.

The Board agreed that there was adequate parking for 3 dwelling units (Paragraph c, 5.3.7). The Board agreed that the lot is in the Compact Village Area which does allow multi-family conversion (Paragraph e, 5.3.7). The Board agreed that the lot size, .22 acres, is not large enough to allow 3 dwelling units according to the ordinance (Paragraph b, 5.3.7). And the Board agreed that the open space requirement would not be met, as it is currently not met (Paragraph d, 5.3.7).

Ms. Eckstrom felt that hypothetically, Mr. Parker could create two more bedrooms in that 600 sq. ft. space and add to the infrastructure of the Town without a need for a Variance. She felt the request for a one-bedroom apartment might be better for the Town in this case.

In answer to a question, Mr. Parker stated that there is a full basement with both units currently having access.

The Board discussed various ways of looking at the issue.

Ms. Eckstrom stated that she felt that granting the Variance would be the lesser of two evils. She would rather allow a third rental unit on this lot rather than the potential addition of two bedrooms in the same spot.

Mr. Parker stated that it would be impractical for him to expand to two more bedrooms because the rental market would not support such an expansion.

Ms. Eckstrom stated that because these two houses are stuck together, and there is 600 sq. ft. of unusable space created, in this case 2 dwelling units were not reasonable use of the lot and 3 units would be more reasonable.

Mr. Faiman reiterated that he felt that 2 dwelling units on .22 acres was reasonable use of the lot. He also stated that one way for the Board to try and decide which way to go with a Variance decision is to look at whether the ordinance is accomplishing more than what it is depriving the owner of. When you get to the point when the damage to the owner is greater than the benefit to the community or when the ordinance is not accomplishing much good but it is clearly accomplishing great harm to the owner then you might consider granting a Variance.

MOTION: Ms. Eckstrom moved to grant the Variance as presented, seconded by Mr. Tuttle.

VOTE: Ms. Exkstrom - YES
Mr. Blanchard - NO
Ms. Roberts - YES
Mr. Tuttle - YES
Mr. Faiman - NO

Ms. Eckstrom wished to state for the record that her personal reason for voting yes on this Variance was that more harm would be done by denying the Variance, in which case the applicant could expand the two existing units, and that would have a more adverse impact on the neighborhood than what the applicant had requested.

Mr. Faiman stated that the Variance had been granted and asked for a motion to grant the Special Exception.

MOTION: Ms. Eckstrom moved to grant the Special Exception as requested, seconded by Mr. Tuttle with all in favor.

Mr. Faiman stated that Mr. Parker will receive written Notice of Decision in the mail. He further stated that the Selectmen, any party to the action or proceedings, or any person affected thereby may apply for a rehearing of this decision. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Tuesday, June 27, 1995, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:22)

MOTION: Mr. Tuttle moved to adopt the 5 criteria stated in Mr. Parker's application, seconded by Ms. Eckstrom with all in favor.

VARIANCE CRITERIA

1. The proposed use would not diminish the surrounding property value because **the building would not be enlarged. It would be improved in looks and substance with new windows and doors, siding and landscaped with a paved parking lot. There are one to four unit buildings on the Island at this time.**
2. Granting this Variance would be in the public interest because **it would be a noticeable aesthetic improvement to the neighborhood and Town. There is a demand for one-bedroom units which tend to put few demands on the Town and schools. As is, the building is functionally obsolete.**
3. Denial of the Variance would cause unnecessary hardship because of the following special circumstances which make my property unique from other properties in the same zone: **The hardships exist in the configuration of the buildings. There are essentially two single-family homes on the property. Even though they are physically touching at one corner, there never has been nor could there be physical access between them. There is 600 sq. ft. of unused space. The best use of this space would be a one-bedroom apt. It would be a hardship not to use this space as such. It is a hardship for the neighborhood and Town not to have the property improved.**
4. Granting the Variance would do substantial justice because **it would allow usage of unused space, improve the living environment for tenants, neighbors and Town by making it neater, cleaner and safer.**
5. The use is not contrary to the spirit of the ordinance because **this will protect the health, safety, prosperity, convenience and general welfare of all inhabitants. It would not be detrimental in any way to the character of the neighborhood.**

NEW BUSINESS

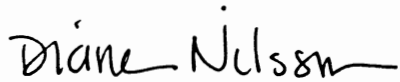
MINUTES - May 10, 1995

MOTION: Ms. Eckstrom moved to approve the 5/10/95 minutes as written, seconded by Mr. Blanchard.

VOTE: Ms. Eckstrom - YES
Mr. Blanchard - YES
Mr. Tuttle - YES
Ms. Roberts - ABSTAIN
Mr. Faiman - ABSTAIN

A motion was made and duly seconded to adjourn the meeting. The meeting was adjourned at 8:45 p.m.

ATTEST.



Diane Nilsson, Clerk

Posted: 6/13/95 Town Hall