In attendance at New Boston Town Hall: Anthony Olivier, Ken Clinton, Michael Dahlberg, and Lorraine McKim

Staff present: Shannon Silver, Planning Coordinator

Michael Dahlberg called the meeting to order at 6:30 pm at Town Hall.

**New business**

There was discussion regarding the duties and rate of pay for the Clerk position.

**Ken Clinton moved to appoint Lorraine McKim as Clerk with formal duties and pay associated.** **Seconded by Anthony Olivier.**

**Voting: 4-0-0** **motion carried unanimously.**

The Board discussed appointing Vasilios Panos to the Zoning Board of Adjustment as a full member.

**Michael Dahlberg moved to submit a letter to the Select Board recommending appointment of Vasilios Panos to the Zoning Board of Adjustment as a full member.** **Seconded by Ken Clinton.**

**Voting: 4-0-0** **motion carried unanimously.**

**PUBLIC HEARING(S)**

Application for a VARIANCE to the terms of Article IV, Section 404.2, of the New Boston Zoning Ordinance. The applicant/agent is Koul & Jawahar L. Raine, for property located at 68 Hooper Hill Road, Tax Map/Lot # 11/131, in the Residential-Agricultural “R-A” District. The applicants are requesting permission to add a detached accessory dwelling unit of 2000 sq ft on their existing 2.4-acre lot.

Michael Dahlberg explained that the applicant needs to demonstrate five criteria for the Zoning Board to consider as a need for this variance. He suggested the Board ask its questions prior to hearing the presentation from the applicant. Ken Clinton stated that he would prefer to hear from the applicant first.

Koul Raine stated that he purchased this home in 1993. In 2003, he built a structure on the backside. Since then, the family has grown, and he would like to allow space for his sons to live on the property.

Michael Dahlberg asked the applicant to address the first criteria, that granting the variance would not be contrary to the public interest. Koul Raine stated that he does not understand what the spirit of the ordinance is. Michael Dahlberg stated that the spirit and intent of the ordinance is stated within the ordinance itself.

Koul Raine addressed the third criteria. He stated that the spirit of the ordinance is maintained because the intention is for his family to be able to remain in New Boston. If this variance cannot be achieved and the accessory dwelling unit cannot be built, his family cannot continue to live on the property.

Regarding the fourth criteria, Koul Raine stated that the proposal will increase the value of his property substantially. Michael Dahlberg explained that the criteria is speaking of the value of surrounding properties. Koul Raine stated that he believed this project will increase the value of those as well. Jawahar Raine stated that this project will only bring up the values for the surrounding properties, as it will bring up this value of this property, as per real estate data.

Michael Dahlberg asked the applicant to address the fifth criteria, that no fair and substantial relationship exists between the general public purposes of the ordinance provision in specific application of that provision to the property. Jawahar Raine stated that the property will remain private, and there will be no increase in foot or vehicle traffic. This variance will not impact surrounding neighbors or buildings. The existing structure will continue to look the same. The accessory dwelling unit will be built at the back of the property and will likely not be visible from the road. The land could support another land and septic system, if needed.

In addressing the additional portions of the fifth criteria, Koul Raine stated that his family has two growing boys who will hopefully be able to continue to live in New Boston through this variance. This property has changed substantially in the last 30 years. His original deed states that he can have no more than two cars in his parking area. Other surrounding properties have six or more cars on site, and some even contain businesses. Structures change based on the people who live there over the years. This proposal will not change the structure but will add a building toward the back of the site.

Ken Clinton stated that the applicant’s responses to the criteria were inadequate, as written, and not much better, as presented. The applicant needs to convince the Board that this proposal will be okay for the Town, residents, abutters, etc., and he is not yet convinced of that.

Ken Clinton noted that the proposed accessory dwelling structure (ADU) is 2,000 s.f., which is larger than the existing structure. Typically, an ADU is smaller than the main structure, thus making it an accessory use of the property. This ADU would effectively become the primary use. Without coming before the Planning Board, the by-right unit size is 1,000 s.f., and this proposal would double that. As the applicant described the proposal, it seems that this would allow for two sons to move back onto the property, which seems to speak to two ADUs within one building. This would lead to one main building on the property, with an additional large structures at the back which would contain two ADUs. This is not allowed, even by variance.

Ken Clinton explained that he found an old plan for the property which showed a boundary line agreement. By virtue of where the existing garage is located, it is entirely within a side setback. The proposed ADU would also be within the side setback. This application thus violates a separate part of the ordinance.

Lorraine McKim agreed that the proposed ADU exceeds the ordinance allowance for an ADU. She visited the site, and it seems crowded. As Ken Clinton stated, this proposal would be located within the side setback. The application does not prove this case based on hardship and the proposal does not seem to be allowed by the Town as an ADU.

Michael Dahlberg stated that the ordinance allows for a 1,000 s.f. or less conditioned square footage space. Granting this variance would allow for a 2,000 s.f., two-story, two-unit ADU. A two-family structure, plus the existing main structure on the lot would lead to a multi-family property, which is not allowed in this Zone. Two ADUs within one building controverts the purpose of Section 4.04.2 of the ordinance. Based on the written and presentation material, this application does not meet the criteria. The applicant could withdraw this application without prejudice and come back at a later time with a different application or consider placing an attached ADU on the house that conforms to the setback and size requirements.

Koul Raine stated that he spoke with a builder who told him that it would be much more costly to add to the existing structure, then to build a detached ADU. Michael Dahlberg stated that the ordinance and State law note that financial considerations cannot be part of the variance argument. There is a way for this project to be completed without needing a variance. If the applicant chooses to move forward with the application at this time and is denied, this would be with prejudice. Thus, the applicant would need to come forth and start the process over again if he so chose.

The applicant requested to withdraw the application at this time. The Board noted that this was withdrawn without prejudice.

* Approval of the April 18, 2023, meeting minutes, with or without changes. (distributed by email)
* Approval of the May 16, 2023, meeting minutes, with or without changes. (distributed by email)

**Anthony Olivier moved to approve the April 18, 2023, minutes as submitted, and the May 16, 2023, minutes as amended.** **Seconded by Lorraine McKim.**

**Voting: 3-0-1** **motion carried.**

**Unfinished business**

None at this time.

**Communication and miscellaneous**

None at this time.

**Other business**

There was discussion regarding allowing Ken Clinton to preview applications for completeness prior to Board meetings. The ultimate decision to place items on the agenda will still be made by staff.

**Adjournment**

**Ken Clinton moved to adjourn the meeting at 7:46pm.** **Seconded by Anthony Olivier.**

**Voting: 4-0-0** **motion carried unanimously.**

Respectfully submitted, **Minutes approved:**

Kristan Patenaude **November 21, 2023**