

**TOWN OF NEW BOSTON**

**NEW BOSTON ZONING BOARD OF ADJUSTMENT**

**Minutes of 2020 - Meeting conducted virtually, using ZOOM due to COVID-19 pandemic.**

**September 15, 2020**

The virtual meeting was called to order at 7:03 p.m. by Zoning Board Vice Chairman Kenneth Clinton. Present virtually were regular members Michael Dahlberg and Anthony Olivier. Also present virtually was Zoning Board Clerk Nadine Scholes. Absent were Chairman David Craig, alternate member Wayne Charest and Planning Coordinator Shannon Silver.

Ken Clinton read the meeting preamble as follows,

**‘MEETING PREAMBLE DURING COVID-19 EMERGENCY**

Good evening, as Vice Chairman of the Town of New Boston Zoning Board, I am invoking the provisions of RSA 91-A:2, III (b) during the current State of Emergency. Governor Sununu has issued Emergency Order #12, pursuant to Executive Order 2020-04, that allows local government and this public body to meet virtually. I am declaring that conducting this meeting is imperative and required in order to continue vital Town government, services and operations.

We have utilized the Zoom platform to conduct the meeting and all Board members will have the ability to communicate concurrently and the public has access to concurrently listen and if necessary, will be given the opportunity to participate in the meeting when opened for public comment.

If anyone has an issue connecting, they should contact Nadine Scholes [REDACTED]  
[REDACTED]

Property owners, applicant and direct abutters were given proper notice of this hearing, along with the instructions of how to access the meeting. Public Notice and Zoom access instructions were also posted for public view on the Town website.

To help minimize background noise and provide privacy to everyone, we have started this meeting with all microphones muted and video cameras off. You do not need to turn on your camera to participate in the meeting and we ask that everyone keep their microphones muted unless you would like to speak. Any public comment will need to wait until the meeting is opened to the public and will need full name and address stated for the record.

If anyone accessing this meeting is disruptive, they will be asked to cease the disruptive behavior. Should the disruption continue thereafter, that person will be automatically removed from the meeting.

Please be aware all votes taken during this meeting will be done by Roll Call vote. Let's start the meeting by taking a Roll Call attendance. When each member states their name, please also state if there is anyone else in the room with you during this meeting, under the provisions of the Right-to-know law.'

Roll Call attendance, Ken Clinton present and alone, Michael Dahlberg present and alone, Anthony Olivier present and alone, and Nadine Scholes present and alone.

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Ken Clinton explained that the applicant for each hearing would need to decide if they would like to proceed with a 3 member quorum. Kelly Socia replied that he would like to proceed with the hearing.

Ken Clinton opened the Public Hearing.

#### **KELLY M. SOCIA (APPLICANT)**

Application for a Variance

Location: South Hill Road

Tax/Map Lot #11/39

Residential-Agricultural "R-A" District

Present for the hearing was Kelly M. Socia, virtually and alone, and abutter Raymond A. Boucher virtually present.

Ken Clinton stated that the Board would need to decide if either of the applications posed any impacts to the surrounding Towns. The Board agreed that the application for a Variance would have no Regional Impact.

Kelly Socia noted that the application for a Variance would allow the expansion of the northern side of the existing house and would square off the rear corner of the house bringing it in line with the backside of the existing house.

Kelly Socia explained that the house was built in 1753, predating New Boston and New Boston Zoning Ordinance. The house already sits within the 20' setbacks. The proposed expansion would bring the building about 5.5' from the abutting property line. Kelly Socia stated that he had met with a representative for the Towne's Family Trust on site to explain the expansion he proposed. They had no concerns with the expansion, but they did ask that the proposed retaining wall not impact the existing stonewall boundary. They did send an email confirming that they do not have any issues with the expansion. Kelly Socia noted that he had contacted the other abutters and they had no issues at the time.

Kelly Socia reviewed the facts/criteria from the Variance application he had submitted.

Facts in support of granting the variance:

1) Granting the variance would not be contrary to the public interest:

- The expansion provides more living space for the owners' growing family and is not visible from the road. There would be no increase in traffic, noise, pollution, or other problems for the neighborhood or residents. The expansion would not have any negative impact on the public interests of New Boston residents.

2) If the variance were granted, the spirit of the ordinance would be observed because:

- The existing house was built circa 1753, over time the parcel had been 'cut up' and the house sits within the 20' side setback. The expansion would simply extend the west and north exterior walls to connect at a 90-degree angle, expanding the first floor and allowing for a dormer on the second floor. The expansion would only be visible to a single abutter through thick vegetation. All

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abutters have been approached and no one had any issues with the proposal of expansion.

3) Granting the variance would do substantial justice because:

-The expansion would make the residence more livable and comfortable for the whole family. Given the building predates existing property lines and the northwest corner is already within the side setbacks, the proposed expansion is the most reasonable option to increase living space with having the least impact on abutters, the historic character of the front of the home and the existing septic/leach field, while still keeping the home visibly pleasing.

4) If the variance were granted, the values of the surrounding properties would not be diminished:

-The proposed expansion adds living space to the rear of the existing house, which is bordered by thick vegetation. There would be no impact on surrounding properties' values.

5) Literal enforcement of the provision of the ordinance would result in an unnecessary hardship.

A. For the purposes of this paragraph unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:

-i. The ordinance provision relates to the proximity of a residence to an abutter's property line. Aside from the abutters in question, who have expressed they do not have any concerns, there is no other general public purposes that would be affected by granting the variance for the expansion.

-ii. The proposed use is a reasonable one because the existing residence is one of the oldest in New Boston and already existing within the side setback. The expansion would simply 'square off' the rear northwest corner of the building to allow for more livable space without negatively affecting any of the abutters or the neighborhood.

Kelly Socia added that currently his children share a bedroom and the expansion would add enough space to add 2 bedrooms and a bathroom on the second floor and on the first floor would be an office, restroom and 2 additional rooms.

Michael Dahlberg noted that he agreed with the applicant's description of the property, he was familiar with this area.

Anthony Olivier requested that the abutters letters the applicant mentioned are submitted to the office.

Ken Clinton noted that the plan submitted shows the first floor including rooms specifically for a home business. Kelly Socia explained that may be proposed in the future for a potential massage business. Due to COVID his wife is no longer employed at the spa, and they are looking into the idea of operating a massage business out of the house but that would not be proposed until the pandemic is gone. If they did not end up operating the massage business, the space would be used for a home office and other home uses. There are specific requirements that would be needed in order to operate a massage business from the home and the layout of the first floor was designed with that in mind for the future.

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Both Ken Clinton and Michael Dahlberg expressed their concerns regarding the first floor plans showing the expansion to be more for a home business with the bedrooms on the second floor.

Kelly Socia explained that he was told to submit the application for the variance prior to applying for a site plan review with the Planning Board. If for some reason, the massage business does not end up being proposed in the future, the space would be used for other uses. He reiterated that there are certain requirements for this type of business in order to operate from a residence and they had designed the layout of the first floor to meet those requirements.

The Board reviewed other options for the addition location. Kelly Socia noted that there were other location options discussed but this would be the best for structure strength, historic appearance and the best workable layout.

Ken Clinton opened for public comment.

Raymond Boucher, 32 South Hill Road, abutted the applicant's property and noted that Kelly Socia was accurate regarding the vegetation and he was in agreement that the addition would not impact his property. Ray Boucher stated that he favored the proposed addition and it would not impact his property.

There were no other public comments.

Ken Clinton noted that he had concerns regarding abutters positions but the lack of participation and the abutter present in favor of the proposed addition had sufficed his concern. He explained that the addition made the most sense as presented to be added to the existing structure in the chosen location.

Anthony Olivier noted that if the Board could approve the variance for the addition without any proposed business operation, he would be in favor of granting the variance.

Michael Dahlberg opined that the applicant met the criteria required for a variance but noted that the applicant would need to apply to the Planning Board for a site plan prior to the operation of any home business. Kelly Socia noted that he understood that if the business were proposed in the future an application would need to be submitted to the Planning Board and that would be a separate application and process for approval before operating the business out of the home.

Ken Clinton noted that the Board unanimously agreed that the variance granted would not include the approval for a home business use and suggested the motion should specifically state that when made by the Board. Ken Clinton expressed an additional concern with the proposed retaining wall impacting the stonewall boundary line and asked that the contractor pay special attention not to disturb the stonewall during construction.

Anthony Olivier **MOVED** to grant the Variance to permit the construction of an expansion within the 20' side setback, on a pre-existing, non-conforming lot, for a property owned by Kelly M. Socia, located at 26 South Hill Road, Tax Map/Lot #11/39, in the Residential-Agricultural 'R-A' District, subject to the following condition: this approval

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excludes any home business use of that portion of the addition which is located within the 20' of the side yard setback. The applicant shall forthwith apply for a Non-Residential Site Plan Review with the Planning Board for a home business, if required. Michael Dahlberg seconded the motion. All were in favor and the motion **PASSED**. 3-0, Roll Call Vote: Ken Clinton-yes, Michael Dahlberg-yes, Anthony Olivier-yes.

Kelly Socia thanked the Board.

Ken Clinton questioned if the applicant for the second scheduled hearing had joined the Zoom meeting. Nadine Scholes replied no. She suggested that with the changes to the hearing process due to COVID, she could try to reach the applicant if the Board would allow her to do so. Ken Clinton noted that although this would be unusual for a Board to allow but with the current situation, he would allow the Clerk to try to reach the applicant. Nadine Scholes noted that there was no answer.

Ken Clinton asked if there were any abutters in attendance for the second hearing. Nadine Scholes replied that there was nobody else on the call besides her and the 3 Board members.

Ken Clinton noted that the Board would not even need to open the hearing and that the application would be withdrawn without prejudice and the applicant would need to reapply if they would like too.

Ken Clinton noted that a memo was distributed to the Chair for recommendations of any amendments to the Zoning Ordinance. The Board did not have any recommendations at this time.

Ken Clinton suggested that the minutes from the May 19, 2020, Zoning Board meeting be held for approval at the next meeting with David Craig present. The Board agreed.

There was no other business to review.

Ken Clinton **MOVED** to adjourn at 7:52 p.m. Michael Dahlberg seconded the motion and it **PASSED** unanimously. **3-0**, Roll Call Vote: Ken Clinton-yes, Michael Dahlberg-yes, Anthony Olivier-yes.

Respectfully submitted,  
Nadine Scholes, Zoning Board Clerk

Minutes Approved: 10/20/20