

MEMBERS PRESENT: C. Harold Gaffin, Chairman
Henry Besanceney
Jim Hoh
Theresa Markham
Mark Donohoe

ALSO PRESENT: Michael Tobin, Village Attorney; James Turner, Village Code Enforcement Officer; Mr. & Mrs. William Wood; Bob Cornell, Cornell Contracting.

Chairman Gaffin called the meeting to order at 7:30 p.m.

PUBLIC HEARING : SPECIAL USE PERMIT AND AREA VARIANCE : ACCESSORY APARTMENT : 15 BRIGHAM CIRCLE : WOOD

Chairman Gaffin opened the public hearing at 7:32 p.m. The public hearing notice was read and process explained to the applicants. The variance applied for was to allow an accessory apartment at the Wood's 15 Brigham Circle residence. This is prohibited as they are in an R-1 district where accessory apartments are not allowed. This variance would require both a special use permit for the apartment, as well as an area variance as the proposed apartment would not be in compliance with square footage regulations as stipulated by Village Code.

Mr. Cornell, builder for the applicants approached the Board and stated he would speak for the applicants in regards to their variance application. Mr. Cornell stated that the Woods wished to have their senior mother/grandmother live on the premises with them in independent quarters. Mr. Cornell explained that the proposed addition would be attached to the second floor over the garage. Mr. Cornell described some of the features of the proposed addition, including a kitchenette, dishwasher, washer/dryer and sitting room. The Woods stated that whatever was required by the Village to allow them to keep the accessory apartment would be put in the deed to ensure the apartment could not be rented out at a later date. Mr. Cornell stated that the Woods did not intend to create an accessory apartment, but rather an extended master suite.

Mr. Tobin stated that Mr. Cornell and the Woods had appeared before the Planning Board to apply for site plan approval for the addition. Mr. Tobin explained that the Planning Board had instructed Mr. Cornell to get a variance for the proposed addition, as they felt it constituted an accessory apartment, as there were separate cooking, toilet and laundry facilities. Mr. Tobin stated that if the addition were an accessory apartment, it would need separate sewer and water hookup as well as a separate entrance. Mrs. Wood stated that the apartment was already in existence, and that the variance was needed to keep the apartment.

Mr. Gaffin inquired of Mr. Wood what prompted him to establish an accessory apartment in his home. Mr. Wood explained that he wished to have his 75-year old mother live with him, but that she wished to remain as independent as possible. Mr. Gaffin inquired as to what was shown on the original plans for the house for that space. Mr. Wood stated it was called a "bonus room" on the original plans. Ms. Markham inquired as to emergency exits and egress requirements. Mr. Wood replied there would be a separate entrance/exit and egress requirements would be met.

Mr. Gaffin read the Village Code in regards to accessory apartments. Mr. Tobin stated that the only way to proceed legally would be to declare the addition an accessory apartment and require separate sewer, water and gas hookups. Mr. Cornell stated that separate sewer and water would be very expensive for the applicants. Mr. Tobin replied that accessory apartments of the type Mr. Wood had installed and wished to expand constituted a 2-family dwelling, which was not allowed in the R-1 zoning district. A discussion ensued amongst the Board regarding what constituted a "single-family dwelling" and a "2-family dwelling".

Mr. Donohoe mentioned that even with deed restrictions on the property to ensure that the area was not used in the future as a separate rental unit, enforceability would be a problem. Mr. Cornell stated that the Planning Board may have been hasty in declaring the space an accessory apartment by criteria of kitchen appliances and a separate bathroom, as these were features of a master suite. Ms. Markham acknowledged that while many master suites had bathrooms and refrigerators, stoves and laundry facilities were not usually found in a master suite. The Board reviewed plans for the proposed addition.

After much review, Ms. Markham suggested that the Woods had two options: one being the installation of separate utilities for the apartment to keep it as is; the second being the removal of those criteria that made the space an accessory apartment. Mr. Gaffin noted that the plans would require approval of Monroe County Water Authority and Village Department of Public Works should the Woods proceed with the accessory apartment as it was.

Mr. Tobin stated while the Board would like the Woods to be able to keep the apartment, there was concern down the line regarding the establishment of a two-family house in the R-1 district. Mr. Tobin explained that Village Code provided for larger, older homes to be converted to apartments, not new homes such as the Woods. Mr. Cornell stated that any restrictions could be covered in the deed, such as stipulating that the apartment could not be occupied by any person other than a family member or that the space could not be rented out to anyone. Mr. Tobin suggested to the Board that any cooking facilities and the presence of a dishwasher turned this space into an accessory apartment, and that the only way to avoid having an accessory apartment would be their removal.

Mr. Gaffin inquired if there were any other comments regarding the special use permit. Mr. Gaffin then addressed the application for an area variance. Mr. Cornell stated that currently the apartment occupied 600 –650 square feet in the house. With the proposed addition, the apartment would occupy approximately 800 square feet in the house. This would total 28% of the house, which exceeds Village Code for accessory apartments.

Mr. Gaffin inquired if there were any comments from the assembled, As none were noted, the public hearing was closed at 8:15 p.m.

ACTION ON THE PUBLIC HEARING ITEM

The Board discussed the two applications, for special use permit and area variance.

Mr. Besanceney stated that the application hinged on the formal kitchen area as part of the problem. He stated that if the proposed addition were scaled back to omit the kitchen area, then that might address the problem of an accessory apartment. Mr. Hoh stated that if the variance were granted, and separate sewer and water lines were to be installed that would make the house seem more like a formal 2-family dwelling. Mr. Donohoe stated that while the Woods were to be commended for their intent in keeping their elderly parent in the house with them, future use of the apartment could be as a rental, which would not be keeping in character with the neighborhood. Mr. Besanceney suggested the applicant keep the existing plumbing to avoid having to install a second sewer and water line. Mr. Hoh suggested that the Board recommend to the Building Inspector and Village DPW that they would prefer keeping singular sewer and water lines to the house.

Ms. Markham stated she would like to see the accessory apartment removed, which would consist of the removal of the dishwasher and kitchen environment. Then the area could be used as additional living space if the house were sold, and there would be nothing to detach from the house if there were no accessory apartment. Mr. Gaffin inquired of Mr. Wood how important the kitchen area was, as its elimination would make the process much easier. Mr. Wood stated that his mother would like to be able to get a cup of tea of a glass of water without having to walk through the entire house, but that a hotplate would be adequate if that were acceptable to the Board. Mr. Hoh stated that the addition had fulfilled the criteria for an accessory apartment as per code, and could be terminated as per code.

Mr. Hoh pointed out that if the accessory apartment were removed, then neither variance would be needed. Mr. Turner was asked what would constitute the removal of an accessory apartment. Mr. Turner stated that removal of the stove, countertops and dishwasher would be adequate, but it would be difficult to police. Mrs. Wood inquired if separate water and sewer approvals would still be needed to proceed with the addition. Mr. Tobin stated that for health reasons, if the area were classified as an apartment, separate utilities would be needed. Mr. Tobin suggested the applicants make the living space for Mr. Wood's mother work in a way other than an apartment. Mr. Gaffin replied that if the separate cooking facilities and dishwasher were to be removed, then no variance would be needed.

Mr. Cornell inquired if a conditional building permit could be used in construction of the addition. Mr. Donohoe stated that the apartment area was already in existence, and should comply with the conditions discussed before a Certificate of Occupancy was issued. Mr. Gaffin stated that revised plans should be submitted to the Planning Board showing the modifications and the removal of the kitchen. The Building Inspector would then issue his final C of O for the completed addition contingent upon the removal of the kitchen. Mr. Wood agreed that the kitchen would be removed from the plans and resubmitted to the Planning Board.

Mr. Gaffin stated that no action was necessary by the Board as the special use application had been withdrawn due to the planned modification of the existing space. These modifications would include: removal of the stove, dishwasher and kitchen facilities to eliminate an accessory apartment at the Wood residence, 15 Brigham Circle. The area variance was also withdrawn.

APPROVE MINUTES

Motion by Jim Hoh, seconded by Henry Besanceney to approve the minutes as submitted.
Motion carried.

ADJOURN

Motion by Henry Besanceney, seconded by Theresa Markham to adjourn the meeting at 8:55 p.m.
Motion carried, meeting adjourned.

Respectfully submitted,

Sheila Byrne Coleman
Zoning Board of Appeals Secretary