

Buckland, MA ZBA Meeting Minutes

November 15, 2022

Via Zoom

Agenda

1. Open meeting
2. Hear the following:

ZBA 2022-04, Brian Heath, Application for Special Permit (Section 9) to construct an Accessory Dwelling Unit (detached), expanding existing garage; under Section 4-4 of the Buckland Zoning Bylaws, at 45 North Street, in the Village Residential zone, Map 6-1 Lot 57.

As a nonconforming lot this application also requires a Finding under Section 8-1 (b).

Information and maps can be obtained at Town Hall, 17 State St., during regular business hours, or by contacting the ZBA, 413 625 6330.

3. Other matters unanticipated by chair 48 hours prior to meeting
4. Public comment
5. Adjourn

Attendees

John Gould, co-chair
Jeff Rose, co-chair
Robin Bestler, member
Jim Rae, member
Dennis Clark, member
Randy Heminger, alternate member
Justin Lively, alternate member
Tena Heath, applicant

1. A. Co-chair John Gould opened the meeting at 6:30 pm with the following:
 - a. Review of details for this meeting, including the hearing format
 - b. An overview of sections 4-3 and 4-4 of the Town of Buckland Zoning Bylaws
 - c. Review of details of application 2022-04 (received September 13, 2022), seeking both a special permit and finding. Co-chair Gould explained the process for each, including the timeline and appeal process.
 - d. An introduction of the members of the ZBA
 - e. A reference to a November 2, 2021 letter from James Hawkins, Building

Commissioner (see referenced materials below)

- f. Information concerning a second curb cut, noting it is not a part of this application

Co-chair Gould concluded by offering an overview of the "normal special permit process" in addition to the 4-4 special permit for an Accessory Dwelling Unit (ADU), and noted this is the first time this section is being considered since being added to the bylaws October 23, 2021.

B. Co-Applicant Tena Heath presented ZBA 2022-04:

- a. Referred to the application, sketches, photographs and plans submitted to the ZBA
- b. Noted the ADU application was motivated by a desire of the Heath family to continue to live in the community alongside her daughter and family
- c. Invited questions from the ZBA and public

C. In response, co-chair Gould

- a. Expressed appreciation for the impact statement submitted with the application
- b. Invited members of the public to speak to or for the application, or to offer comments. No members of the public were present.
- c. Reviewed findings of the the site visit made by members of the ZBA at 9:00 am on November 6th, 2022
 - i. Noted property and building front on William Street
 - ii. Compared alterations proposed by the application with existing conditions
 - iii. Reviewed parking requirements per Section 4-4, including the orientation and position of the proposed parking space, concluding the highway department would need to be consulted
 - iv. Reviewed site drainage issues, concluding the highway department would need to be consulted
 - v. Reviewed questions related to the foundation, concluding the building inspector would need to be consulted

D. Co-chair Gould reviewed the conditions and requirements of Section 4-4 d) vis-a-vis the application

- 1. Both a kitchen and bathroom are shown on the plan
- 2. Plans show a proposed unit of 899 sq. ft., (under the 900 sq. ft. limit)
- 3. Application is for one ADU
- 4. Application indicates the space for the proposed ADU currently serves as a barn or garage (issue of setbacks to be tabled until discussion re: finding)
- 5. Signed agreement, approved by counsel, undertaking to occupy one of the units as primary residence, to be filed with Registry and Building Inspector if the application is approved

6. Photos and site visit indicate adequate parking is available from William Street for the ADU, and North Street for the primary residence
7. Property is connected to town sewer system, so not an issue
8. Informal sketches have been submitted; if something proposed is changes, the applicant would need to return to the ZBA, and the revisions would need to respect the 900 sq. ft limit

Co-chair Gould invited comments from members of the ZBA.

Member Justin Lively stated his only concern was about stormwater runoff, but his understanding is the applicant will work with the town highway department to address that issue. Applicant Brian Heath noted stormwater will be diverted to the back yard. Co-chair Jeff Rose expressed a concern that any drainage plan not impact the neighbors or the street. Co-chair Gould noted this can be addressed in the Order of Conditions (OOC).

Member Jim Rae asked about the second curb cut, and noted he has seen cars parked on the sidewalk or along the street, and would prefer to see all parking on site. Co-chair Gould said the assumption is that the driveways will be utilized; otherwise the issue would need to be addressed by the highway department, local police, or Select Board.

Co-chair Rose asked if there is any outdoor lighting proposed. Ms. Heath responded there would be minimal lighting, enough to get in and out of the door. Co-chair Gould suggested language for the OOC of "downward facing, not to intrude onto other properties."

Co-chair Gould noted the setbacks shown on the drawings for existing buildings to be 25", while the new addition will be 10' from the property line, meaning the new addition will not be non-conforming. Co-chair Gould also noted the position and placement of the parking space adjacent to Williams Street would need to be agreed with the highway department.

Co-chair Gould reviewed the purpose of ADUs, 4-4 c), and suggested the applicants have answered affirmatively for purposes 1 - 4.

E. Co-chair Gould shifted the review to Section 9-1, Special Permits. The applicant's response to 9-1 f) Impact Statement has been noted. In regard to Section 9-1 i) Criteria

1. No comment
2. No comment.
3. Order of Conditions will address issues related to drainage.
4. Order of Conditions will address issues related to drainage.
5. Member Rae suggested if there is an available curb cut, it should be utilized; special permit criteria #5 and #9 (re: parking) make it clear this

can be included in the OOC.

6. Member Lively stated yes, this application is in the interest and compatible with the neighborhood as the part of the site most visible is already a part of the neighborhood character. Member Lively noted the applicant's intention to use colors to match the existing dwelling. Member Rae noted the building as enlarged will still be less high than many buildings in the neighborhood, and the additional 3' in height will be no encumbrance for others. Co-chair Rose noted there were no neighbors at the hearing to oppose the application.
7. No resources will be adversely impacted.
8. An additional dwelling unit means additional revenue to the town, and makes it possible for a local resident to live close to local businesses.
9. Co-chair Rose noted the color, structure, and design enhance in the positive.

Co-chair Rose noted to the applicant that the special permit is time-limited, and if construction is not underway, they would need to return to the ZBA. Ms. Heath confirmed they understood that limitation.

F. Co-chair Gould moved to section 8-1, non-conforming uses or structures, and in particular, 8-1 b), alteration, reconstruction or extension.

1. If this change is carried out, would it be less detrimental or objectionable to the neighborhood? Member Robin Bestler stated the proposal represented an improvement over the condition of the existing structure, as the building would be updated and improved.
2. Co-chair Rose spoke to the loss if the proposal were not carried out: permitting an ADU allows a family to continue to live on site, and to not allow this equals an unnecessary hardship.
3. Co-chair Gould noted the 25' existing nonconforming setback would not be increased by this proposal; the changes to the existing structure do not increase the non-conforming nature of the property, and the new addition has an appropriate setback.

Co-chair Rose moved that the ZBA find the changes proposed by application ZBA 2022-04 to be less detrimental or objectionable to the neighborhood than the existing condition; the proposed changes, if not carried out, may create an unnecessary hardship; and the proposal does not increase the nonconforming nature of the structure. Member Bestler seconded the motion; on a roll call vote, members Rose, Bestler, Rae, Clark, Heminger, Lively and Gould voted in favor.

G. Co-chair Gould returned to the special permit section of the 2022-04 application, and outlined the OOC which would accompany the permit:

1. Site drainage will not impinge on neighbors or the street, and will be coordinated with the town highway department.
2. Parking for the property will be in designated parking areas, not on the

street or sidewalk.

3. The location and position of the parking area off William St. will be determined in consultation with the town highway department.
4. Lighting on the site will be directed down and away from neighbors.
5. Agreement (as outlined in bylaw) to occupy one of the units to be filed with Registry and Building Inspector.

With these conditions, member Lively moved that a special permit for an ADU be granted for ZBA 2022-04; member Heminger seconded the motion; on a roll call vote, members Rose, Bestler, Rae, Clark, Heminger, Lively and Gould voted in favor.

H. Co-chair Gould reviewed the next steps in the process: The ZBA has 14 days to write its decision, followed by an appeal period of 20 days. If no appeals are received, the Town Clerk will issue a Certificate of No Appeal.

Ms. Heath expressed her gratitude for the ZBA's work.

2. Other ZBA Business

The Board reviewed the minutes of the September 12, 2022 meeting. Co-chair Gould moved to approve the minutes as written; member Bestler seconded the motion; all who were present at the September 12 meeting voted to approve: Rose, Bestler, Rae, Clark, Lively and Gould.

The Board reviewed the minutes of the September 21, 2022 meeting. Member Lively moved to approve the minutes as written; member Clark seconded the motion; all those who were present at the September 21 meeting voted to approve: Rose, Bestler, Clark, Lively, Gould and Heminger.

Member Rae asked why this meeting was held via Zoom. Co-chair Gould responded it was by request of the applicant, who was not in town at the time of the meeting.

3. Member Rae moved to adjourn the meeting; member Hemingway seconded the Motion; all voted in favor. Meeting was adjourned at 8:20 pm.

Respectfully submitted, Alison Cornish, Boards Clerk

Documents Referenced:

Application No. 2022-04, Map 6-1, Lot 57, Application for Special Permit, Variance, or Appeal

Letter, James Hawkins, Building Commissioner to Brian Heath, November 2, 2021