

**Town of Cumberland  
Board of Adjustment and Appeals  
Minutes of Meeting  
Thursday, June 9, 2011**

**I. Call to Order:**

The meeting was called to order at 7:00 p.m.

**II. Roll Call:**

**Present:** R. Scott Wyman, Chair, Matt Manahan, Andrew Black, David Joyce, Ron Copp, Mike Martin

**Absent:** Adrian Kendall, Vice-Chair, Christian Lewis, Alternate

**Staff:** Bill Longley, Code Enforcement Officer, Pam Bosarge, Board Clerk

Mr. Wyman welcomed applicants and gave an overview of the rules of procedure for the meeting. Mr. Wyman stated there would be an opportunity for public testimony.

**III. Hearings and Presentations:**

**1. Special Exception: Scott Smith and Julie Blodgett request a special exception for an accessory apartment at 35 Woodside Drive, Tax Assessor Map u14, Lot 65; in the Medium Density Residential (MDR) district.**

Mr. Longley presented background information as follows:

- The raised ranch style house was built in 1968 with a living area of 3420+- square feet.
- The previous owner (deceased) finished the basement as a separate living space for a family member. After the family member passed away the owner rented space to others without town approval.
- The current owner's purchased the property in 1999 and continued to rent to others unaware the building lacked any documented Town approvals for the second dwelling unit or accessory apartment.
- The area used for the apartment is less than the 40% of the total area of 3,420 = 1,368 sq. ft.
- The sketch provided by the applicant shows approximately 1,000 square feet is used for a one bedroom apartment; this amount is within the allowed amount per ordinance.
- The property is serviced by sewer per the applicant and the Board with the recommendation of the Plumbing Inspector can waive the minimum lot size requirement of 20,000 square feet.
- The application appears to meet all standards of section 407.1 of the zoning ordinance.
- The Code Enforcement Officer recommends an inspection of the property to confirm proper safety measures such as smoke detectors and carbon monoxide detectors as required by State Law.

Ms. Julie Blodgett, applicant stated they purchased the property in 1999; at that time the previous owners were renting the apartment. The neighbors have indicated that it was originally used by the previous owners parents, and at their passing the previous owners rented the unit for eight years prior to their purchasing the property. In placing our property for sale we have discovered there were no approvals for the apartment. At this time they would like to make the accessory apartment a legal use. In the future there is potential for the need to use the apartment for their aging parents. They also have had previous tenants in the space.

Mr. Wyman asked if there was currently a tenant.

Ms. Blodgett stated currently it is not rented.

Mr. Wyman asked if the house was serviced by Town water and sewer.

Ms. Blodgett stated yes.

Mr. Manahan referenced the memo of the Code Officer dated June 2, 2011 and asked for clarification on Section 407.1.2 which stated the board may waive the lot size requirements, provided that the Plumbing Inspector indicates adequate capacity and conformity with the State Plumbing Code; but in no case shall such conversion be allowed on a lot smaller than 20,000 square feet. This lot is less than 20,000 square feet.

Mr. Longley stated the 20,000 State Plumbing Code requirement is for a lot on septic, based on subsurface wastewater requirements. If this dwelling were on septic it would require the minimum 20,000 square foot requirement. This dwelling is hooked to town sewer and water and the minimum lot size does not apply.

Mr. Wyman asked when the apartment was created. .

Ms. Blodgett stated they purchased the house in 1999 and the accessory apartment was built in the 1990s.

Mr. Longley stated the Town had no knowledge of the rental of the property.

**Mr. Wyman asked for public testimony in favor of the application. There was none. He asked for testimony in opposition.**

Mr. Joe Kurlanski of 31 Woodside Drive stated he was not opposed to Scott and Julie having the approval for an accessory apartment. His concern was there is no provision in the code to require the house be owner occupied. The house is on the market and he would hate to see a situation where both the house and apartment are rented and the owner is not present. He would like to see the owner reside on the premises.

**Mr. Wyman asked for testimony that was neither for nor against but on a neutral basis. There was none. The public portion of the meeting was closed.**

Mr. Manahan asked if there was anything in the ordinance that limits accessory apartments to owner occupied dwellings.

Mr. Longley stated not to his knowledge, and it would be difficult to track whether a house was rented and not owner occupied. In Yarmouth accessory apartments are approved by the Planning Board and they require a deed restriction that the building be owner occupied. If Cumberland wanted that type of requirement it should be listed in Section 407.1.

Mr. Manahan stated perhaps the only reason for the distinction one could argue more hazard under 603.2.3 for example traffic.

Mr. Martin also stated under conditions not compatible with uses in the neighborhood would be a reach.

Mr. Wyman reviewed the Special Exception Standards in Section 603.2.3 and 603.2.7.

Mr. Manahan moved based on testimony to grant the special exception request of Scott Smith and Julie Blodgett for an accessory apartment at 35 Woodside Drive, Tax Assessor Map U14, Lot 65 in the Medium Density Residential (MDR) district.

Mr. Copp seconded.

VOTE: Unanimous

**IV. Administrative Matters:**

**1. Minutes of April 14, 2011**

Mr. Joyce moved to approve the minutes of April 14, 2011.

Mr. Martin seconded.

VOTE: Unanimous

**V. Adjournment:**

Mr. Joyce moved to adjourn at 7:20 p.m.

Mr. Manahan seconded.

VOTE: Unanimous

The meeting was adjourned at 7:20 p.m.

A TRUE COPY ATTEST:

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R. Scott Wyman, Board Chair

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Pam Bosarge, Board Clerk