

Nottingham Zoning Board Meeting

DATE: September 20, 2022

Approved 11/15/2022

1 **Call to Order**

2 Members Present: Kathy Mayo; Teresa Bascom, Vice Chair; Terry Bonser, Chair; Bonnie
3 Winona-MacKinnon; Kevin Lemieux

4 Members Absent: Romeo Danais; Raelene Shippee-Rice, Alternate; Kevin Bassett, Alternate^[SEP]

5 Alternate Seated and Voting:

6 Others:

7 **Call to Order**

8

9 The meeting was called to order at 1900 hours.

10

11 **Public Hearings**

12

13 *Case #22-006-VA: Application from Edward Chaput requesting a Variance from Article II*
14 *Section (C)(3)(a) of the Nottingham Zoning Ordinance to permit the building of a deck with a*
15 *5 foot setback from the side property line where a 20 foot setback is required. The property is*
16 *located at 22 Cove Road in Nottingham, NH and is identified as Tax Map 68 Lot 68.*

17

18 Edward and Toni Chaput came forward and introduced themselves as residents of 22 Cove
19 Road, Nottingham. Mr. Chaput stated that they are applying for a variance for a proposed deck
20 that is nine (9) feet by eleven (11) feet. He further stated that they are seeking to build a deck as a
21 safer egress from their home. Mr. Chaput presented pictures of the proposed project to the Board.

22

23 Ms. Bascom asked Mr. Chaput if he has his five criteria. Mr. Chaput replied that his criteria are
24 as follows:

25

- 26 1. Granting a variance would not be contrary to public interest, as it does not affect public
27 interest.
- 28 2. A variance would provide a safer egress from the house and a safer access to the existing
29 hot tub.
- 30 3. Granting a variance would add value in the form of a nice, clean deck rather than dirt.
- 31 4. The area is one that forms ice in the winter and mud in the spring, making access unsafe.
32 The purpose is to eliminate the unsafe area.
- 33 5. The size and shape of the lot make it hard to make any improvements without violating
34 town ordinances.

34

35 Mr. Bonser asked what the original deck was that a previous variance was granted for. Mr.
36 Chaput replied that it was about a three (3) foot by three (3) foot platform with steps that was put
37 there as a place to step out of the house.

38

39 Mr. Bonser asked if the deck would be built so that it comes out from the house nine (9) feet and
40 runs eleven (11) feet along the side of the house. Mr. Chaput confirmed that it would.

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42 Ms. Bascom stated that when she went out to look at the lot, Mr. Chaput had advised her that the
43 deck is part of the initial design of the house. Ms. Bascom further stated that the lot was
44 approved for a deck with an eight (8) foot setback back in 2018. Mr. Chaput stated that the deck
45 was never built but rather the platform that still exists today. Ms. Bascom inquired as to why Mr.
46 Chaput went beyond what he already had a variance for when the original design had a deck. Mr.
47 Chaput stated that he was trying to make it look nicer and accommodate the existing hot tub.

48
49 Ms. Chaput stated that she had encouraged Mr. Chaput to build the deck because she, first, was
50 not aware that they had to again ask for a variance, and secondly was concerned for the coming
51 winter season as Mr. Chaput had fallen in that area last year. Ms. Bascom advised Mr. and Mrs.
52 Chaput that they would not have had to come back before the Board if they had stayed within the
53 original granted variance of an eight (8) foot setback.

54
55 Mr. Bonser asked if the deck has a roof, as he had seen rods installed at the tops of the beams.
56 Ms. Chaput advised that the deck does not have a roof, and that the rods are to hang plants off of.

57
58 Mr. Bonser invited abutters of 22 Cove Road to come forward.

59
60 Kathy and Walter Lewis came forward and introduced themselves as abutters who reside at 20
61 Cove Road. Ms. Lewis stated that they are fine with the deck staying as is as long as it does not
62 become screened in and a part of the house someday.

63
64 No other abutters came forward.

65
66 Mr. Bonser closed Case #22-006-VA for the Board to move into discussion.

67
68 Ms. Winona-MacKinnon stated that since the Lewis' have no objection, therefore she has no
69 objections. She further inquired how the Board could go about ensuring that a caveat is put in
70 that states that the deck cannot be turned into part of the house.

71
72 Ms. Bascom advised that the design does not appear to be able to be turned into a three-season
73 room, based on the pictures provided by Mr. Chaput.

74
75 ***Ms. Winona-MacKinnon made the motion to approve Case #22-006-VA with the revision that***
76 ***the deck be left open without a roof. The motion was seconded by Ms. Bascom. The motion***
77 ***was approved unanimously by a vote of 4-0.***

78
79 ***Case #22-007-VA: Application from Kung Food LLC requesting a Variance from Article II***
80 ***Section (E)(2)(a)(1) of the Nottingham Zoning Ordinance to permit the building an addition***
81 ***on an existing commercial structure with an 88 foot setback from the road where a 100 foot***
82 ***setback is required in a commercial zone. The property is located at 2 Merry Hill Road in***
83 ***Nottingham, NH and is identified as Tax Map 4 Lot 2-1.***

84
85 Doug McGuire came forward and introduced himself as an employee of the Dubay Group and a
86 representative of Kung Food LLC. Mr. McGuire was joined by Bobby Marcotte, one of the

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87 owners of Kung Food LLC. Mr. McGuire stated that the property, located on the corner of Merry
88 Hill Road and the Old Concord Turnpike, holds an old historic barn that Kung Food LLC has
89 purchased and plans to renovate, restore, and use as a venue space. Mr. McGuire advised that his
90 team has been before the Planning Board and has received conditional approval. Mr. McGuire
91 stated that one of the items is that Kung Food LLC is looking to expand a portion of the building
92 to add room for a modernized kitchen. Mr. McGuire stated that, because it is a corner lot, and
93 because it is within one thousand (1000) feet from the Old Concord Turnpike, there are enhanced
94 setbacks for buildings in the amount of one hundred (100) feet from all property lines. Mr.
95 McGuire advised that his team is proposing the addition on the most conforming side of the
96 building, but that there is a portion outside of the setbacks that they need the relief for.

97

98 Mr. McGuire listed his criteria as follows:

- 99 1. The proposed use will not diminish surrounding property values. The proposed expansion
100 is to an existing historic barn, which is proposed to be fully renovated on the inside and
101 out. The proposed venue is a permitted use within the zoning and the enhancing of this
102 permitted use will have no impact on the surrounding property value.
- 103 2. Granting the variance would not be contrary to the public interest. The requested
104 expansion is directed toward the conforming portion of the lot, allowing for an updating
105 of a historic barn for productive commercial use, which is in the public's best interest.
- 106 3. Little enforcement of the provisions of the ordinance would result in unnecessary
107 hardship to the owner because owing to special conditions of the property to distinguish it
108 from other properties in the area. No fair and substantial relationships exist between the
109 general public purposes of the ordinance provision and the specific application of that
110 provision to the property. Proposing to expand the existing building on the most
111 conforming side of the structure is required to bring the kitchen portion of the proposed
112 menu space up to current code, and this expansion would have no noticeable impact on
113 the property or its surroundings. It is reasonable because the existing building is being
114 fully renovated and improved, and the minor proposed expansion is only slightly out of
115 the required building setbacks.
- 116 4. Granting the variance would do substantial justice. The proposed owners need the
117 additional building area to accommodate a modernized kitchen area within the renovated
118 historic building, and the relief requested would allow the project to move forward as
119 approved by the Planning Board.
- 120 5. The variance is consistent with the spirit of the ordinance. The ordinance is maintained
121 because the minor requested building expansion is on the most conforming side of the
122 existing historic barn and will have no noticeable impact on the surrounding properties.

123

124 Mr. Bonser asked Mr. McGuire how far the corner of the existing barn closest to Merry Hill
125 Road is from the road. Mr. McGuire estimated that it is about twenty (20) or twenty-five (25)
126 feet. Mr. Bonser asked Mr. McGuire how long the existing building is. Mr. McGuire estimated
127 that it is about seventy (70) feet long with a proposed fifteen (15) foot addition along that. Mr.
128 McGuire stated that the only encroachment setback is the setback adjacent to Merry Hill Road,
129 which is the side that the entire building is already encroaching.

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131 Mr. Bonser asked Mr. McGuire if there are stairs on the end of the existing barn that will be
132 replaced with the addition. Mr. McGuire confirmed this and added that stairs will be constructed
133 on the conforming side of the barn so that the second floor can be accessed.

134

135 Ms. Mayo asked if the existing building has a foundation or if the whole thing is on a slab. Mr.
136 McGuire and Mr. Marcotte confirmed this, advising that the addition, too, will be on a slab.

137

138 Ms. Bascom inquired about a purchase and sales agreement with the lot adjacent to this one. Paul
139 Simbliaris, from the public seating area, advised that they are moving forward with that purchase
140 and plan to own it in the next two or three weeks. Ms. Winona-MacKinnon inquired as to how
141 much land there is, to which Mr. Simbliaris replied that it is thirty-three (33) acres.

142

143 Mr. Bonser inquired as to what became of the existing house on the lot. Mr. Marcotte advised
144 that they intended to restore it as well, but that someone from upstate New Hampshire came to
145 them and asked to buy it to transport and rebuild in another location .

146

147 Mr. Bonser closed Case #22-007-VA for the Board to move into discussion.

148

149 Ms. Mayo inquired as to why the ninety-six (96) foot setback is okay but the eighty-eight (88)
150 foot setback is not. Mr. Bonser replied that the ninety-six (96) foot setback was close enough
151 compared to the eighty-eight (88) foot setback.

152

153 *Mr. Mayo made the motion to approve Case #22-007-VA. The motion was seconded by Ms.*
154 *Bascom. The motion was unanimously approved by a vote of 4-0.*

155

156 **Public Comment**

157

158 None.

159

160 **Approval of Minutes**

161

162 *Ms. Bascom made the motion to approve the minutes from the June 21, 2022 meeting as*
163 *edited. The motion was seconded by Ms. Mayo. The motion was unanimously approved by a*
164 *vote of 4-0.*

165

166 **Adjourn**

167

168 *Ms. Bascom made the motion to adjourn at 7:43pm. The motion was seconded by Ms. Mayo.*
169 *The motion was unanimously approved by a vote of 4-0.*

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171

172

173 *Transcribed per video*

174 Respectfully submitted,

175 Rachel Dallaire