

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

October 20, 2020

Approved: December 15, 2020

Members Present: Bonnie Winona MacKinnon, Chair; Teresa Bascom, Vice-chair; Terry Bonser; Peter White; Realene Shippee-Rice;

Members Absent: Kevin Bassett, Alternate

Others Present: JoAnna Arendarczyk, Land Use Clerk; Michael & Karen Kemp, Applicants; Diane Lapite, Resident; Mike Hyer, Abutter

Call to order: 7:08pm

Public Hearings

Public Hearing Opened: 7:07pm

Case 20-012-SE

Application from Michael Kemp requesting a Special Exception to permit a garage 10 feet from a side property line where 20 feet is required per Article II (c)(3)(b) of the Nottingham Zoning Ordinance. The property is located at 9 South Road in Nottingham, NH and is identified as Tax Map 72 Lot 35.

(Italics notes Public Hearing Notice language as sent to abutters and the Union Leader)

Mr. Kemp presented the criteria per the language on his application (File). He also reviewed the plan and photos he submitted (presented on screen for meeting attendees to view as well).

Mr. Bonser visited the site and concurred with Mr. Kemp that this seems to be the most reasonable location for the proposed garage given the site limitations.

Public Comment:

Diane Lapite, not a direct abutter but lives near the applicant, supports the proposal.

Mike Hyer, direct abutter, supports the proposal.

Mrs. Arendarczyk, the Land Use Clerk, read a supporting email from abutters Audra and Eric Desilets (file).

Board Comments:

Mr. White sees the issue being the size of the garage not the setback. If the applicant proposed a 14'x20' garage then a Special Exception wouldn't be required.

A discussion ensued over the fact that a 24' width garage is common and needed for two (2) cars, as well as the fact that the size of the garage is not the question before the Board the setback issue is.

Motion Made by: Mrs. Bascom to approve the request from Michael Kemp requesting a Special Exception to permit a garage 10 feet from a side property line where 20 feet is required per Article II (c)(3)(b) of the Nottingham Zoning Ordinance.

Seconded by: Mr. Bonser

Roll call Vote:

Winona MacKinnon- Y	Bascom- Y	White- Y
Bonser- Y	Shippee- Rice- Y	

Vote: 5-0-0 Motion Passed

The Chair advised the applicant of the 30-day appeal window.

Case Closed: 7:33 pm

Public Meeting

Discuss conditional approvals

The Chair read the below email from the Code Enforcement Officer:

For the Nottingham Zoning Board of Adjustment ~ JoAnna Arendarczyk; Land Use Clerk

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

October 20, 2020

Date: 09/28/2020 12:28 PM

Subject: N.O.D. 20-010 VA

Hello Bonnie,

I received the notice of decision for case 20-010-VA Deke Fuels. I have a few thoughts / concerns. A waiver was granted with a condition that no more than 2,500 gal of fuel be stored between two trucks. My concern is how do we enforce this? If they violate it, it would not be practical to revoke a variance, possibly years after the building is constructed. In addition things may change in the future allowing more. To me, this seems that it could still be accomplished but through the site plan, which deals with the business not the structure. Also, a site plan is something we can enforce and require changes as needed. The denial was for setbacks, not fuel, I just don't think we can realistically enforce this.

Respectfully,

Dale

The Board discussed the fact that the condition placed on the approval of the above-mentioned case was the Planning Boards (PB) purview not the ZBA's. Mr. White added that Public Safety is the ZBA's purview and the location of this business near the wetland and river is not appropriate. He stated he felt guilty having approved the case at all and should have voted it down. A discussion on allowing communication between Boards regarding concerns on cases ensued. The consensus was that as a resident a ZBA member could attend the hearing for a case that was heard by the ZBA and then moving to the PB for further approvals. At the PB public hearing the ZBA member could, as a resident, express the concerns that were not under their purview on the ZBA level but are under the purview at the PB level. Those concerns could then be addressed by the PB and measures could then be taken by the PB to satisfy the ZBA member at that level if they feel it is necessary. The Chair stated that after a past case had been denied and the Board was taken to court a few of the Board members were instructed through a legal opinion to address only the violation that the denial letter from the Code Enforcement Officer outlines. 8:00 pm Mr. White expressed his disagreement with the Chair and left the meeting. Mrs. Bascom stated that the ZBA is supposed to look at Hardship and Public Interest as it pertains to the request only. Not "why do they need (a big garage, how much fuel will be left in the trucks etc.)"

Minutes

July 21, 2020

September 15, 2020

Motion Made By: Mrs. Bascom to approve the minutes of July 21, 2020 and September 15, 2020 as edited.

For the Nottingham Zoning Board of Adjustment ~ JoAnna Arendarczyk; Land Use Clerk

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

October 20, 2020

69 **Seconded By:** Mr. Bonser

70 **Roll Call Vote:**

Winona MacKinnon- Y	Bascom- Y	White- absent
Bonser- Y	Shippee- Rice- Y	

71 **Vote:** 4-0-0 **Motion Passed**

72

73 **ADJOURNMENT**

74 **Motion Made By:** Mr. Bonser to adjourn

75 **Seconded By:** Mrs. Bascom

76 **Roll Call Vote:**

Winona MacKinnon- Y	Bascom- Y	White- absent
Bonser- Y	Shippee- Rice- Y	

77 **Vote:** 4-0-0 **Motion Passed**

78 **Adjourn at:** 8:12 pm