

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
March 8, 2021**

Approved March 22, 2021

MEMBERS PRESENT: Bruce Kudrick, Chair; Tom Hebert, Vice Chair; Dana Carlucci, Natalie Glisson

ALTERNATES PRESENT: Robert Bourque, Wendy Chase, Blakely Miner III

EXCUSED: Paul Paradis

STAFF EXCUSED: Susan Gifford, Recording Secretary

STAFF PRESENT: Carolyn Cronin, Planner

The clerk took the roll call and four voting members were present. Chairman Kudrick designated Bob Bourque to vote on Case #21-02-Z. Chairman Kudrick called the meeting to order at 7:00 p.m.

Case #21-02-Z

Applicant: Mark Dumas
318 Beacon Hill Road
Pembroke, NH 03275

Property Owner(s): Dumas Family Revocable Trusts
318 Beacon Hill Road
Pembroke, NH 03275

Property Address: 318 Beacon Hill Road
Pembroke, NH 03275
Tax Map 563Lot 115-4 in the R-3 Rural/Agricultural-Residential
Zoning District.

Present: Mark Dumas

Case 21-02-Z A request has been made for a **Special Exception under Article IV Use Regulations § 143-18.1 Accessory Dwelling Units**, The applicant, Mark Dumas of 318 Beacon Hill Rd. Pembroke NH 03275 is requesting a **Special Exception** to construct an ADU over the garage. A **Special Exception** is required under **§ 143-18.1**. The property is located at 318 Beacon Hill Rd Pembroke NH 03275, Map 563 lot 115-4 in the R3 Rural/Agricultural - Residential Zoning District and is owned by Dumas Family Revocable Trust of 318 Beacon Hill Rd. Pembroke NH 03275.

Natalie Glisson read the case description and the list of abutters.

NH DES Approval for Construction of Individual Sewage Disposal System dated 12/3/2020; ZBA Notice of Decision 19-04-Z side lot line variance, tax map, assessing cards, photographs, and list of abutters were included in the agenda packet.

Chairman Kudrick opened the public hearing at 7:02 p.m.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments will be directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider the approval.

Mark Dumas addressed the Special Exception criteria:

Please give a detailed description of your proposal below:

I am seeking to convert pre-existing space to an Accessory Dwelling Unit (ADU) on the second level of my 24' x 38' garage. The ADU will be just under 600 square feet above the garage including closet space (17' x 30'). The ADU will have one bedroom, ¾ bath, kitchenette and common room. The entrance will be via a common shared mudroom/hallway between the main house and garage. All utilities will be shared with the house. There is ample off street parking. The property is zoned R3 and remains single-family. There is a brand new septic system design on file with State of NH DES. The board discussed the doors in the common mudroom. There is a fire door to the garage on the left. There is a common door (glass French door) to the home and ADU, and an exit door straight to outside.

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** The ADU is an essential expansion for our aging family dynamic. It is self-contained within existing infrastructure. It has no visible impact to the public and increases the tax revenue without need for additional public resources.
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** The ADU will meet all code requirements and supports a single family. The use is not in conflict with the surrounding community.
3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** The ADU is self-contained within existing infrastructure. The ASU is not visible to the public. The use matches the surrounding community as part of a single-family dwelling.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** The ADU will increase the property value and tax rolls. An increased property value pushes up the value of the surrounding properties.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** No, ADU not visible to the public. There is pre-existing off street parking. The ADU is to accommodate pre-existing family structure, not add to it. No additional vehicles are required.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** The ADU will be part of the pre-existing infrastructure for operations and maintenance. A new furnace zone will be added for heat. House water and sewer lines will be branched, and a new electric sub-panel will be utilized. A new septic design is approved and on file with State of NH to accommodate the ADU. Pembroke Code Enforcement has a copy of the septic design approval.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** Neighbors are aware of my plans and have no objections. They had no objection to a variance for the new garage with visual impact. The ADU has no visible impact.
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** The ADU ties into the pre-existing house infrastructure. Water and sewer lines will branch and meet all building codes. The septic was redesigned and approved by the State of NH to accommodate the ADU.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** No, not multi-family dwelling. Has private well and private septic field.

Natalie Glisson summarized the case. This is **Case 21-02-Z** A request for a **Special Exception under Article IV Use Regulations § 143-18.1 Accessory Dwelling Units**, The applicant, Mark Dumas of 318 Beacon Hill Rd. Pembroke NH 03275 is requesting a **Special Exception** to construct an ADU over the garage. A **Special Exception** is required under **§ 143-18.1**. The property is located at 318 Beacon Hill Rd Pembroke NH 03275, Map 563 lot 115-4 in the R3 Rural/Agricultural - Residential Zoning District and is owned by Dumas Family

Revocable Trust of 318 Beacon Hill Rd. Pembroke NH 03275. Mr. Dumas made his presentation. The route to the ADU is through a common mudroom. Mr. Dumas showed a picture of the doors, both inside and out.

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 7:20 p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

Deliberations: The Zoning Board of Adjustment reviewed the Special Exception criteria:

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** The proposal meets the ADU criteria.
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** The proposal fits the residential character of the neighborhood as the ADU is over the garage and not visible.
3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** It is a residential neighborhood where ADU is allowed.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** There is no factual evidence that the property value will be adversely affected.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** There are no additional vehicles being used.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** A new septic design is on file with NH Department of Environmental Services.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** The applicant is not aware of any valid objections to this project at the current time
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** Currently private well and private septic are adequate. A redesigned septic system is on file with State of NH. All of the people in the home, already reside in the home. Chairman Kudrick clarified that the new septic design would be installed on the failure of the existing septic.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** N/A

MOTION: Tom Hebert moved to approve **Case 21-02-Z** A request for a **Special Exception under Article IV Use Regulations § 143-18.1 Accessory Dwelling Units**, The applicant, Mark Dumas of 318 Beacon Hill Rd. Pembroke NH 03275 is requesting a **Special Exception** to construct an ADU over the garage. A **Special Exception** is required under **§ 143-18.1**. The property is located at 318 Beacon Hill Rd Pembroke NH 03275, Map 563 lot 115-4 in the R3 Rural/Agricultural - Residential Zoning District and is owned by Dumas Family Revocable Trust of 318 Beacon Hill Rd. Pembroke NH 03275.

1. The applicant shall follow all state and local regulations.
2. The owner must occupy one of the two units.

Dana Carlucci seconded.

VOTE: BOB - YES TOM - YES BRUCE - YES
DANA- YES NATALIE - YES

MOTION TO APPROVE SPECIAL EXCEPTION WITH CONDITIONS PASSED ON A 5-0 VOTE

Chairman Kudrick designated Bob Bourque to vote on Case #21-03-Z.

Case #21-03-Z

Applicant: Michael and Maranda Donnelly
671B Buck Street
Pembroke, NH 03275

Property Owner(s): Michael and Maranda Donnelly
671B Buck Street
Pembroke, NH 03275

Property Address: 671B Buck Street
Pembroke, NH 03275
Tax Map 870 Lot 8 in the R-3 Rural/Agricultural-Residential Zoning District.

Present: Michael and Maranda Donnelly

Case 21-03-Z A request has been made for a **Special Exception under Article VI Special Conditions § 143-38-F Day Care, Preschool or Kindergarten**. The applicant, Michael and Maranda Donnelly of 617 B Buck St. Pembroke NH 03275 is requesting a **Special Exception** to open an accessory use in home Daycare. A **Special Exception** is required under § 143-38-F. The property is located at 617 B Buck St. Pembroke NH 03275, Map 870 lot 8 in the R3 Rural/Agricultural - Residential Zoning District and is owned by Michael and Maranda Donnelly of 617 B Buck St. Pembroke NH 03275.

Natalie Glisson read the case description and the list of abutters.

Assessing cards, and list of abutters were included in the agenda packet.

Chairman Kudrick opened the public hearing at 7:30 p.m.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments will be directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider the approval.

Maranda Donnelly addressed the Special Exception criteria:

Please give a detailed description of your proposal below:

We would like to open a day care that is accessory use to the residence of 617B Buck Street, Pembroke NH.

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** There is a need for child care in Pembroke, not only to serve our community, but the surrounding towns
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** The immediate area has had child cares operating in the past as accessory use. Two child care centers are currently operating in Pembroke as an accessory use. These centers prove child care is not detrimental, but in fact a desperate need in our community.

3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** A day care is a permitted use in the zone and will not affect the character of the residence or neighborhood as accessory use.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** There is a strong positive correlation between a community's economic development and child care presence within a neighborhood.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** No undue traffic will result. Drop off and pick up time will vary, and due to the small number of children and sibling sets, it will not be excessive or disproportionate to the current traffic patterns.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** The day care space meets state requirements for licensure of a child care center.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** Variance was granted to change the use to "daycare" in spring of 2020. This was approved with no valid objections from board or abutters.
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** Existing septic services a 3 bedroom unit. This requirement is more than the estimated use of our daycare and a one-bedroom residence.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** Existing multi-family dwelling is served by town water.

The Zoning Board members asked questions about the number of children in the daycare. Maranda Donnelly responded that we are a licensed NH day care center and are allowed 19 children. The size of the space determines maximum enrollment. Maranda Donnelly noted that the building is existing. Nothing will be changed in the structure. We are using the downstairs floor space for child care.

Chairman Kudrick clarified that an accessory use is limited to 40% of the total space. The Zoning Board does not have drawings of the location of the daycare within the building. Maranda Donnelly stated that there are two units and one is unoccupied. We live in Unit A. We use two big open concept rooms, a bathroom and closet for the daycare. Chairman Kudrick asked about outdoor space. Maranda Donnelly said we have an outside fenced in area for play against the barn. The lot has two acres of wooded area. Chairman Kudrick stated, to me, we need a floor plan to discuss this application. Maranda Donnelly stated that drawings of the daycare were provided to the town in prior applications. It showed use of the downstairs of Unit B with a dedicated kitchen. Entry is from a common areas. Chairman Kudrick stated we need drawings to calculate that not more than 40% of the total area is used for accessory use. Michael Donnelly stated our structure is 6000 square feet. We are not using 40% of Unit B for the childcare.

Chairman Kudrick asked if the board felt we were lacking information. We need a proper floor plan to verify that the childcare is not using 40% of the total structure use. We also need a copy of the State childcare licensing rules stating how many square feet of space is required for each child.

MOTION: Tom Hebert moved to continue **Case 21-03-Z** and its public hearing to Monday, March 22, 2021. A request has been made for a **Special Exception under Article VI Special Conditions § 143-38-F Day Care, Preschool or Kindergarten** to allow the applicant time to submit:

1. A drawing of the floor plan showing the area used for childcare, and total structure square footage.
2. NH childcare licensing rules on the number of children approved for enrollment based on square footage used for childcare.

Dana Carlucci seconded.

VOTE: BOB - YES TOM – YES BRUCE – YES
DANA- YES NATALIE - YES
MOTION TO CONTINUE CASE 21-03-Z TO MARCH 22, 2021 PASSED ON A 5-0 VOTE

Chairman Kudrick designated Blakely Minor to vote during the next two cases, 21-04-Z and 21-05-Z.

Case #21-04-Z

Applicant: Kenneth and Cathy Richard
5 Old Bear Brook Road
Pembroke, NH 03275

Property Owner(s): Kenneth and Cathy Richard
5 Old Bear Brook Road
Pembroke, NH 03275

Property Address: 5 Old Bear Brook Road
Pembroke, NH 03275
Tax Map 870 Lot 12 in the R-3 Rural/Agricultural-Residential Zoning District.

Present: Kenneth and Cathy Richard; Steve Keach, Keach Nordstrom and Associates.

Case 21-04-Z A request has been made for a **Variance under Article V Dimensional and Density Regulations, § 143-21, F Front Setback**. The applicant, Kenneth & Cathy Richard of 5 Old Bear Brook Rd, Pembroke NH, is requesting a **Variance to construct a garage 25.63' from the front setback where 60' is required**. The property is owned by, Kenneth & Cathy Richard of 5 Old Bear Brook Rd. Pembroke NH 03275. The property is located at 5 Old Bear Brook Rd, Map 870 lot 12 in the R-3 Rural/Agricultural - Residential Zoning Districts.

Natalie Glisson read the case description and the list of abutters.

A tax map, assessing cards, photographs, sketch of existing lot, existing measurements, detail of proposed garage, list of abutters were included in the agenda packet.

Chairman Kudrick opened the public hearing at 8:00 p.m.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments will be directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider the approval.

Steve Keach, Keach Nordstrom and Associates, addressed the Variance criteria:

Please give a detailed description of your proposal below:

Construction of garage, breezeway and an Accessory Dwelling Unit addition to existing single-family dwelling to be situated as close as 25.63 feet to public right of way of Old Bear Brook Road, where a minimum of 60 feet is required. Applicant will raze existing free standing garage to accommodate proposed construction. Mr. Richard is here tonight to answer any questions. We have a full set of architectural improvements.

Chairman Kudrick responded we would like to see them. If you give them to us, the plans will become part of the record and will not be returned to you. Steve Keach discussed the elevation on the side of the house that faces Old Bear Brook Road. Chairman Kudrick clarified that the new garage doors will face east and the driveway comes in from the other road. Bob Bourque asked how far the garage is from the existing dwelling. The garage will be 40-45 feet from the existing dwelling. The new garage will be further away from the driveway and be set back the same as the existing dwelling. The existing garage is very close to the road and will be razed.

Steve Keach noted the applicant has obtained State of NH DES approval of a new septic system. The applicant is connecting to public water at the end of Old Bear Brook Road. This is another chapter in the restoration of the home. Natalie Glisson noted that there are no plans in our packet. Steve Keach said the septic information was passed out at tonight's meeting and will be addressed in the criteria.

1. **The variance will not be contrary to the public interest.** Betterments and improvements proposed at this time will neither impose upon nor adversely impact public or private rights of others. Rather, the planned construction will result in demolition and removal of an existing free standing garage situated as close as 7 feet from the public right of way and replacement of the same with new construction set back from the public right of way a distance approximate to that of the existing dwelling to which it is to be attached. Further, completion of improvements contemplated at this time will add value to the existing premises resulting in an increase in assessed property value and corresponding annual property tax payments.
2. **The spirit of the ordinance is observed.** Despite need for a variance to construct betterments and improvements contemplated at this time, the proposed construction will result in demolition and removal of an existing structure having greater encroachment on the required front yard.
3. **Substantial justice is done.** The current owners have continued to make substantial improvements to the subject property since initial acquisition in 2015. Granting of the variance sought at this time will enable the owner/applicant opportunity to further improve the premises for personal occupancy and use.
4. **The values of surrounding properties are not diminished.** Again, the extent of improvements proposed at this time represent continued renovation and investment in the subject premises by the current owner/applicant resulting in aesthetic and monetary improvement of not only the subject property but also the small neighborhood within which the property is located. While continued betterment of this property may not serve to increase property values of others, it will certainly do nothing to diminish them.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**
 1. **For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:**
No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property; and: ii.
The proposed uses is a reasonable one.
(A) According to assessors records the principal residential structure situated on the subject premises was initially constructed in 1778, long before the establishment of modern zoning controls. As depicted on the attached exhibit plan, the geometry of the planned building addition will closely match the lines of existing construction as well as orientation and separation from the public right of way. In the current instance, it is clear preexisting, nonconforming placement of this existing dwelling on the subject property represents a special condition sufficient to warrant the granting of a variance to facilitate practical building expansion to accommodate continued and reasonable residential use of the premises by the owner/applicant and family.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to make a reasonable use of it.

Again, in the current instance the principal residential structure to which the planned addition is to be attached was initially constructed in its present location in 1778, long before establishment of zoning controls. The owner/applicant's proposal is to continue with a series of betterments initiated upon acquisition of the premises in 2015 in order to improve the property for continued occupancy by themselves and their family.

Steve Keach, engineer representing the applicant, clarified the location of the garage, and that the applicant will install a new septic system and connect to town water.

Natalie Glisson summarized the case. This is **Case 21-04-Z** a request for a **Variance under Article V Dimensional and Density Regulations, § 143-21, F Front Setback**. The applicant, Kenneth & Cathy Richard of 5 Old Bear Brook Rd, Pembroke NH, is requesting a **Variance to construct a garage 25.63' from the front setback where 60' is required**. The property is owned by, Kenneth & Cathy Richard of 5 Old Bear Brook Rd. Pembroke NH 03275. The property is located at 5 Old Bear Brook Rd, Map 870 lot 12 in the R-3 Rural/Agricultural - Residential Zoning Districts. Mr. Keach again represented Mr. Richard. Mr. Richard's mother will be occupying the Accessory Dwelling Unit which will be accessible from the main dwelling. The new garage will be 45 feet from the current dwelling. The Water Department walked the property and explained what is needed to expand the water line. Letters from Scott and Carla Fowler, 631 Buck Street, Pembroke NH dated February 11, 2021; Jay Richards dated February 15, 2021; John and Heather Greene, 7 Old Bear Brook Road, Pembroke NH; and Charlene Corente, 3 Old Bear Brook Road, Pembroke NH all spoke in full support of the request to build a garage/in law apartment at 5 Old Bear Brook Road. The Greenes noted that everything Kenneth and Cathy Richard have done to the property since purchasing it in 2015 has not only beautified the property, but added value to our neighborhood. They are sure the proposed addition will be done tastefully like all the other changes made since they took ownership. Jay Richards stated the plans for garage addition and ADU on second floor appear to be professionally laid out for construction and adhere to the quality of Old Bear Brook Road.

Steve Keach, representative of the applicant, confirmed that the applicant will connect to town water and will rebuild the septic system with a new approved design.

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 8:27 p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

Deliberations: ZBA members discussed the Variance criteria.

1. The variance will not be contrary to the public interest. Dana Carlucci said the garage is bettering the property overall.
2. The spirit of the ordinance is observed. The Pembroke Zoning Ordinance has changed a lot since this dwelling and garage was built in 1778.
3. Substantial justice is done. The proposed garage and Accessory Dwelling Unit will be further back from the public right of way than the existing garage. The old garage will be razed.
4. Property values are not diminished. No evidence received. New garage will like increase property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The principal structure was built in 1778.

MOTION: Tom Hebert moved to approve **Case 21-04-Z** a request for a **Variance under Article V Dimensional and Density Regulations, § 143-21, F Front Setback**. The applicant, Kenneth & Cathy Richard of 5 Old Bear Brook Rd, Pembroke NH, is requesting a **Variance to construct a garage 25.63' from the front setback where 60' is required**. The property is owned by, Kenneth & Cathy Richard of 5 Old Bear Brook Rd. Pembroke NH 03275. The property is located at 5 Old Bear Brook Rd, Map 870 lot 12 in the R-3 Rural/Agricultural - Residential Zoning Districts with the following conditions:

1. The applicant shall follow all state and local regulations.
2. Construction shall comply with the submitted plans.
3. The applicant shall obtain a water connection and pay the associated fees to the Water Department.

Dana Carlucci seconded.

VOTE: BLAKELY - YES TOM – YES BRUCE – YES
 DANA- YES NATALIE - YES

MOTION TO APPROVE VARIANCE WITH CONDITIONS PASSED ON A 5-0 VOTE

Case #21-05-Z

Applicant:	Kenneth and Cathy Richard 5 Old Bear Brook Road Pembroke, NH 03275
Property Owner(s):	Kenneth and Cathy Richard 5 Old Bear Brook Road Pembroke, NH 03275
Property Address:	5 Old Bear Brook Road Pembroke, NH 03275 Tax Map 870 Lot 12 in the R-3 Rural/Agricultural-Residential Zoning District.

Present: Kenneth and Cathy Richard; Steve Keach, Keach Nordstrom and Associates.

Case 21-05-Z a request for a **Special Exception under Article IV Use Regulations § 143-18.1 Accessory Dwelling Units**, The applicant, Kenneth & Cathy Richard of 5 Old Bear Brook Rd. Pembroke NH 03275 is requesting a **Special Exception** to construct an ADU over the garage. A **Special Exception** is required under § **143-18.1**. The property is owned by, Kenneth & Cathy Richard of 5 Old Bear Brook Rd. Pembroke NH 03275. The property is located at 5 Old Bear Brook Rd, Map 870 lot 12 in the R-3 Rural/Agricultural - Residential Zoning Districts.

Natalie Glisson read the case description. The list of abutters is the same as Case #21-04-Z

Tax map, assessing cards, photographs, and list of abutters were included in the agenda packet.

Chairman Kudrick opened the public hearing at 8:36 p.m.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments will be directed to the

Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider the approval.

Steve Keach, Keach Nordstrom and Associates, addressed the Special Exception criteria:

Please give a detailed description of your proposal below:

Owner/applicant proposes to construct accessory dwelling unit not having more than 750 square feet of living space on the second floor of planned building addition for use and occupancy of a family member. The living space will be on the ground floor. The bedroom will be on the upper floor, along with a bonus room for all of the family to use. There are two means of egress. Upgrades to the road to the end of the Richard property will be done as requested by the Water Department for expansion of the water line.

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** The proposed Accessory Dwelling Unit (ADU) is to provide residential accommodations for a senior family member.
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** Proposed ADU will be contained within the expanded building structure and otherwise appear as an internal part of a single-family dwelling. Proper water supply (public) and wastewater facilities (new/expanded septic system) to be constructed to supply ADU.
3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** Sufficient quality land and utilities exist to support planned ADU. Again, ADU to be contained within what will otherwise appear to be an ordinary single-family residence.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** Owner/applicant's continued betterment and improvement of subject property likely has and will continue to be properly viewed as a betterment to the small neighborhood, and thereby hold equal or even possibly improve values.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** No. A public water separate connection and modern septic system installation are planned to serve ADU to be occupied by a family member, adding minimal traffic to the neighborhood.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** Again, public water service connection and new septic system installation are planned.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** No valid objections from abutting property owners are apparent.
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** See above statement regarding planned water and sewer utility accommodations.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** Not applicable.

Letters from Scott and Carla Fowler, 631 Buck Street, Pembroke NH dated February 11, 2021; Jay Richards dated February 15, 2021; John and Heather Greene, 7 Old Bear Brook Road, Pembroke NH; and Charlene Corente, 3 Old Bear Brook Road, Pembroke NH all spoke in full support of the request to build a garage/in law apartment at 5 Old Bear Brook Road. The Greens noted that everything Kenneth and Cathy Richard have done to the property since purchasing it in 2015 has not only beautified the property, but added value to our neighborhood. They are sure the proposed addition will be done tastefully like all the other changes made since

they took ownership. Jay Richards stated the plans for garage addition and ADU on second floor appear to be professionally laid out for construction and adhere to the quality of Old Bear Brook Road.

Natalie Glisson summarized the case. This is **Case 21-05-Z** a request for a **Special Exception under Article IV Use Regulations § 143-18.1 Accessory Dwelling Units**, The applicant, Kenneth & Cathy Richard of 5 Old Bear Brook Rd. Pembroke NH 03275 is requesting a **Special Exception** to construct an ADU over the garage. A **Special Exception** is required under **§ 143-18.1**. The property is owned by, Kenneth & Cathy Richard of 5 Old Bear Brook Rd. Pembroke NH 03275. The property is located at 5 Old Bear Brook Rd, Map 870 lot 12 in the R-3 Rural/Agricultural - Residential Zoning Districts. Mr. Keach again represented Mr. Richard. Mr. Richard's mother will be occupying the Accessory Dwelling Unit which will be accessible from the main dwelling. The new garage will be 45 feet from the current dwelling. The Water Department walked the property and explained what needed to be done to expand the water line. Letters from Scott and Carla Fowler, 631 Buck Street, Pembroke NH dated February 11, 2021; Jay Richards dated February 15, 2021; John and Heather Greene, 7 Old Bear Brook Road, Pembroke NH; and Charlene Corente, 3 Old Bear Brook Road, Pembroke NH all spoke in full support of the request to build a garage/in law apartment at 5 Old Bear Brook Road. The Greenes noted that everything Kenneth and Cathy Richard have done to the property since purchasing it in 2015 has not only beautified the property, but added value to our neighborhood. They are sure the proposed addition will be done tastefully like all the other changes made since they took ownership. Jay Richards stated the plans for garage addition and ADU on second floor appear to be professionally laid out for construction and adhere to the quality of Old Bear Brook Road.

Steve Keach, representative of the applicant, confirmed that the applicant will connect to town water and will rebuild the septic system with a new approved design.

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 8:45 p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

Deliberations: The Zoning Board of Adjustment reviewed the Special Exception criteria:

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** The ADU helps senior family members live in the home.
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** The proposal fits the residential character of the neighborhood.
3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** It is a residential neighborhood and the garage with ADU will blend in nicely.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** There is no factual evidence that the property value will be adversely affected.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** There will be one additional vehicle being used.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** The applicant is building a new septic system and is connecting to town water.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** The applicant is not aware of any valid objections to this project at the current time
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** Currently private well and private septic are

adequate. A redesigned septic system is on file with State of NH and will be installed. Applicant will connect to town water when the water line is expanded to the end of Old Bear Brook Road.

9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** N/A

MOTION: Tom Hebert moved to approve **Case 21-05-Z** a request for a **Special Exception under Article IV Use Regulations § 143-18.1 Accessory Dwelling Units**, The applicant, Kenneth & Cathy Richard of 5 Old Bear Brook Rd. Pembroke NH 03275 is requesting a **Special Exception** to construct an ADU over the garage. A **Special Exception** is required under **§ 143-18.1**. The property is owned by, Kenneth & Cathy Richard of 5 Old Bear Brook Rd. Pembroke NH 03275. The property is located at 5 Old Bear Brook Rd, Map 870 lot 12 in the R-3 Rural/Agricultural - Residential Zoning Districts.

1. The applicant shall follow all state and local regulations.
2. Construction shall comply with the submitted plans.
3. The applicant shall obtain a water connection and pay the associated fees to the water department.
4. The owner must occupy one of the two units.
5. The applicant shall obtain any necessary permitting related to the expansion of the water line, including any requirements for a bond and any requirements from the Department of Public Works.

Blakely Minor seconded.

VOTE: BLAKELY - YES TOM – YES BRUCE – YES
DANA- YES NATALIE - YES

MOTION TO APPROVE SPECIAL EXCEPTION WITH CONDITIONS PASSED ON A 5-0 VOTE

MINUTES OF PREVIOUS MEETINGS

MOTION: Tom Hebert moved to approve the minutes of January 25, 2021 as presented. Dana Carlucci seconded.

VOTE: BLAKELY- YES TOM – YES BRUCE – YES
DANA- YES NATALIE - YES BOB - YES

MINUTES OF JANUARY 25, 2021 APPROVED AS PRESENTED ON A 6-0 VOTE.

OTHER BUSINESS /CORRESPONDENCE – Chairman Kudrick thanked Natalie Glisson for the extra work tonight reading cases and abutters, letters from abutters along with summarizing each of the cases. Wendy Chase will read the cases and abutter lists starting with the March 22, 2021 Zoning Board of Adjustment meeting.

NEXT MEETING

Date of next ZBA meeting – Chairman Kudrick noted the next ZBA meeting would be on **Monday, March 22, 2021 at 7:00 p.m.**

ADJOURN **Motion:** Bob Bourque moved to adjourn. Natalie Glisson seconded. Vote was unanimous in favor of motion. Meeting adjourned at 8:52 p.m.

Respectfully submitted,
Susan P. Gifford
Recording Secretary