

TOWN OF JERICHO

Planning and Zoning Office • PO Box 39 • Jericho,
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CERTIFIED MAIL

September 29, 2015

Mary and Connor Lahiff
6 Bentley Lane
Jericho, VT 05465

RE: Appeal of ZP 2015038

Dear Mrs. and Mr. Lahiff,

At a meeting of the Jericho Development Review Board held on August 27, 2015, the Board heard your appeal of a determination by the Zoning Administrator, ZP2015038, regarding property owned by the Town of Jericho located at 225 Nashville Road in the Agricultural District. After review of the appeal, the Board voted to deny the appeal. Listed below are Findings of Fact and Conclusions of Law that were approved by the Development Review Board.

Findings of Fact and Conclusions of Law

1. Property owner Kevin Mahar submitted a Conditional Use application for a detached Accessory Apartment in the Agricultural Zoning District for approval by the Jericho Development Review Board (DRB) on April 30, 2015. The hearing took place as scheduled on May 28, 2015.
2. The DRB moved to approve the application with conditions on May 28, 2015. A decision was signed and issued on June 23, 2015.
3. Kevin Mahar applied for a zoning permit for the accessory apartment on July 7, 2015 (2015038). A second zoning permit was also submitted for an accessory structure on July 7, 2015 (2015039). Both permits were processed and approved by the Zoning Administrator on July 7, 2015.
4. Mary and Connor Lahiff submitted an appeal of Zoning Permits 2015038 and 201539 on July 20, 2015, claiming the Zoning Permits were issued in error for the following reasons:
 - a. The Board misinterpreted section 4.7.3.2, definition of accessory apartment.
 - b. The proposed accessory apartment is over the allowed 1,000 square feet when including the enclosed seasonal porch.
 - c. There have been no provisions for future uses of the apartment in the event that the familial occupant no longer occupies the apartment.
 - d. The development of the accessory apartment is incongruous to the purpose of the Agricultural Zoning District. Thus, the permits were issued as an exception to the town plan.

- e. The proposed development floods regularly, despite being outside the River Overlay District and FEMA special flood hazard zone.
 - f. The permits were issued as an exception to the Town Plan: Section 10.4.1 states that “curb cuts should be limited to one per residential property”.
 - g. The DRB has disregarded the town plan’s stated goals to 1) Protect the natural environment, 2) Preserve the rural and historic character of the Jericho and endeavor to improve livability throughout Jericho and 3) To concentrate new development in Jericho’s three village centers.
5. The Development Review Board is considering an appeal of a determination by the Zoning Administrator regarding the issuance of ZP 2015038, for an accessory apartment.
 6. The DRB approval of the conditional use application is not at issue in this appeal of the Zoning Permit.
 7. The DRB did not consider the following issues appealed by the Lahiffs, as they determined that they were decided at the time of the Conditional Use approval and therefore not directly applicable to the approval of Zoning Permit 2015038:
 - a) The Board’s interpretation of section 4.7.3.2. of the Regulations regarding the size of the accessory apartment.
 - b) The inclusion of the porch in the square footage of the accessory apartment. The Board determined that in accordance with the Town Plan, in an effort to encourage affordable housing, the Regulations contain significantly relaxed regulations regarding accessory apartments.
 - c) The occupant of the accessory apartment.
 - d) The approximately 10.2 acre property (NV225) is located in the Agricultural District.
 - e) The development of the accessory apartment is in the River Overlay District and The FEMA special flood hazard zone. The Board determined that a portion of the property and the porch is located within the River Overlay District.
 - f) The DRB disregarded the goals of the Town Plan regarding protection of the natural environment. The Board determined that in accordance with the Town Plan, in an effort to encourage affordable housing, the Regulations contain significantly relaxed regulations regarding accessory apartments.
 8. The DRB did consider the following issue raised in the appeal by the Lahiffs, as they determined that they were relevant to the issuance of ZP 2015038:
 - a) The permits were issued in exception to the Town Plan, section 10.4.1 regarding the limit of one curb cut per residential property. The DRB found that, as required by Section 10.2.1 of the Regulations, ZP 2015038 was issued after the Access Permit for the driveway was issued by the Town’s Road Foreman on June 6, 2015.

9. The Conditional Use approval refers to a plan dated May 28, 2015.
10. Testimony was heard during the hearing on the appeal regarding wildlife impact. This parcel is not included in the Natural Resources Overlay district (§6.7 of the Jericho Land Use Regulations).
11. Testimony was heard during the hearing regarding the location of the well. The approval and location of the well serving the accessory apartment are not under the jurisdiction of town, but are under the jurisdiction of the Drinking Water and Groundwater Protection Division of the State of Vermont Department of Environmental Conservation, which granted a permit dated June 29, 2015.
12. The accessory apartment is located as shown on the approved plan, dated May 28th, 2015.
13. The conditions of the Conditional Use approval were met in order to obtain the zoning permit.
14. The ZA issued Permit 2015038 according to the requirements of Section 10.2.1 of the Zoning Regulations.

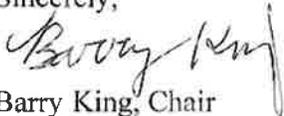
Decision

1. The DRB finds that the Zoning Administrator issued Zoning Permit 2015038 according to the Conditional Use approval and the zoning regulations in effect at the time of the permit approval, and thereby uphold the decision of the Zoning Administrator.

Motion by Barry King to reject the appeal brought by Mary and Connor Lahiff. Seconded by Jeff York. Those in favor: Barry King, Joe Flynn, Christopher West, Stephanie Hamilton, and Jeff York. Against: None. Abstained: None. Motion passed 5-0. The appeal was denied.

In accordance with 24 V.S.A. section 4471 any person may appeal any decision of the Development Review Board to the State Environmental Court.

Sincerely,



Barry King, Chair
Jericho Development Review Board

CC: Attendees at Public Hearing
Town Clerk
Zoning Administrator

Lister, Town of Jericho
Selectboard
Attorney