

# TOWN OF JERICHO

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Planning and Zoning Office • PO Box 39 • Jericho,  
Vermont 05465 • (802) 899-2287

CERTIFIED MAIL

September 29, 2015

Mary and Connor Lahiff  
6 Bentley Lane  
Jericho, VT 05465

RE: Appeal of ZP 2015039

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, ZP2015039, for an accessory garage, regarding property owned by Kevin Mahar located at 225 Nashville Road in the Agricultural District. After review of the appeal, the Board voted to grant 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 found that the issues raised by the Lahiffs were not applicable to the issuance of ZP 2015039.
  6. The Conditional Use approval refers to a plan dated May 28, 2015.
  7. 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) and therefore the impact on wildlife is not to be used as a consideration for deciding the approval of the Conditional Use.
  8. The Lahiffs and others argued at the hearing on the appeal regarding the impact of the garage on the neighboring properties. Further, they argued that a review of the garage should have been conducted as a part of the Conditional Use application.
  9. The accessory apartment is located as shown on the approved plan, dated May 28<sup>th</sup>, 2015, while the accessory garage is not shown on that plan.
  10. According to Conditional Use approval Condition #6, substantial revisions to the approved site plan require review by the Development Review Board at a publicly warned hearing.
  11. ZP 2015039 for the garage, was issued by the Zoning Administrator without prior review by the Development Review Board.

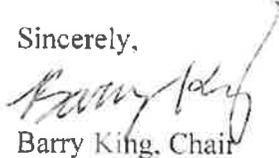
### **Decision**

1. The DRB finds that the addition of the accessory garage to the site is considered a substantial change to the June 23, 2015 Conditional Use approval, according to section 10.9.3.2(b) of the Zoning Regulations. The appeal is granted and, therefore ZP 2015039 is revoked.

Motion by Barry King to grant 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 approved.

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