

Town of Cape Elizabeth
Corrected Minutes of the July 28, 2020
Zoning Board of Appeals Meeting
Zoom Webinar ID: 913 7754 9646

As a result of the COVID-19 virus, the Zoning Board conducted the meeting via Zoom meeting remote access, as provided by Maine law. Zoom allowed all Zoning Board members, applicants, and members of the public to hear all discussion and hear votes, which were taken by roll call, as required by law. Information to access the meeting by video/audio or audio only was provided to the public in advance.

Participating Members of the Board:

Joseph Barbieri	Matthew Caton	Kevin Justh
Colin Powers	Michael Tadema-Wielandt	Michael Vaillancourt

The Code Enforcement Officer (CEO), Benjamin McDougal, participated in the webinar. The Recording Secretary, Carmen Weatherbie, was logged on.

A. Call to Order: Chair Michael Vaillancourt called the meeting to order at 7:00 p.m.

B. Approval of Minutes: Approval of the Minutes for June 23, 2020: A motion to approve the minutes was made by Mr. Justh; seconded by Mr. Tadema-Wielandt. Minutes were approved by a roll call vote: 6 – 0.

C. Old Business: None.

D. New Business: To hear the request of Patrick Cotter, co-owner of the property at 5 Thrasher Road, Map U32 Lot 6-5, to create an Accessory Dwelling Unit (ADU) by adding an addition to an existing single family dwelling based on Sections 19-5-5 and 19-7-5 of the Zoning Ordinance.

Chairman Vaillancourt asked CEO McDougal for the background. The CEO stated that a few months ago Mr. Cotter discussed setting up an in-law suite for a family member. He is proposing a 383 square foot accessory dwelling unit on the rear of the garage. The property is in the RC Zone. The lot is conforming. It's about 30,000 square feet. Lot size required in that zone is 20,000 square feet; the lot size for an ADU is 12,000. Mr. Cotter submitted a standard boundary survey showing approximately 30,000 square feet of land area. The addition on the back of the garage is clearly conforming to setback requirements. He is also proposing a mudroom addition.

Mr. Cotter stated he and his wife are the owners of 5 Thrasher Road, which they purchased 5 years ago. They would like to create an accessory dwelling unit on the back of the garage for his mother. His mother has been a Cape Elizabeth resident for over 36 years. In February his father died and his mother does not need the size of house where she currently lives and in which the one bathroom is on the second floor. His mother would like to remain in Cape Elizabeth.

Looking at the house from Thrasher Road, Mr. Cotter said you would not be able to see the addition. Their side neighbors on Mitchell Road will see it. The siding will be the same as the rest of the house. The roofline will be stepped down a bit and windows will break up the façade for visual appeal. The unused turn around will be the parking that is required. This will be two permits: one for expanding the mudroom for more storage and adding a washer and dryer, and one for the ADU.

The CEO said he did not receive any correspondence concerning this application from the public.

The chair noted there were no members of the public logged in to the webinar.

In response to an inquiry from Mr. Barbieri concerning the requirements for an ADU, Mr. Cotter said that information was submitted with the application on a separate piece of paper. The chair confirmed the attachment was received. Mr. Cotter read the document addressing the requirements.

Mr. Justh asked about the slope of the land in the back of the garage. Mr. Cotter replied the land is fairly flat, with perhaps a four to five foot slope. It is all grass. They may want to put in small patio in front of the back door, in the future, if that area gets muddy.

Mr. Caton referred to one of the requirements in Section 19-7-5 that states there shall be no home occupation or home business in a structure with an ADU and asked whether his spouse worked at home. Mr. Cotter replied pre-Covid she did not work from home; her business office, where she usually works, is in South Portland. There is no home business.

The board discussed imposing conditions on the ADU. The CEO said that the language of the Ordinance limits the purpose and use of an ADU. Mr. Tadema-Wielandt mentioned that the mudroom must be built in order for the size of ADU to be 383 square feet as Ordinance Section 19-7-5 B.4 limits the addition in square feet to 15% of the floor area of the single family dwelling prior to conversion. The ADU must also have an interior door to the main residence, which is added in the mudroom expansion.

The CEO stated that the mudroom would be built regardless of the ADU being approved. The CEO said especially now it is more reasonable to consider everything to be done at the same time. Mr. Caton queried whether to add a condition stating the ADU's purpose was for a close personal relationship, as per Ordinance Section 19-7-5, that ties it to the Conditional Use Permit, Section 19-5-5. It was decided the language of the Ordinance was enough.

Mr. Justh moved to approve the request of the request of Patrick Cotter, co-owner of the property at 5 Thrasher Road, Map U32 Lot 6-5, located in the RC Zone, to create an Accessory Dwelling Unit by adding an addition to an existing single family dwelling based on Sections 19-5-5 and 19-7-5 of the Zoning Ordinance. Mr. Tadema-Wielandt seconded the motion. Motion was approved by a roll call vote: 6 – 0.

Findings of Fact:

1. This is a request for a Conditional Use Permit to create an Accessory Dwelling Unit in an existing single family dwelling, located in the RC Zone, based on Section 19-7-5 and 19-5-5 of the Zoning Ordinance.
2. The subject property is located at 5 Thrasher Road, in the RC Zone, (Map U32 Lot 6-5).
3. Patrick Cotter is the applicant and co-owner of the property.

Additional Findings of Fact:

1. The proposed use will not create hazardous traffic conditions when added to existing and foreseeable traffic in its vicinity.
2. The proposed use will not create unsanitary conditions by reason of sewage disposal, emissions to the air, or other aspects of its design or operation.
3. The proposed use will not adversely affect the value of adjacent properties.
4. The proposed site plan and layout are compatible with adjacent property uses and with the Comprehensive Plan.
5. The design and external appearance of any proposed building will constitute an attractive and compatible addition to its neighborhood, although it need not have a similar design, appearance or architecture.
6. The applicant has demonstrated compliance with the requirements in Section 19-7-5 of the Zoning Ordinance.

Mr. Caton moved to approve the Findings of Fact and Additional Findings of Fact; Mr. Justh seconded. Motion was approved by a roll call vote: 6 – 0.

E. Communications: None.

F. Adjournment: Chairman Vaillancourt adjourned the meeting 7:44 p.m.