

Danville Zoning Board of Adjustment
Nov. 4, 2014
7:30 pm

Members present: Chris Stafford-chairman, Tara Burkhart-vice chairman, Joe Luna, Curt Springer, Michelle Cooper-selectmen's rep, Janet Denison-clerk

Excused members: Roger Denison

Others present: Gilbert Lane, Priscilla Lane, Paul Belkas, Eileen Bastien, Elaine Belkas, Mary Ann Distefano, Paul Boyd, Chris Teale, Kerry Sullivan

Case #2014-7 Request for a variance from Zoning Ordinance Articles IV & VI for Ociel Group, LLC, 13 Coburn Hill Road in Danville, Tax Map and Lot 2-54-5, to permit a second dwelling on the subject property

It was noted the property owner's name has changed since the application was filed. The owners are now listed as Chris Teale and Kerry Sullivan, who own the Ociel Group. They also noted they are only seeking a variance from article IV.

Mr. Teale described the lot as being 2.6 acres. They do not wish to subdivide the lot; they want to be allowed to use the second structure as a second dwelling. They will subdivide if the town allows it. It was pointed out it cannot become an extended family living unit as defined in the Zoning Ordinance because it is not attached to the main structure.

The criteria for the variance were reviewed. Mr. Teale explained the request is not contrary to the public interest because the building is in good shape and they have the capital to continue to make improvements. He explained this would put an end to the problem of the building being used as second residence illegally. He said the property is for sale and they have shown it to potential buyers who are interested in it as a rental unit. The history of the building was explained briefly. This lot is one of the larger ones on Coburn Hill Road.

Chairman Stafford pointed out it may have more curb appeal if it is repaired and upgraded, but the key is whether or not it can be used as a second dwelling. He also said the building permit was for a workshop, not a dwelling, and the history of the building's use is not important to this application.

Mr. Teale said the building will comply with everything in the Zoning Ordinance except for the minimum lot size requirement. Mr. Springer explained that prior to the 80s when the street was being developed, the minimum lot size requirement was one acre per lot. Mr. Springer asked how this application complies with the current spirit of the ordinance. Mr. Teale said this will allow the integrity of the family to live on one lot with two dwelling units.

Mr. Teale said the property was purchased based on what was represented on the tax card, which stated the second building was a bungalow. He said they will be taking a hit on the selling price if they are not allowed to sell it as a second unit. Chairman Stafford stated the issue is not financial, it is the ability to use the property. Mr. Sullivan said if they are allowed to use it as a second dwelling there will no longer be any enforcement issues. Mr. Luna pointed out that an

allowed accessory living unit goes with the owner, not the property, so even granting a special exception will not work if they plan to sell the property. Mr. Springer pointed out they purchased the property for \$136,000 and it is listed at \$289,000. Selectman Cooper pointed out the MLS listing used did not list the second building as a bungalow or dwelling; it was listed as an outbuilding currently used as storage.

Chairman Stafford pointed out that whether the variance is granted or not, the property values probably won't be changed.

The topic of hardship was discussed. Mr. Springer gave an example of a hardship being a vacant residential lot surrounded by non-conforming commercial lots. Mr. Teale explained that the structure is secluded and cannot be seen from other houses in the area, except when leaves are off the trees. This affords privacy which is a goal of the Zoning Ordinance. Mr. Luna asked what is different about this lot compared to other lots in the area.

Mr. Teale explained the request is reasonable because the second structure is already there and has a kitchen, bathroom, separate rooms that can be used as a bedroom and living area. They plan to have a septic system installed for the structure. Chairman Stafford said the pre-existence of the second structure is not a special condition of the property that makes it different than other properties.

Mr. Sullivan said they are prepared to spend the money to make improvements on the lot.

The discussion was opened to the public. Eileen Bastien, 6 Coburn Hill Road, said they moved to Danville in 1981 and do not want to change the slow growth of the school system.

Gilbert Lane, 17 Coburn Hill Road, asked if the distance of the structure to his property has been measured. It has not; it is estimated to be about 50'. Mr. Lane explained the driveway is difficult to maneuver during the winter and this often made the residents of that property park on the road. It is unknown if a fire truck can get to the second structure.

Paul Belkas, 9 Coburn Hill Road, said the current owners have made some improvements to the driveway. He said there still is a problem with the driveway. Mr. Sullivan and Mr. Teale agreed they can still make some improvements to the driveway.

At 8:30pm the public hearing was closed and the Board deliberated. Mr. Springer and Vice-Chair Burkhart said they heard nothing to support granting the variance. The Town voted to have two-acre zoning. A cluster neighborhood is also allowed. The main house was built when there was two-acre zoning and the permit for the second structure was issued while two-acre zoning was in place. The Board agreed they could not see how this lot is different than other lots in the area and there do not seem to be any special conditions existing on the land that create a hardship. The home can still be used in a reasonable way without the variance.

The Board agreed the property values will not be affected one way or another. It was pointed out that the parking issues will be less of a problem if there is only one family living there, making fewer cars that may need to be parked on the road. It was agreed that financial loss or gain was not a reason to support substantial justice.

The Board agreed the spirit of the ordinance is to allow one dwelling per two acre lot. Public interest will not be served if there are more cars parking on the street.

Mr. Springer made and Mr. Luna seconded a **motion to deny the variance request based on the reasons stated during the discussion**. The motion **passed** unanimously. Chairman Stafford said the notice of decision will be forwarded to the applicant within five business days.

Mr. Springer made and Mr. Luna seconded a **motion to close the public hearing**. The motion **passed** unanimously.

The minutes of September 23, 2014 were reviewed. Mr. Luna made and Mr. Springer seconded a **motion to accept the September 23, 2015 minutes as written**. The motion **passed** unanimously.

At 8:55pm Mr. Luna made and Mr. Springer seconded a **motion to adjourn**. The motion **passed** unanimously.

Respectfully submitted,

Janet S. Denison-clerk