



TOWN OF
BROOKLINE, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT

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BOARD OF ADJUSTMENT
MINUTES
Wednesday, July 10, 2019
7:30pm

Present: George Foley, Chairman
Peter Cook, Vice Chairman
Webb Scales, Member, Clerk
Marcia Farwell, Member
Jill Adams, Alternate, Voting for Kevin

Absent: Kevin Visnaskas, Member and Charlotte Pogue, Alternate

George asked Jill to vote for Kevin. Jill Agreed.

In attendance for this discussion is the Building Inspector Romeo Dubreuil.
David Partridge is also in the audience as he is interested in being on Board.

Case 417

George read the hearing notice "Applicants Brittany MacFarland & Christopher Henchey applied for a building permit to allow an ADU on the second floor of the hanger located on the property. This permit was denied because the building is 3,000 sf when a residential hanger should only be 2,000 sf. The applicants are requesting an Appeal from an Administrative Decision. Lot E-3-6 located at 16 Pigeon Hill Road consisting of 2.162 acres." George said fee have been paid and the abutters have been notified. Marcia said which is it is the ADU is too big or is the hanger is too big. George said the hanger is to big. Christopher said when the first set out to do this they were unaware of the technicalities behind any of it. It wasn't until they started down the path of putting in an ADU did they realize that the IBC codes state that a residential hanger can only be 2,000 sf and the one we bought is 3,000sf. We purchased this house and the hanger in 2015 we didn't have it built. This hanger was built and permitted by the town in 2010. Brittany said there are many fly in communities across the country and they are allowed to build above 3,000 sf this would include the space for the plane and the living area. Britany said she had spoken to the previous owner and asked how he was able to build it to commercial standards as opposed to residential standards. He said he had to build this to commercial standards because it was 3,000sf and that's what it called for. Brittany said the Building Inspector was concerned with jet fuel storage in the hanger, but a jet couldn't fit on this runway. We just have aviator fuel in the hanger. Peter asked if they use it as a hanger. Brittany said yes, they have a plane. They didn't when they first bought the house. George asked if this is attached to the house. Brittany said no. Marcia said what you plan to do with the ADU.

Christopher said his parents will move in once they retire. **Marcia** said she thought an ADU needed to be attached to the main dwelling. **Webb** said no it can be detached. It must be secondary and accessory to the main dwelling unit. **Brittany** said when this was built it was rough plumbed for an office space on the second floor. But never hooked up and finished. But we were told we couldn't even finish it to make it a play room. **George** read the letter from the Building Inspector which stated:

"As per section 412 in the 2009 International building code.

Residential aircraft hangar. An Accessory building less than 2,000 square feet (186m) and 20 feet (6096mm) in building height constructed on a one-two -family property where aircraft are stored. Such use will be considered as a residential accessory use incidental to the dwelling.

The building in question is actually a 3000 square foot air plane hangar (2 story's) that is not allowed in residential zone. Therefore, to allow it to be used as a ADU would be making the building/structure more non-conforming.

Here is one concern..... if the town allows this application and somebody gets injured who would then be held liable for creating an unsafe situation.

And then there is the inspections to insure it is code compliant? How could that be accomplished."

George said the Building Inspector is saying that this is already too big to be a residential aircraft hanger. **George** read section 412.3 of the IBC which states:

" 412.3.1 Definition. The following word and term shall, for the purposes of this chapter and as used elsewhere in this code, have the meaning shown herein.

RESIDENTIAL AIRCRAFT HANGAR. *An accessory building less than 2,000 square feet (186 m²) and 20 feet (6096 mm) in height, constructed on a one- or two-family residential property where aircraft are stored. Such use will be considered as a residential accessory use incidental to the dwelling.*

412.3.6 Height and area limits. *Residential aircraft hangars shall not exceed 2,000 square feet area and 20 feet in height."*

Marcia asked if this is the International Building Codes . **Webb** said yes. **George** asked if the hanger is higher than 20 feet. **Christopher** said yes, it is. **George** asked if the run way was on their property as well. **Christopher** said no we are adjacent from it. **Peter** asked Romeo to explain how we are beholden to the IBC code. **Romeo** said this is a state building code law.

Webb said the conundrum here is we have a property with a non-conforming building on it a building that doesn't not conform to building code and state law. A building that should not have been built to this size. We cannot change or vary the International Building Codes. **Peter** in terms of you appealing the Building Inspector's decision, what do you think he did wrong.

Brittany said well there is more than one over sized hanger in this area. She feels it should have been approved because the purpose is residential. Just because it was built to commercial standards doesn't mean they are using it as a commercial hanger there convince doesn't allow it.

Marcia's said what he did wrong was denied the permit. **Brittany** said if the town gave the building permit to build it originally, would it be fair to say the person was negligent when the hanger was being built because the rule was in the book then. **Romeo** said he believes this was an oversight yes. As he has discovered today almost all the hangers in this area are all oversized.

He has not checked for permits for all the hangers. **Brittany** said should they have asked for a variance. **Webb** said you would need to ask the state to vary the IBC codes this isn't something we can do. **Brittany** asked if the office space could still be completed if they had originally planned to have an office on the second floor. **Dave Partridge** said it sounds like they should ask for a variance from the State laws. He doesn't see where the Building Inspector was wrong. **Webb** said he doesn't believe the Building Inspector is wrong in this case. **Romeo** said he would reach out to the insurance company to see if they will cover this. In reference to the square footage he didn't even calculate the second floor it would be almost twice the size that it should be. **Christopher** said if he takes the plane out of this hanger and stored their vehicles there then this would be a garage. **Marcia** said the previous entity allowed this to happen it is not their fault and she believes the Board should allow them to be able to do this. **Brittany** said if they store their cars in the hanger then it will be a garage. If we made it a garage could they come back to apply for the ADU. **Jill** said she would speak to the state and find out what they can do going forward.

Peter made a motion to reject the appeal thereby uphold the Building Inspector decision. **Webb** seconded. Vote yes 4-0. **Marcia** abstained.

Minutes

Webb made a motion to approve the minutes of June 12, 2019 as written. **Peter** seconded. Vote yes 3-0.

Webb move to approve the August 8, 2018 as written. Seconded by **Marcia**. Vote yes 5-0.

New Alternate

Made a motion to recommend to the Selectboard that **Dave Partridge** be appointed as an Alternate of the Zoning Board of Adjustment with a term expiring on March 31, 2022. Seconded by **Marcia**. Vote yes 5-0.

Adjourn

Peter made a motion to adjourn at 8:12 pm. **Webb** seconded. Vote yes 4-0.

George W Foley III, Chairman, _____

Peter Cook, Vice-Chairman, _____

Webb Scales, Member, Clerk, _____

Marcia Farwell, Member, _____

Jill Adams, Alternate _____

Minutes submitted by Kristen Austin

