

**Town of Milford
Zoning Board of Adjustment Minutes
March 15, 2007
Bettyjane Newton
Case #9-07
Special Exception**

Present: Len Harten, Chairman
 Katherine Bauer
 Fletcher Seagroves
 Ron Pieper, Jr.
 Steve Bonczar, Alternate

Absent: Bob Levenson

Secretary: Kathryn Parenti

Bettyjane Newton, owner of 16 Grove Street, Map 26, Lot 5, in the Residence “A” district, is requesting a Special Exception from Article II, Section 2.031.C to permit the expansion of a non-conforming use by converting a home office area back into a dwelling unit, bringing the total number of dwelling units to six (6).

Motion to Approve: _____

Seconded: _____

Signed: _____

Date: _____

L. Harten, chairman, read the notice of hearing into the record. He then read the abutters list into the record. Carl Parker of 4 Summer Street and Joseph Remson of 3 Fox Run Road and owner of 20 Amherst Street were present. He then invited the applicants to present their case. F. Seagroves wanted it to be known that there was a mistake in the notice of hearing; Lot 55 should be Lot 5.

Merv Newton, husband of Bettyjane Newton, applicant and owner, presented their case. He stated he had met with Kevin Lynch, zoning official and was told he could not find any zoning change and this building has been in Residence "A" since 1969 when the zoning ordinance was adopted.

K. Bauer reiterated that in 1969, when the ordinance was adopted, it was a six (6) unit multi-family building.

B. Newton stated in the application, number two was incorrect when Residence "B" was referenced; it should read Residence "A". She stated she wanted to convert the home office into another residential unit. They had purchased the property in 1991 and there were two one-bedroom apartments in the main house. They took over the main house and changed it to a single unit. She noted that there are several Commercial uses in the area, in the nearby Commercial "C" district and several multi-family homes, in the Residence "A" district.

L. Harten asked if the board had any questions.

R. Pieper asked what the current use of the home was.

M. Newton stated there are two wings to the main house and each wing has two units. The main house currently has one unit and one home office, an accounting office that is on the first floor, as was a condition for the home occupation.

K. Bauer stated this was a non-conforming use when it went in – it was a six (6) unit that changed to a five (5) unit and they were requesting to return it to a six (6) unit home and it is still a non-conforming use. The footprint will not change.

L. Harten asked how many parking spaces there were.

M. Newton replied there were nine (9) spots now and they could add another.

R. Pieper asked how many customers were at the accounting office at one time.

M. Newton stated there was usually one customer and sometimes two at a time. He stated he had 82 total customers last year.

L. Harten stated the number of cars would not increase with the added living unit.

S. Bonczar commented he did not see many cars in the parking area when he passes the location. He also remembered sitting on the board when M. Newton came in to request the home occupation. He stated his answers were the same as they were then.

R. Pieper asked if there would be any remodeling.

M. Newton said there would be some on the second floor of the main house, mainly reinstalling the kitchen.

L. Harten asked if the units complied with building code and had two (2) means of egress.

M. Newton replied they did.

K. Bauer reminded the applicant that for a non-conforming use, there were two (2) additional criteria that had to be met.

L. Harten asked the applicants to go through the five criteria for a special exception.

1. The proposed use shall be similar to those permitted in the district:

M. Newton stated the house next door at Map 26 Lot 4 is a six (6) unit house. The other surrounding properties are commercial uses and two churches. In addition, the house on the corner of Summer and Amherst Streets is a two-family.

2. The specific site is an appropriate location for the proposed use:

M. Newton stated the building was a six (6) unit building until they purchased it in 1991 when they changed it to a five (5) unit building.

3. The use as developed will not adversely affect the adjacent area:

M. Newton stated most of the buildings in the area are multi-family buildings, business and church properties. There is currently one dedicated parking space to the office and will be used for the tenant. There are plans to add an additional parking space. In addition, there will be no exterior changes to the building.

4. There will be no nuisance or serious hazard to vehicles or pedestrians:

M. Newton replied as the building will continue to be multi-family with off street parking, the home office special exception will be given up. He felt that a multi-family dwelling is a much better use on a busy street than a single family home which may include children.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use:

M. Newton replied each floor in the main house will be changed back to one unit per floor, of 1200 square feet each and with separate bathrooms and kitchens.

L. Harten asked if there were any questions. As there were none, he continued on with the last two conditions required for a non-conforming use. He read from page 7 of the Town of Milford Zoning Ordinance: *"2.031.C Alterations: Alteration, expansion or change of a non-conforming use or structure shall only be permitted by Special Exception by the Zoning Board of Adjustment if it finds that: 1. The proposed alteration, expansion or change will not change the nature of the original use; and 2. The proposed alteration, expansion or change would involve no substantially different effect on the neighborhood. (1999)"*

1. The proposed alteration, expansion or change will not change the nature of the original use.

M. Newton replied there would be no change in the nature of the original use; it would remain a multi-family residence.

2. The proposed alteration, expansion or change would involve no substantially different effect on the neighborhood

M. Newton replied there would be no substantially different effect on the neighborhood.

L. Harten asked if any abutters had any questions or comments.

Joseph Remson stated he did not have any concerns.

Carl Parker stated he had lived there for forty (40) years and the only problems he's noticed is church parking. He felt this change would not be any nuisance and no impact; he had no objections. He also stated when they changed the use from six (6) to five (5) apartments he did notice any change in activity at all.

L. Harten asked if there were any additional comments. Since there were none, he closed the public portion of the hearing. He asked the board if there were any additional comments.

S. Bonczar felt there would be little if any impact if this request was granted.

R. Pieper wanted it made clear that this is an expansion of a non-conforming use and they are altering the existing use. He stated he was surprised a special exception was granted for a multi-unit dwelling in Residence "A". This request reverts it back to the original use.

K. Bauer said this was an expansion from five (5) to (6) units; it was already non-conforming when the zoning ordinance went into effect. She felt it met all the criteria.

L. Harten felt this change would make the situation better.

R. Pieper stated he could argue the expansion would add no additional traffic and would alter the existing use.

S. Bonczar stated he had no issues, as did F. Seagroves, and L. Harten.

L. Harten asked if there were any more comments. There were none so he then called for a vote.

1. Is the exception allowed by the ordinance?

K. Bauer – yes R. Pieper – yes F. Seagroves – yes S. Bonczar – yes

L. Harten – yes

2. Are the specified conditions present under which the exception may be granted?

R. Pieper – yes F. Seagroves – yes S. Bonczar - yes K. Bauer – yes

L. Harten – yes

L. Harten asked for a motion.

R. Pieper made the motion to approve the request for a special exception to allow expansion of a non-conforming use.

K. Bauer seconded the motion.

Final Vote:

F. Seagroves – yes S. Bonczar – yes R. Pieper – yes K. Bauer – yes

L. Harten – yes

Case #9-07 was unanimously approved.

L. Harten reminded the applicant of the 30-day appeal period and wished them luck.