

**Town of Milford  
Zoning Board of Adjustment Minutes  
June 20, 2013  
Ronald Racicot  
Case #2013-11  
Variance**

Present: Fletcher Seagroves, Chairman  
Zach Tripp  
Laura Horning  
Bob Pichette  
Kevin Taylor

Mike Thornton - Alternate  
Katherine Bauer – Board of Selectmen’s representative

Absent: Paul Butler, Alternate

Secretary: Peg Ouellette

The applicant, Ronald Racicot, owner of Map 14, Lot 10, located at 21 Old Wilton Rd, in the Industrial “I” District, is requesting a variance for a change of use from Article V, Section 5.06.1, and 5.06.5.A to convert an existing, grandfathered single family residence, that does not meet front setback requirements, into a two-family residence.

**MINUTES APPROVED JULY 18, 2013.**

Fletcher Seagroves, Chairman, opened the meeting and informed all of the procedures for the meeting. He read the notice of hearing into the record and the list of abutters was read. Abutters Steve and Sherry Foskett of 11 Old Wilton Rd were present. Ronald Racicot, owner of 21 Old Wilton Rd, was present. His son, Matthew, whose name is listed as agent on the application, was also present to assist in the presentation. Fletcher Seagroves invited the applicant forward to present his case.

M. Racicot stated that the property is at 21 Old Wilton Rd. It is primarily a farmhouse, built on about 1 ½ acres. The main idea is to transition the property from single family residence to two-family.

R. Racicot stated they had sketches of floor plans.

K. Taylor stated the house is historic, being one of the old Hutchinson houses. He asked if the applicants were going to keep it like one of the Hutchinson houses.

R. Racicot said yes. They will still have white on outside with black shutters. It will look better than ever. On the inside they need to modernize the rooms; insulate, update the heating, wiring, and plumbing. They have town water and sewer and there are two wells on the property that will be closed up. The appearance hasn't changed. The upstairs has a bathroom and one of the bedrooms will be a kitchen and bath. One bedroom had to be walked through to get to the other, so one of those will become a bathroom.

M. Racicot said there was no change to the floor plan.

F. Seagroves asked if the whole outside will basically stay the same.

R. Racicot said it doesn't need any addition on the outside. It is a five-bedroom house. There are servant's quarters attached that goes into the barn, but they are not touching any of that. They are only dealing with the house.

L. Horning asked if the main entry was over by the kitchen and if there was a separate entrance for the second floor or whether everybody would go through the first floor.

M. Racicot explained the first floor entrance and said the entry will be strictly for upstairs.

L. Horning asked if the porch will be the entry for the downstairs.

R. Racicot said that was correct.

L. Horning said she assumed the line will be the cutoff point, and there would be a pantry and then you would be able to go upstairs on the other side and the pantry will be closed off and a stairwell there?

B. Pichette asked if there was only one entrance to the second floor.

F. Seagroves asked if there would be two egresses.

M. Racicot said yes.

L. Horning stated this would be going before the building inspector, anyway.

F. Seagroves said Planning, too.

Bill Parker was asked if that was correct.

B. Parker said it would not be Planning because it is not three or more units.

R. Racicot said they have to go to the building inspector to make sure everything is up to standard – the plumbing, wiring, etc.

F. Seagroves said one of the Board's main concerns is safety, so they look to make sure there are two egresses. They have them on different sides of the house, which is good.

L. Horning said it is a good sized lot and asked where parking would be.

R. Racicot said there is a paved driveway with two entrances. The existing driveway will be enlarged.

F. Seagroves said on the Hendrix side they just have 20 feet, so their only problem is the front setback. It is 25 ft. and should be 30 ft.

B. Pichette asked when the property was purchased.

R. Racicot said in February.

B. Pichette asked if it was purchased with the intent of making it a two-family

R. Racicot said he had spoken to the realtor and said it was getting cold out and they needed to make sure the pipes didn't freeze. He was told it would be taken care of, but then the realtor told him the driveway was plowed but the pipes were all frozen. When you start changing things in an old house surprises keep happening. They felt it would be better as a two family house.

Z. Tripp asked about the state of the property when the applicant bought it. Was it vacant?

R. Racicot said someone was living there but he moved out right after the holidays.

Z. Tripp said he drives by the property often, and it looked like it was pretty well gutted.

M. Racicot said he has been working on it.

Z. Tripp said the applicant asked if the quarters in the barn will stay empty.

R. Racicot said the barn will be used as storage. The fact that it leans doesn't bother him. It is shored up on the inside.

Z. Tripp asked the size of the barn.

R. Racicot said probably about 40 ft long by 15 ft wide.

L. Horning said it looked bigger than 15 ft.

R. Racicot said it isn't a whole lot bigger.

Z. Tripp said, looking at the uses allowed in the I district, what would prohibit them from any of those uses? Why couldn't they put offices there, or light manufacturing, or anything along those lines?

R. Racicot said he is a residential guy and thinks of places people could live in. It was being lived in. It could be a dentist office, but it would still need all the upgrades – wiring, etc. It had some new wiring before, but his electrician came in and said they would start over. The meter reader has to go inside the barn to read the meter. He said that would be a commercial use and this is in the Industrial District.

Z. Tripp read from the ordinance, for the record, some of the uses in Industrial: harvesting of natural resources, manufacturing, offices, research and development, distribution and mailing facilities, processing and warehousing, telecommunications, farm roadside stands, processing of natural resources, newspaper and job printing, agriculture and farming, utility public or private.

F. Seagroves then opened the meeting to public comment. There was no public comment.

F. Seagroves closed the public portion of the meeting. He asked the applicant to read the application into the record. M. Racicot read the application.

**1. Granting the variance would not be contrary to the public interest because:**

Improvements to the building will increase the appeal of this property and surrounding properties as well. Also will provide another viable residence.

**2. The use is not contrary to the spirit of the ordinance because:**

The building would not expand in size or require any additional structure at this time. The improvements would enhance the quality and appeal of the residence and ultimately those around it.

**3. Granting the variance would do substantial justice because:**

Another unit would require proper upkeep and necessary improvements which would lead to better improvements and renovations, these improvements would translate to better value in the neighborhood and the town of Milford.

**4. The proposed use would not diminish surrounding property values:**

The repairs and renovations would only serve to increase the value and appeal of the property which would naturally increase value in the surrounding properties.

**5. Denial of the variance would result in unnecessary hardship.**

A). **“Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:**

i). **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

Because the property is an historic residential use it does not allow conversion to the uses allowed in the Industrial district. It is reasonable to maintain its residential use. It is a non-conforming structure due to front setback.

ii) **and; The proposed use is a reasonable one because:**

There are several “grandfathered” residences along Old Wilton Road.

B) **If the criteria in Section (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance. A variance is therefore necessary to enable a reasonable use of the property because:**

The building is sized more appropriately for a two family and would be a practical use for the building. The exterior of the building would not require further additions and would sustain a 2-family comfortably.

K. Taylor then asked if they were going to keep the plaque on the front of the building which says it is a Hutchinson house.

R. Racicot joked that if K. Taylor paints it, he will put it back up.

F. Seagroves asked for any questions from the Board. There were none so the Board moved on to discussion.

**1. Would granting the variance not be contrary to the public interest?**

Z. Tripp – yes. Approving a two family would do no harm in this location and would not threaten the safety, health or general welfare of the public. A large single-family in I District going to a two-family wouldn’t change that.

L. Horning agreed. It would not be contrary to the public interest or contrary to the welfare and safety. It is already a residential use, as applicant pointed out. It is a historic residence. It is a reasonable request.

B. Pichette – yes. It won’t be contrary because it will not change the character of the neighborhood. A single family to a two family in that size house is appropriate.

K. Taylor – it will not be contrary to the public interest.

F. Seagroves – agreed. He didn’t see, as the handbook says, the public will benefit by refusing. He didn’t feel the public would benefit.

**2. Could the variance be granted without violating the spirit of the ordinance?**

K. Taylor – yes. It can be granted without violating the spirit.

B. Pichette said it will not result in overcrowding and there will be no harm to the public interest.

L. Horning agreed. It can be granted without violating the spirit of the ordinance. The spirit was being observed in this case, in her opinion, as outlined in the provisions mentioning general welfare and safety of the community.

Z. Tripp agreed. This is a substantial non-conforming use, which is the original use, as a residence. It is still in the spirit of the original use. Regarding what B. Pichette said, it is in I Commercial zone with some mixed residential, so a two family would not decrease safety or add traffic.

F. Seagroves agreed. He didn't see it violating the spirit. The handbook states health, safety and general welfare. It probably will be adding two more cars to the road. It is a fairly traveled road. He didn't think two more cars would be a safety problem.

**3. Would granting the variance do substantial justice?**

L. Horning – yes. Granting would do substantial justice. It states in the handbook that loss to the individual not outweighed by gain to the public would be substantial justice. It is a single family and in making it a two family the public is gaining as well as the applicant. It is close to manufacturing facilities and in the I District and she felt it was important to have a house close to manufacturing facilities, as families could benefit from being close to their workplaces, shopping, etc.

B. Pichette agreed. The property is well suited to a two family.

K. Taylor agreed. It would do substantial justice. It will be worked on. It has been rundown over the years, so he will be pleased to see the house back in good condition.

Z. Tripp agreed. There is no gain to the public by denying.

F. Seagroves referred to the handbook which states that loss to the individual is not outweighed by gain to the public. He didn't see a public gain by denying. It is close to two major employers in Milford. Someone could rent a house and almost walk to work.

**4. Could the variance be granted without diminishing the value of abutting property?**

K. Taylor – yes, it can be granted without diminishing value.

Z. Tripp said one of the abutters is a residence. Across the street is a self-storage and the other side is Hendrix. Going to a two family will not reduce value of surrounding property.

B. Pichette said the applicant stated he will be repairing and renovating and that would increase value of surrounding properties.

L. Horning said there are a probably five residences up and down that road. Improving this property would encourage the same kind of behavior to those properties and add value to those properties. Having it renovated as a historic property would enhance this property and surrounding properties.

F. Seagroves agreed. He didn't see it would diminish value of abutting property. It would do the opposite.

**5. Would denial of the variance result in unnecessary hardship taking the following into consideration:**

**A) i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;**

**ii. The proposed use is a reasonable one.**

**B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

L. Horning said she believed denying would result in unnecessary hardship, under “no fair and substantial relationship.” The proposed use is absolutely a reasonable use. It was her opinion in this case that some of the uses cited in this district, as read by Z. Tripp, could cause this property to be on the market for a long time in its current state. It is a historic property. To force the property to linger or force it to conform to some of the uses listed in the I District. There is no substantial change; it is already a residence. It is

there by virtue of the zoning ordinance encompassing it, as it were. The applicants were not looking to initiate industrial use in the I district. It was already there. In her opinion, there is no fair and substantial relationship between the general purposes of the ordinance and this property.

B. Pichette said it would deprive applicant of making best use of the property.

K. Taylor agreed. Unnecessary hardship would be because of restrictions in that area. It would be better for a two family. It would upkeep the historic house. If it isn't, the barn will fall down.

Z Tripp said he struggled with this question regarding reasonable use. He agreed it was a reasonable use in converting a single family legal, non-conforming house to a two-family. The house is very well laid out for that with two floors. But one question they must answer whether reasonable the use interferes with applicant's reasonable use of the property concerning a unique setting in its environment. Regarding no fair and substantial relationship, he agreed with B. Pichette's comment that the property is well laid out, but also felt it was laid out well for an Industrial district. It is a good-size lot and it looks bigger than 1.5 acres. It has visibility. It is a large building. He could see two tenants upstairs and the first floor and maybe warehousing in the barn. The answer to this question kind of contradicts his answers to the other questions. It does seem like a reasonable use, but looking at the uses in the Residential District and the property in its setting, he wasn't sure he could come up with restrictions that prevent the applicant from using it in strict conformance. He would probably vote no on the hardship. With regard to part B, the special conditions that distinguish it, it has a residential building on it which is now essentially gutted, from his observation. He didn't think that special condition restricted it from any other use.

F. Seagroves felt there was no fair and substantial relationship between the general public purpose of the ordinance. Regarding the hardship, this is in an Industrial district. The handbook doesn't address residential at all. Possibly they want to refurbish the house for a residence and while doing that make two apartments. As far as zoning, they cannot do that. They want to make a residence and keep the house in the condition it was originally. He felt the ordinance could be a hardship.

F. Seagroves called for a vote.

**1. Would granting the variance not be contrary to the public interest?**

L. Horning – yes; Z. Tripp – yes; B Pichette – yes; K. Taylor – yes; F. Seagroves - yes

**2. Could the variance be granted without violating the spirit of the ordinance?**

Z. Tripp – yes; B. Pichette – yes; K. Taylor – yes; F. Seagroves – yes; L. Horning – yes

**3. Would granting the variance do substantial justice?**

K. Taylor – yes; L. Horning – yes; Z. Tripp – yes; B. Pichette – yes; F. Seagroves –yes

**4. Could the variance be granted without diminishing the value of abutting property?**

L. Horning – yes; B. Pichette – yes; K. Taylor – yes; Z. Tripp – yes; F. Seagroves - yes

**5. Would denial of the variance result in unnecessary hardship taking the following into consideration:**

**A) i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;**

**ii. The proposed use is a reasonable one.**

**B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property**

**that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

K. Taylor – yes; B. Pichette – yes; Z. Tripp – no; L. Horning – yes; F. Seagroves - yes

F. Seagroves asked if there was a motion to approve case # 2013-11 a request for a variance.

K. Taylor made the motion to approve Case #2013-11.

B. Pichette seconded the motion.

**Final Vote**

**L. Horning – yes**

**Z. Tripp – no**

**B. Pichette – yes**

**K. Taylor – yes**

**F. Seagroves - yes**

Case #2013-11 was approved by a 4 to 1 vote.

F. Seagroves reminded the applicant of the thirty (30) day appeal period.