

ZONING BOARD  
JANUARY 27, 2004

Present Dr. Jay Chatmas, Chair  
James Walsh  
Jack Kennealy  
Steven LaPlante  
Gib Mendelsohn  
Michael Tranfaglia

Absent: Joseph Guglielmetti

Also present was Bruce Smith, Code Enforcement Officer.

Dr. Chatmas stated the first item of business was the approval of October 28, 2003 meeting and asked for comment. Hearing none, he asked for a motion.

Michael Tranfaglia motioned approval of the minutes.

Stephen LaPlante seconded, 4 in favor, 0 opposed, 2 abstained. (Jack Kennealy and James Walsh were not present at that meeting.)

Dr. Chatmas stated Michael Tranfaglia had been reappointed for a three-year term.

The next order of business was election of officers for 2004.

Jack Kennealy nominated Dr. Chatmas to be Chair.

Mr. LaPlante seconded, 5 in favor, 0 opposed.

Next order of business was election of Secretary.

Mr. Mendelsohn nominated Jack Kennealy as Secretary. Mr. Tranfaglia seconded, 5 in favor, 0 opposed.

OLD BUSINESS

To hear the request of Mark and Laura Morris, 53 Bowery Beach Road (U17-41), for an Accessory Dwelling Unit.

Dr. Chatmas asked the applicant to come forward and show her presentation.

Laura Morris introduced herself and stated how she wanted to convert space above the garage into living space for an Accessory Dwelling Unit. Mrs. Morris explained her parents were elderly with significant health problems and wanted to be able to care for them in their own independent space.

Mr. Walsh asked about the second floor and if that could be an issue for elder parents. Mrs. Morris stated that they were able to get the square footage above the garage as opposed to the 1<sup>st</sup> floor.

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Dr. Chatmas asked for the construction history.

Mrs. Morris stated the addition was 2 years ago, which ended up being a total overhaul. They had also upgraded their septic system to accommodate 4 bedrooms.

Dr. Chatmas asked how the space had been used until presently.

Mrs. Morris stated just residentially, however she thought about applying for a home business as she has an online soap business. She also stated this was about the time they learned of serious multiple health problems for both parents.

Dr. Chatmas asked if she had been aware of the issue of square footage in the beginning.

Mrs. Morris stated that she became aware after the structure was there and had told Mr. Smith of intentions for her parents in the future. She had stated Mr. Smith had warned her at that time. She has talked with Mr. Smith since, and had determined they would change accessibility to the second bedroom to the main house so they would be under the maximum square footage allowed.

Dr. Chatmas stated his concerns with the ADU being in excess of 600 sq. ft. and the percentage of the floor area being greater than 25%. He pointed out that they were in excess in both cases and that the Board could not override the rules and regulations that apply. Therefore, it does not meet the minimum requirements as the application stands. Dr. Chatmas asked if she had any course of action to meet such requirements.

Mrs. Morris stated she had initially misunderstood the directions and had found other A.D.U.'s but were not her 10 closest neighbors. She had hoped the Board would recognize her unique situation and therefore the application could be approved as is.

Mr. Mendelsohn stated that Section 19-7-5B in the Zoning Ordinance actually prohibits a variance when applying for an Accessory Dwelling Unit.

Mrs. Morris had thought that the Board could make it's own decisions.

Mr. Mendelsohn suggested that they could cordon off an area and then be in compliance to the ordinance.

Mr. Smith stated that would be acceptable.

Mr. LaPlante asked Mr. Smith if the use of an accessory dwelling unit is only for close immediate family.

Mr. Smith stated no, it would include people that have close relationship with the owner.

Mr. LaPlante questioned if the owner does not exercise the use within a year, will they lose that use.

1 Dr. Chatmas stated that they would need to reapply to have use reinstated. He asked the  
2 applicant if alterations are made for the A.D.U. use, what would be the use of space prior  
3 to parents moving in.  
4

5 Mrs. Morris would continue to use it as family space. She might at some point use it as a  
6 home business if she knows that her parents will not be utilizing the area.  
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8 Dr. Chatmas wanted Mrs. Morris to understand that she could not have the home business  
9 and A.D.U. at the same time.  
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11 Mrs. Morris agreed.  
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13 Mr. Tranfaglia asked why she would need an A.D.U. if her parents were to live there and  
14 would be cared for by the family.  
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16 Mr. Smith stated that if all the ingredients were there to make up an independent living  
17 situation, regardless of how the parents are taken care of, it needs approval as an A.D.U.  
18 He stated the only other way to remedy the situation is to remove the stove and  
19 refrigerator out which would keep it designated as a single family.  
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21 Dr. Chatmas asked Mrs. Morris if she would like to take a moment to confer with her  
22 husband for a plan.  
23

24 Mr. Smith offered a suggestion of making the entrance to the A.D.U. through the shared  
25 hallway and change the extra bedroom into storage.  
26

27 Mrs. Morris stated that they would be able to do that change within 45 days.  
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29 Dr. Chatmas reiterated that they are modifying the internal design to meet the square  
30 footage requirements and the total percentage square footage to meet standards. He asked  
31 if there were any more questions from the board.  
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33 Hearing none, Dr. Chatmas closed the public hearing and opened discussion to the board.  
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35 Mr. Kenneally asked if there could be a condition put on the approval.  
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37 Mr. Smith stated yes and would make sure the record reflects conditions met.  
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39 Dr. Chatmas asked if there were any other comments. Hearing none, he asked for a vote  
40 on the conclusions.  
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### 42 CONCLUSIONS

- 43 1. The proposed use will not create hazardous traffic conditions when added to  
44 existing and foreseeable traffic in its vicinity.  
45 6 in favor 0 opposed 0 abstained
- 46 2. The proposed use will not create unsanitary conditions by reason of  
47 sewage disposal, emissions to the air, or other aspects of its design or operation.  
48 6 in favor 0 opposed 0 abstained
- 49 3. The proposed use will not adversely affect the value of adjacent properties.  
50 6 in favor 0 opposed 0 abstained.

- 1 4. The proposed site plan and layout is compatible with adjacent property  
2 uses and with the Comprehensive Plan.  
3 6 in favor 0 opposed 0 abstained.  
4 5. The design and external appearance of any proposed building will constitute  
5 an attractive and compatible addition to its neighborhood, although it need not have a  
6 similar design, appearance or architecture.  
7 6 in favor 0 opposed 0 abstained.

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9 **JUDGEMENT**

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11 A motion was made by Jack Kennealy and seconded by Steven LaPlante to approve the  
12 application of Mark & Laura Morris for an accessory dwelling unit of 600 sq. ft. or less,  
13 conditional on approval by Bruce Smith, and is complete within 30 days.

14 6 in favor, 0 opposed, 0 abstained.  
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16 COMMUNICATIONS

17  
18 Dr. Chatmas stated that there was an update to the Zoning Ordinance, becoming effective  
19 December 10, 2003.

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21 Dr. Chatmas stated that the term expiration date had shown on the website as expiring on  
22 the first day of the new year. He proposed that they change it to expire on the last day of  
23 the year.

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25 Dr. Chatmas proposed amending Zoning Board Rules & Regulations Sec.1, Item A,  
26 Board Membership, to serve without compensation for a 3 yr term expiring on December  
27 31<sup>st</sup>. Motion passed 6 in favor, 0 opposed.  
28

29 Dr. Chatmas stated that the Board term memberships are 3 yrs. Chair of the Board has a  
30 term for 1 year and can be elected twice.

31  
32 Dr. Chatmas discussed a meeting that took place with the D.E.P., Maureen O'Meara,  
33 Mary Ann Lynch, Michael McGovern, Carol Fritz, Bruce Smith and himself. They  
34 reviewed 8 applications from the Shoreland Overlay District that had come before the  
35 board and their outcomes.

36  
37 The next meeting is scheduled for February 24<sup>th</sup>, 2004.  
38

39 Dr. Chatmas asked for any other items to be discussed. Hearing none, he asked for a  
40 motion to adjourn.

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42 Mr. Mendelsohn motioned to adjourn.

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44 Motion was seconded by Mr. LaPlante 6 in favor, 0 opposed.  
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46 Meeting adjourned at 8:15pm

47 Respectfully Submitted,  
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49 Laurie Palanza  
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