

PRESENT: Dever, Chairman; Pelczar, Vice-Chairman, Flanders, Thorpe, Clark, Edney, Code Enforcement Officer, Tivnan, Clerk

Alternate: Goodheart

Clark moved, Thorpe seconded, THAT WE APPROVE THE MINUTES OF MARCH10, 2011 as amended. Voted unanimously.

ELECTIONS OF OFFICERS

Clark moved, Pelczar seconded, to elect Jack Dever as Chairman. Voted unanimously
Thorpe moved, Dever seconded to elect Mike Pelczar as Vice-Chairman. Voted unanimously

PUBLIC HEARING

2944: BETTY RAYNOR: An appeal for a SPECIAL EXCEPTION (ARTICLE VII, SECTION B-1) to create an accessory apartment within an existing single-family dwelling, Tax Map U06, Lot 32, located at 21 High Street in the Shoreline District.

Raynor - I live at 21 High Street. Would you like me to read my application? Dever- Yes, please.

1. Accessory Apartments- The criteria for granting a Special Exception for “accessory apartments” shall include the following:

a. The accessory apartment shall have a minimum of 300 square feet of net floor area and shall not exceed the lesser of (i) forty percent (40%) of the sum of the net floor area of both the finished dwelling unit and the finished accessory apartment, or (ii) 1,200 square feet. In addition to the foregoing area limitations, in the case of an accessory apartment in an accessory structure, the accessory structure shall have one or more accessory uses, not including guest quarters, other than the accessory apartment, and the net floor area of the accessory apartment shall not exceed the net floor area of the other accessory use or uses of the accessory structure.

- *The size of the existing unit plus the accessory apartment equals 2,976 square feet.*
- *Forty (40) percent of 2,976 square feet equals 1,190 sq. ft.*
- *The size of the proposed accessory apartment in square feet equals 1,103 sq. ft*
- *The accessory apartment is 37% of the sum of the net floor area of both the finished dwelling unit and the finished accessory apartment.*
- *The proposed accessory apartment is less than 1200 square feet and less than 40% of both the finished dwelling unit and the finished accessory apartment thereby meeting the required criteria.*

b. The accessory apartment may be physically attached to or incorporated within a principal residential structure, or incorporated in an accessory structure to such principal residence. There shall not be more than one accessory apartment on any lot. The distance between an accessory structure containing an accessory apartment and the nearest point of the enclosed living space of the principal residential structure shall not exceed 100 feet.

- *The accessory apartment is physically attached to the principal residential structure.*

c. Accessory apartments shall include no more than two (2) bedrooms.

- *The proposed accessory apartment has one bedroom; at no time will there be more than two bedrooms.*

d. Accessory apartments may be created through the internal conversion of an existing housing unit or through the creation of a new principal dwelling unit/accessory apartment structure or through the internal conversion or creation of a non-residential accessory structure such as a barn or garage.

- *The proposed accessory apartment will be created through the internal conversion of an existing attached barn.*

e. Either the principal dwelling unit or the accessory apartment shall be occupied by the owner of the property.

- *Either the principal dwelling unit, the accessory apartment, or both, will be occupied by the owner of the property.*

f. The construction and occupancy of accessory apartments shall not be detrimental to the neighborhood in which the lot is located by virtue of overcrowding or traffic congestion. The use, character and enjoyment of the neighborhood will not be adversely affected.

- *There are no proposed changes to the outside appearance of the building, grounds or parking area at 21 High Street. The home at 21 High Street is in a residential neighborhood with both single family and multifamily dwellings. A description of the neighborhood follows:*

<u>Address</u>	<u>Living Unit Use</u>	<u>Address</u>	<u>Living Unit Use</u>
15 High St	multi (5)	14 High St	single (1)
19 High St	multi (3)	16 High St	multi (4)
21 High St	single (1)	20 High St	single (1)
23 High St	single (1)	22 & 24	duplex (2)

- *The use will not be injurious, noxious or offensive and thus not be detrimental to the neighborhood as we will continue the use of the property according to the zoning regulations that currently apply.*
- *There will be no undue traffic congestion or hazards because the property will continue to exist under the current zoning regulations that apply,*
- *There will not be undue risk to life and property, nor unsanitary or unhealthy emissions of waste as we will continue our current use of the dwelling which complies with the current zoning regulations that apply.*

g. Means of egress for both the principal single-family residence and the accessory apartment shall meet all applicable codes.

- *All applicable codes are under the enforcement of the City of Meredith Building Code and are being met.*

h. Off-street parking shall be provided as follows:

- (1) 2 spaces - primary residence
1 space - accessory apartment
- (2) Parking spaces must be surfaced in a manner consistent with the neighborhood.
- (3) Parking spaces required pursuant to this section shall not be constructed within the front setback required pursuant to the applicable zoning district.

- *Please see the attached diagram which demonstrates the required parking criteria. No changes are planned to the existing parking area.*

i. All applications under this section shall demonstrate adequate provision for sewage disposal, water, waste and drainage generated by the future occupancy of an accessory apartment.

- *The existing dwelling is currently on town sewer and water. Trash is removed and there will be no dumpster on the site.*

j. No exterior changes shall be made which in the judgment of the Board do not conform to the single-family character of the neighborhood.

- *There will be no exterior changes to the existing structure, which is a single-family home with attached barn. The character of our neighborhood, however, is a mixture of single and multi family dwellings as noted in item f. above.*

k. Any application filed under this section shall include the following:

- (1) Scaled plot plan showing location of existing structure.
- (2) Detailed floor plan
- (3) Parking layout and yard area
- (4) Sketch any proposed expansion or change to structure showing overall dimensions.
- (5) Square footage of construction or alteration
- (6) Location and number of exits.

I have some photographs of the neighborhood and my house. Thorpe – Are there any other accessory apartments within the existing structure? Raynor - No. Armand Peters (23 High Street) – We are here to support this application. She has improved the landscaping. She has made many improvements to this property. Janet ??? (17 Lake Street) – I helped Betty with the parking. When Betty is not here, I take care of her pets. So, I know her driveway very well. Hearing closed at 7:15 PM.

2945: NICHOLAS & JEANNE RAFFAELLO FOR THE ESTATE OF PATRICIA M. NESTOR C/O JEANNE RAFFAELLO: An appeal for a VARIANCE (ARTICLE V, SECTION D-2(a)-B) to create a non-conforming distance to an existing single-family dwelling with a side setback of 5.3', 30' required, Tax Map S09, Lot 10, located at 103 Meredith Neck Road in the Meredith Neck District.

Carl Johnson (Advanced Land Surveying) – This is an unusual application but not unlike another application the Board heard. The Nestor property consists of several different parcels. There is an 8 acre parcel, another a little over 20 acres, and a larger parcel in the back that goes from Meredith Neck to frontage on Pinnacle Park. When Mrs. Nestor was alive, her brother, Bob Wallace, wanted to build a house on a lot. We began investigating how to create a lot. We moved to the 20 acre parcel and looked there. There were wetlands, so we moved quite a ways up the hill to get a suitable site for a home. In order to create that lot, we created a big parcel and then we created a 50' strip that ran down the existing driveway leading up to the field which became part of the lot we created. The Planning Board approved the subdivision. Mr. Wallace purchased a modular home and constructed it on the lot. However, the lot was never conveyed and unfortunately, Mrs. Nestor has passed away. Mr. Wallace's modular home sits on a lot that is in the Nestor Estate. This is not uncommon. It was intended that Mr. Wallace would own the lot his house sits on. We are trying to come up with a solution that would better address this situation. Two things are problematic. One is, the owned strip of land severed a parcel. The other one is, this is a big parcel and someday may be developed. If the lot is subdivided, they would be driving across Mr. Wallace's land (50' strip), in order to get to the back that was reserved by easement by the Planning Board. Legal but problematic. Not a clean situation. We are proposing to flop the 50' strip of land to meet the frontage requirements such that the lot would be configured as (pointed to the plan). You will have the same amount of land up above that the house sits on and the 50' strip of land would run down here (pointed to plan). However, the 50' strip would be just to satisfy the frontage requirements and would not be the access to Mr. Wallace's property. Mr. Wallace's property would be accessed by an easement through the existing 50' strip of land. If the back land was to be developed they would have to satisfy frontage requirements somewhere else or they would have to upgrade this strip to a roadway satisfactory to the town Planning Board standards. Normally, when we come before the Board, we want to build a house too close to the line. In this case, we are creating a line too close to a structure, so the non-conformity is being created by the line. It creates a situation where the corner of the house is a little over 5' from the line where the required setback is 30'. This change will really have no affect on the surrounding properties. It is simply a mechanism whereby we are creating the road frontage for a back lot in a different location that was previously approved and cleaning up the two major problems that the subdivision created. Nothing will change. Mr. Wallace will continue to use the driveway by easement. Mrs. Nestor's farmhouse will continue to use the access by easement across the strip and there will be a restriction placed in the Planning Board process, so there can be no structures constructed within that 50' strip. This will increase the distance between any two structures that would occur on either lot. We did a project in 2008 that had frontage on Waukegan Ave. and Main Street. There were two lots that had two houses. The history and use of the property was all of the land, including the garden, was being used by one. The applicants own both properties under separate ownership. We

proposed to the Board to create a property line that created a non-conforming structure on the lot. By doing that, it had absolutely no affect on anybody except the two parties. So, the strict enforcement of the setback would have no public benefit whatsoever. We don't think this would diminish surrounding property values. It is not contrary to the public interest. There is no change of use to either property. We think it would do substantial justice because it would allow a more sensible configuration of the properties. We think it meets the spirit of the ordinance because no new use or non-permitted use is being requested.

Clark – This is to make it simpler? Johnson – Yes. Believe it or not. Clark – The driveway is still going to be where it is? Instead of him owning the land, it will be a ROW. Johnson – It will be an easement. Clark – What happens if you develop the land behind? Will the easement be moved? Johnson – It depends on the type of development that happens out there. If there was just one house, probably nothing. There would be a shared maintenance of the driveway. If it was more than two, you either apply to the Selectman for a wavier to have more than two structures on a driveway or you would have to upgrade a driveway to road standards. Flanders – Why wouldn't he move his driveway so they would all use the new strip of land? Johnson – The new strip is primarily wet. It would be more beneficial for everybody because Mr. Wallace would have his own driveway on his own land. It is just too wet to do that. The estate is trading one 50' strip, for the other, to create a more sensible division of the property. The 50' strip is part of the large lot. Clark – So, if we approve this, you will go to the Planning Board for a Boundary Line Adjustment? Johnson – We are calling it a re-subdivision. Clark- We are considering two alternatives? One, having him own this land versus him owning the strip through the middle of someone else's land. An alternative would be for the area below the easement, that could be one lot and other lots could be up above. Edney – I'd like to go to what Carl said about the shared driveway provisions. We have a number of subdivisions that have been approved with three having the same access way to limit the amount of impact to the property. It's not uncommon, it's procedural only and if I understand you correctly Carl, the 50' strip you are creating is basically unusable? Johnson – Yes, in terms of access. Edney – He is still going to continue to use the other access? Johnson – Correct. That limits the disturbed area of the lot. Edney – So, I am confused about creating a strip to create a flag lot, yet the access is still going to be the current access way. Johnson – There will be no change in the access to the properties as a result of either a zoning variance granted for this line or the re-subdivision approval by the Planning Board. The benefit is the large parcel will no longer be split into two pieces by someone else's property. There would just be an easement through it. No one would be going across Mr. Wallace's land. Dever – We are creating a non-conformity to make this happen. Clark – What I don't understand is why this is better than having him own the land through the middle of the property? Johnson – One is the affect of the ownership on the existing lot and primarily the affect it has on the potential future development of the back land. There are no other reasonable alternatives to get up to the field because of wetland issues and so forth. They would be traveling more than a 1000' across Mr. Wallace's property to get to their property. Clark – So instead of traveling across Mr. Wallace's property, they are going to travel across the other guy's property. So what's the difference? Johnson – Unless the development of this property includes the ownership of that piece to the back or creates a roadway. This property is big. We are looking at the future development of this property being something other than a driveway to two houses. Clark – The fact you might want to have development include this strip, you want it not

owned by someone other than the estate. Johnson – Correct. Dever – If it’s developed, they are still going to go by his property. Johnson – We are just trying to clean this up now. You’re right; it’s not going to make a big difference. Flanders – So the reason to do it now and not when the development comes about, is because all the property owners are on board? Johnson – The driving force for this is when Mrs. Nestor was alive, she wanted to sell a lot to her brother, Bob Wallace. We were restricted by the owner’s desires at the time. We created a strip over the driveway that was already going up to the field. There is no bad thing happening here. Nobody is being affected. Edney – You said there are a fair amount of wetlands. If Mr. Wallace decided to sell that property we would have another owner coming in looking to build a driveway over the wetlands by a special exception. Johnson – When we go to the Planning Board, we are going to restrict this for frontage only. There will be no structures or access ways created up this strip. Dever – We have a driveway that can’t be a driveway. Johnson – Happens all the time. We did this at Clover Ridge and the Maple Subdivision. Dever – We didn’t do that. Johnson – Planning Board did. Hearing closed at 7:50PM

DELIBERATION

2944: BETTY RAYNOR:

Clark – It seems the applicant has met the criteria and we haven’t seen anyone that disagrees.

Clark moved, Thorpe seconded, IN CASE # 2944, BETTY RAYNOR, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION (ARTICLE VII, SECTION B-1) TO CREATE AN ACCESSORY APARTMENT WITHIN AN EXISTING SINGLE-FAMILY DWELLING, TAX MAP U06- 32, LOCATED AT 21 HIGH STREET IN THE SHORELINE DISTRICT BE GRANTED, AS THEY HAVE MET THE CRITERIA BOTH GENERALLY AND SPECIFICALLY FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

Dever – Thirty day appeal period.

2945: NICHOLAS & JEANNE RAFFAELLO FOR THE ESTATE OF PATRICIA M. NESTOR C/O JEANNE RAFFAELLO:

Dever – Let’s go through the criteria.

1. Granting the variance would not diminish the values of surrounding properties. The Board all agreed.
2. Granting the variance would not be contrary to the public interest: The Board all agreed.
3. Granting the variance would do substantial justice: Clark – This would provide substantial injustice. The owner of both properties would benefit.

4. Granting the variance would observe the spirit of the ordinance: Thorpe – The protections that the ordinance provides will still be maintained even though the property line will change. Clark – I agree. Flanders – I think it’s a non issue.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Clark – I think there is a hardship relative to the shape and location of the property. I think the criteria have been satisfied. Dever – I agree to appoint but they are creating a non-conformity. I think there are other ways they could cure their problem.

Thorpe moved, Clark seconded, IN CASE # 2945, NICHOLAS & JEANNE RAFFAELLO FOR THE ESTATE OF PATRICIA M. NESTOR C/O JEANNE RAFFAELLO, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V, SECTION D-2(A)-B) TO CREATE A NON-CONFORMING DISTANCE TO AN EXISTING SINGLE-FAMILY DWELLING WITH A SIDE SETBACK OF 5.3’, 30’ REQUIRED, TAX MAP S09-10, LOCATED AT 103 MEREDITH NECK ROAD IN THE MEREDITH NECK DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Vote 4-1 in favor.

- Dever – No
- Pelczar-Yes
- Flanders – Yes
- Thorpe – Yes
- Clark - Yes

Dever – Thirty day appeal period.

MOTIONS FOR REHEARING

**Meredith Board of Selectmen’s Motion for Rehearing Case# 2943:
(Jack Dever stepped down)**

Pelczar – There will be no testimony or public input. The Meredith Board of Selectmen have brought a motion for a re-hearing on RIGHT ANGLE ENGINEERING FOR FOUNDRY AVENUE REALTY TRUST: An appeal for a VARIANCE (ARTICLE III-D-3A) to allow warehousing, light manufacturing, building trade or repair shop and/or equipment and truck repair facility in the Residential District, Tax Map S23, Lot. No. 46, located on Foundry Ave. in the Residential District. This is a case we heard a month ago. After reading through the Selectmen’s motion and what we are allowed to look at, I don’t see that we made a mistake or any new information that wasn’t available at the time has come forward. Clark – After looking over the vast number of points made in the application, I think it would do no harm and could allow us to carefully explore those points and conceivably avoid further problems and expense to the town. I think it would be worth our time to take another listen and talk about it again. Thorpe – I agree with that. Flanders – I kind of agree with it. Clark – If there is doubt, I would prefer to err on the side of giving them another bite at the apple. Goodheart – I agree with Clark. I don’t think it would hurt. I don’t advocate we do this every time.

Clark moved, Thorpe seconded, I MOVE IN THE MEREDITH BOARD OF SELECTMEN'S MOTION FOR REHEARING, CASE# 2943, RIGHT ANGLE ENGINEERING FOR FOUNDRY AVENUE REALTY TRUST, AN APPEAL FOR A VARIANCE (ARTICLE III-D-3A) TO ALLOW WAREHOUSING, LIGHT MANUFACTURING, BUILDING TRADE OR REPAIR SHOP AND/OR EQUIPMENT AND TRUCK REPAIR FACILITY IN THE RESIDENTIAL DISTRICT, TAX MAP S23-46, LOCATED ON FOUNDRY AVE. IN THE RESIDENTIAL DISTRICT BE GRANTED. Voted 5-0 in favor.

Paula Wanzer, J. Duncan McNeish and Chuck Braxton Motion for a Rehearing Case #2943

Clark moved, Thorpe seconded, I MOVE IN THE PAULA WANZER, J. DUNCAN MCNEISH AND CHUCK BRAXTON MOTION FOR A REHEARING, CASE #2943 RIGHT ANGLE ENGINEERING FOR FOUNDRY AVENUE REALTY TRUST, AN APPEAL FOR A VARIANCE (ARTICLE III-D-3A) TO ALLOW WAREHOUSING, LIGHT MANUFACTURING, BUILDING TRADE OR REPAIR SHOP AND/OR EQUIPMENT AND TRUCK REPAIR FACILITY IN THE RESIDENTIAL DISTRICT, TAX MAP S23-46, LOCATED ON FOUNDRY AVE. IN THE RESIDENTIAL DISTRICT, BE GRANTED WITH THE TWO HEARING S TO BE CONDUCTED SIMULTANEOUSLY. Voted 5-0 in favor.

Pelczar – These hearings will be heard at our regular meeting, scheduled for Thursday, May 12, at 7:00 PM

Unfinished Business:

Dever -We have another Motion for Rehearing - MICHAEL CASEY, ROBERT HOFEMAN AND ROBERT CASEY. We need to decide tonight when we are going to discuss whether we will have a rehearing or not. We can try for the 28th and it will have to be posted. Clark – I would feel much more comfortable if we had the opportunity to meet with Town Counsel first. Thorpe – You are saying meet with counsel prior to our meeting to decide whether to rehear. Clark –Yes Dever – He can come to that meeting also. Clark – That would be good to have it on the same day.

Meeting adjourned at 8:10 PM

Respectfully submitted,

Christine Tivnan
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on May 12, 2011

Mike Pelczar – Vice-Chairman