

Town of Milford
Zoning Board of Adjustment-APPROVED
NOVEMBER 2, 2023
Public Hearings

Case #2023-02 689 North Main Street, LLC and Salt Creek Properties, LLC, VARIANCE
Case #2023-12 84 Prospect St., Linda Ledger, SPECIAL EXCEPTION
Case #2023-19 15 Old Wilton Road, Ronald Racicot, VARIANCE

Present: Andrea Kokko Chappell, Chair
Joan Dargie, Vice Chair
Michael Thornton, Member
Dan Sadkowski, Member
Tracy Steel, Member
Rich Elliott, Alternate
Terrey Dolan, Director of Community Development
David Freel, BOS Representative

Recording Clerk: Jane Hesketh, Community Development

Meeting Agenda

1. Call to Order

2. Public Hearing(s):

a. Case #2023-02 (Continued from June 20 & August 17, 2023 Meetings) Continuation of the Variance Request for property located at 689 North Main Street, LLC and Salt Creek Properties, LLC, for the property located at Tax Map 43, Lot 20-2, seeking a required Variance from Milford Zoning Ordinance, Article VI, Sections 6.01.3.B.7 to allow the retail sale of petroleum products in the Groundwater Protection District on a property located in the Commercial and Limited Commercial Zoning Districts. (Note: Prior hearing request by applicant was approved by the ZBA on Aug. 17, 2023 to postpone the scheduled Continuance for the case, to the September 7, 2023 ZBA Meeting., then to October 4, 2023, then to be heard on October 19, 2023 due to illness, then approved to November 2nd, with a new Request for the Continued Hearing to now be held on November 16, 2023)

b. Case #2023-12 (Continuation from August 17, 2023, September 21, 2023 & October 3, 2023 ZBA Hearings for Special Exception Request-Proposed Accessory Dwelling Unit (ADU)-Request for Further Continuance to the November 2, 2023 ZBA Meeting. The applicant, Linda Ledger, is seeking a Special Exception for the creation of a one-bedroom Accessory Dwelling Unit (ADU); comprised of approximately 672 sq. feet (16' x 42'), partially utilizing the existing footprint of the existing one car garage/shed on the lot. The existing single-family home is located at 84 Prospect Street, Map 30 Lot 84, in the Res "A" Zoning District. The proposal has been modified to convert the existing detached garage into a single-level ADU, comprised of a kitchen/living area and one bedroom. A Special Exception from the Milford Zoning Ordinance, pursuant to Article X, Section 10.02.6, is required for this request. (Now being requested for Continuation to the December 7, 2023 ZBA Meeting.)

c. Case #2023-19 Sons Chimney Relocation: The applicant, Ronald Racicot, is seeking a Variance to relocate his downtown Sons Chimney retail store location to be co-located within their existing industrial-zone warehouse facility, located at 15 Old Wilton Road, Tax Map 14, Lot 6-1. Retail sales are not allowed within the Industrial Zoning District; thus, a Variance is required in order to partially utilize a +/-1,000 square foot portion of the existing warehousing floor space to be dedicated for retail sales.

3. Approval of Meeting Minutes: 8/17/23 and 10/5/23

4. Other Business:

5. Next Meeting(s): 11/16/23 & 12/7/23

1 **MINUTES OF THE ZBA MEETING NOVEMBER 2, 2023**

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4 **1. CALL TO ORDER**

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6 Chair Andrea Kokko Chappell opened the meeting by welcoming everyone and introducing herself. The Chair welcomed
7 those attending in person and electronically.

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9 The Chair stated you may also attend this meeting in person at the Milford Town Hall, Board of Selectmen's Meeting Room.

10
11 If you would like to participate in the public meeting, please call this number from home: +1 646-558-8656 and enter the
12 Meeting ID: 851 6407 7601 and Password: 269952 or log in via www.zoom.com using the Meeting ID and Password
13 previously stated.

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15 A digital copy of the meeting materials can be found on the Town website at: [https://www.milford.nh.gov/zoning-board-](https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda)
16 [adjustment/agenda/zba-agenda](https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda). We will also be live streaming the meeting on Granite Town Media, Government Channel
17 21: <http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2>.

18
19 Roll call attendance with all present at Milford Town Hall: D. Sadkowski present; R. Elliott present; J. Dargie present;
20 M. Thornton present; T. Steel present; A. Kokko Chappell present.

21
22 Chair explained the process for the case hearings. The Chair said a full agenda may not allow all cases to be heard and that
23 at 10:00 p.m. the meeting will end. The Chair explained how the meeting would proceed for the cases that may not be heard
24 in that they would be continued or tabled to another agreed upon meeting and the process for public notification process.

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26 A. Kokko Chappell moved on to the cases to be heard.

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29 **2. PUBLIC HEARINGS**

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31 **a. Case #2023-02** (Continued from June 20 & August 17, 2023 Meetings) Continuation of the Variance Request for
32 property located at 689 North Main Street, LLC and Salt Creek Properties, LLC, for the property located at Tax Map 43,
33 Lot 20-2, seeking a required Variance from Milford Zoning Ordinance, Article VI, Sections 6.01.3.B.7 to allow the retail
34 sale of petroleum products in the Groundwater Protection District on a property located in the Commercial and Limited
35 Commercial Zoning Districts. (Note: Prior hearing request by applicant was approved by the ZBA on Aug. 17, 2023 to
36 postpone the scheduled Continuance for the case, to the September 7, 2023 ZBA Meeting., then to October 4, 2023, then to
37 be heard on October 19, 2023 due to illness, then approved to November 2nd, with a new Request for the Continued
38 Hearing to now be held on November 16, 2023)

39
40 Chair noted there is a request to continue this case and asked for a motion. Joan Dargie made a motion to continue this case
41 and Dan Sadkowski seconded. Chair asked for a vote and all were in favor. **Case #2023-02** will be continued to the meeting
42 of November 16, 2023.

43
44 **b. Case #2023-12** (Continuation from August 17, 2023, September 21, 2023 & October 3, 2023 ZBA Hearings for Special
45 Exception Request-Proposed Accessory Dwelling Unit (ADU)-Request for Further Continuance to the November 2, 2023
46 ZBA Meeting. The applicant, Linda Ledger, is seeking a Special Exception for the creation of a one-bedroom Accessory
47 Dwelling Unit (ADU); comprised of approximately 672 sq. feet (16' x 42'), partially utilizing the existing footprint of the
48 existing one car garage/shed on the lot. The existing single-family home is located at 84 Prospect Street, Map 30 Lot 84, in
49 the Res "A" Zoning District. The proposal has been modified to convert the existing detached garage into a single-level
50 ADU, comprised of a kitchen/living area and one bedroom. A Special Exception from the Milford Zoning Ordinance,
51 pursuant to Article X, Section 10.02.6, is required for this request.
52 (Now being requested for Continuation to the December 7, 2023 ZBA Meeting.)

53
54 Chair noted there is a request to continue this case and asked for a motion. Joan Dargie made a motion to continue this case
55 and Mike Thornton seconded. Chair asked for a vote and all were in favor. **Case #2023-12** will be continued to the meeting
56 of December 7, 2023.

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61 **MINUTES OF THE ZBA MEETING NOVEMBER 2, 2023**

2. PUBLIC HEARINGS

c. Case #2023-19 Sons Chimney Relocation: The applicant, **Ronald Racicot, is seeking a Variance** to relocate his downtown Sons Chimney retail store location to be co-located within their existing industrial-zone warehouse facility, located at **15 Old Wilton Road, Tax Map 14, Lot 6-1**. Retail sales are not allowed within the Industrial Zoning District; thus, a Variance is required in order to partially utilize a +/-1,000 square foot portion of the existing warehousing floor space to be dedicated for retail sales.

Ronald Racicot stepped forward to the microphone. He explained the reasoning for the relocation of Sons Chimney retail store to his warehouse facility. R. Racicot presented the type of truck deliveries that are made which makes more sense to have the location moved to the warehouse. The applicant joined the committee at the meeting table where he proceeded to present the variance criteria.

Variance Criteria per New Hampshire RSA 674:33.I:

1. This will not be contrary to the public interest.

“It would benefit the public interest to have a local energy auxiliary heating supplier in the same district they shop at”. Customers can shop locally.

2. The spirit of the Ordinance is observed.

“It encourages mixed use and will allow easy access to our local customers to pick up product”. It will also provide easy access for deliveries.

3. Substantial Justice is done.

“It allows for best use of the building”. In addition, it will allow for better traffic flow by moving the business out of the downtown area; trucks will have better access.

4. The Values of Surrounding Properties will not be diminished.

“No alterations to the existing structure are needed”. The business has actually created a better traffic flow.

5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of the Variance would result in unnecessary hardship because:

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:

N/A

ii. The proposed use is a reasonable one because:

“We currently have a new warehouse with display area approved; was approved for major site plan by the Planning Board”. Customers already stop at the warehouse for products.

B. Explain how, if the criteria in paragraph A are not established, an unnecessary hardship will 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 Ordinance and a Variance is therefore necessary to enable a reasonable use of it:

“Having 2 locations is an economic hardship and is confusing to our customer base”. It also confuses the deliveries.

Mike Thornton noted that financial reasons cannot be considered. Director Dolan interjected by explaining the types of businesses on Old Wilton Rd. which are mixed commercial and industrial. Mike Thornton emphasized what the applicant had already talked about; decrease in the traffic at the oval and there will be sufficient parking at the warehouse.

Chair asked if there were any questions. Mike Thornton brought up hardship. Joan Dargie to the applicant: under hardship she explained the reasoning for item A under i. She feels this is applicable. The applicant then stated that this would be hardship for his customers if the variance is not granted. A. Kokko Chappell added customers would need to go to 2 different locations. J. Dargie noted the tractor trailer deliveries in the oval would be eliminated. It was also

MINUTES OF THE ZBA MEETING NOVEMBER 2, 2023

2. PUBLIC HEARINGS

c. Case #2023-19 Sons Chimney Relocation:

noted the existing Stove Shop in the oval will be closing and will operate out of the warehouse facility. M. Thornton added it will be a net gain to the public by having only one location.

Chair asked if there were any further questions. There were none and the meeting was opened to the public. Hearing nothing from the public, that portion of the meeting was closed.

Deliberations:

1. This will not be contrary to the public interest.

M. Thornton: it is not contrary because it will be a net gain in terms of traffic; less congestion in the oval and eliminates potential problem by blocking the treat during deliveries.

T. Steel: agrees; consolidation is a benefit to the public; traffic on Middle will be decreased.

D. Sadkowski: agrees

R. Elliott: having one location will be a benefit to the public as well as decrease in traffic.

J. Dargie: one location makes the most sense; feels a retail location on Old Wilton Rd. will not affect that area.

A. Kokko Chappell: having the one location at the warehouse facility will be an improvement; that location can best handle the traffic and deliveries.

2. The spirit of the Ordinance is observed.

J. Dargie: the ordinance allows for the variance and it is not contrary to the public interest.

R. Elliott: asked for guidance on the ordinance wording; after the discussions he feels it is within the spirit of the ordinance with a variance.

T. Dolan explained this and pointed out the retail sales will be minimal which will not significantly increase the traffic. This is a specialty retail business and not a major retail store. This was discussed. A. Kokko Chappell added her opinion on this retail. The various types of businesses in that area were discussed. The Chair noted all members had voiced their opinions during the discussion. M. Thornton added that it is a benign use; the retail is less intrusive to the area than if there were large trucks being brought into a residential area.

3. Substantial Justice is done.

T. Steel: it would eliminate the major traffic in the oval; the customers will benefit by doing business in one place.

D. Sadkowski: better flow of traffic and eliminates the tractor trailers in the oval.

M. Thornton: benefits Town Hall with less traffic on Middle Street

R. Elliott: substantial justice with 2 buildings on the opposite ends of town is difficult; one location is best

J. Dargie: agrees

A. Kokko Chappell: agrees

4. The Values of Surrounding Properties will not be diminished.

R. Elliott: adding a small retail to that spot will not diminish the values

D. Sadkowski: no changes to the building

J. Dargie: small retail will not have an impact

T. Steel: adding this retail to this area will not impact the surrounding properties; this is not a residential street but other industrial/commercial businesses; hours of operation are similar to the surrounding properties.

M. Thornton: this will be an enhancement

A. Kokko Chappell: it will be a plus for the neighborhood; no changes to the building.

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3 **2. PUBLIC HEARINGS**
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6 c. Case #2023-19 Sons Chimney Relocation:
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9 **Deliberations:**
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11 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**
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13 **A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of**
14 **the Variance would result in unnecessary hardship because:**
15

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

18 J. Dargie: it would be more of a hardship to the applicant by denying the variance than a gain to the public by
19 denying; it makes more sense having one location.

20 R. Elliott: there is a hardship shown with the parking situation at the oval location

21 D. Sadkowski: agrees with what J. Dargie said; one stop shopping for the public which will serve a general public
22 purpose

23 T. Steel: parking location downtown; having it in two places is a hardship; possibly increase the customer base

24 M. Thornton: not granting this would be a hardship; no public benefit to denying this.

25 A. Kokko Chappell: agrees with all comments especially the parking/deliveries in the oval being a hardship.
26

27 **ii. The proposed use is a reasonable one because:**

28 R. Elliott: it is reasonable to consolidate to one location

29 M. Thornton: agrees

30 T. Steel: reasonable to have showroom at the warehouse facility

31 D. Sadkowski: agrees

32 J. Dargie: having a specialty shop in this location is a reasonable one

33 A. Kokko Chappell: reasonable for the area and agrees with the consolidation to the one address.
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35

36 **Voting:**
37

38 **1. This will not be contrary to the public interest.**

39 D. Sadkowski yes; M. Thornton yes; T. Steel yes; J. Dargie yes; Chair votes yes.
40

41 **2. The spirit of the Ordinance is observed by creating affordable housing in keeping with the area.**

42 M. Thornton yes; T. Steel yes; J. Dargie yes; D. Sadkowski yes; Chair votes yes.
43

44 **3. Substantial Justice is done.**

45 J. Dargie yes; D. Sadkowski yes; M. Thornton yes; T. Steel yes; Chair votes yes.
46

47 **4. The Values of Surrounding Properties will not be diminished.**

48 D. Sadkowski yes; M. Thornton yes; T. Steel yes; J. Dargie yes; Chair votes yes.
49

50 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

51 M. Thornton yes; T. Steel yes; J. Dargie yes; D. Sadkowski yes; Chair votes yes.
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54 Chair stated the criteria for the Variance has been satisfied.
55

56 Chair asked for a motion to approve Case #2023-19 Sons Chimney Relocation: The applicant, **Ronald Racicot, is seeking**
57 **a Variance** to relocate his downtown Sons Chimney retail store location to be co-located within their existing industrial-
58 zone warehouse facility, located at **15 Old Wilton Road, Tax Map 14, Lot 6-1**. Retail sales are not allowed within the
59 Industrial Zoning District; thus, a Variance is required in order to partially utilize a +/-1,000 square foot portion of the
60 existing warehousing floor space to be dedicated for retail sales.

61 **MINUTES OF THE ZBA MEETING NOVEMBER 2, 2023**

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3 **2. PUBLIC HEARINGS**
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6 **c. Case #2023-19 Sons Chimney Relocation:**
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8 J. Dargie made a motion to approve **Case #2023-19** and it was seconded by M. Thornton. Chair Kokko Chappell stated a
9 motion was made to approve **Case #2023-19**. Chair Kokko Chappell asked for a vote; all were in favor. Chair stated the
10 application has been approved. There is a 30 day appeal period that can be filed with the Zoning Board.
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14 **3. MEETING MINUTES**
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16 8/17/2023

17 In Attendance: J. Dargie, M. Thornton, D. Sadkowski, R. Elliott, A. Kokko Chappell

18 Corrections:

19 Page 6 Line 48: change the word available to appropriate

20 J. Dargie has additional changes; therefore, the Chair tabled the approval for these minutes.
21

22 10/5/2023

23 In Attendance: J. Dargie, M. Thornton, D. Sadkowski, R. Elliott, T. Steel, A. Kokko Chappell

24 Chair asked for a motion to approve minutes of October 5, 2023.

25 M. Thornton made a motion to approve and J. Dargie seconded.

26 All were in favor.
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29 **4. OTHER BUSINESS**
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31 Director Dolan informed the committee he will be supplying them with a printout of the rules and procedures for meetings
32 which are also available on the ZBA website.
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34

35 **Motion to Adjourn**
36

37 Chair Andrea Kokko Chappell asked for a motion to adjourn. J. Dargie made a motion to adjourn and it was seconded by
38 M. Thornton. All Board Members were in favor. Meeting adjourned.
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40 **ZBA MINUTES OF 11/2/2023 WERE APPROVED 3/21/2024**
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54 **Motion to Approve:** _____
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56 **Seconded:** _____
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58 **Signed** _____
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60 **Date:** _____