



OFFICE OF THE  
**BOARD OF APPEALS**  
TOWN OF DUNSTABLE  
TOWN HALL  
511 MAIN STREET  
DUNSTABLE, MA 01827-1313

**Approved**  
**May 1, 2008**

**Pallis Hearing Minutes**  
**March 6, 2008**

Members Present: Wesley Goss, Chairperson  
Joshua West, Clerk  
Alice Ekstrom, Member  
Leo Tometich, Member  
Lisa O'Connell, Recording Secretary and Associate Member

Members Absent: Judy Thompson, Member  
Al Horton, Associate Member

Petitioners Present: Jeffrey and Aina Pallis  
Robert Frye, Builder

Others Present: Richard Larkin, Town Counsel

This meeting's intent was to file a formal decision with the Town Clerk regarding the application of Jeffrey Pallis for the property located at 224 High Street, Dunstable, MA for a for a variance from Section 6.1(a) of the Town of Dunstable Zoning By-laws to remain in the existing residence while a new primary dwelling is being constructed and to convert the old residence into a barn, subsequent to the completion of the new dwelling. The applicant is also requesting a special permit for an in-law apartment to be constructed as part of the new residence.

Chairman, Wes Goss called the meeting to order at 7:01 p.m. Wes stated that he spoke with the Dunstable Board of Health and there is no problem with having two septic systems on the same property as long as they are Title V Certified.

Jeff Pallis said, yes, they want to see his certification on the old septic, which he also presented to the Board.

Wes said that the main issue at hand is once the new house is built, what has to be done to the old house in order to make it not a house.

Jeff Pallis said that he is under the impression that taking the kitchen out of the house would make it uninhabitable.

Aina Pallis said that someone could inspect it to make sure they have complied with removing the kitchen.

Bob Frye submitted the following documents for the record:

- Letter from Jeffrey Hannaford, President of Norse Design Services, Inc. in Tyngsborough who have been retained by the Pallis' to complete the disposal works construction. The letter states that within fourteen days after the Certificate of Occupancy for the new dwelling is obtained, the kitchen and all related appliances will be removed from the existing dwelling and by definition, will no longer be considered a dwelling unit.
- Letter from Bridgette Braley of the Nashoba Associated Boards of Health confirming that there can be two septic systems on the property – old and new as long as both pass a Title V inspection.
- Drawing of existing house exterior.
- Exterior drawing of proposed conversion to a non-residential accessory building.
- Cost estimate of demolition of old residence.

The Board reviewed the documents.

Lisa O'Connell asked if the existing residence was two stories.

Bob Frye said that it is a walk out basement on the back side and will eventually be used as a greenhouse for plants.

Wes Goss asked how much the town should hold in escrow until the project is complete.

Bob Frye said that there is an estimate included in the packet of documents submitted. He asked if it would be an interest bearing account.

Rich Larkin said that the Town should have control of the account in case it is needed and not have both signatures required.

Lisa O'Connell said she would check with the Town Treasurer as to what was done last time.

Lisa O'Connell asked if the 90-day timeframe mentioned in the letter was for removal of the kitchen or completion of the entire conversion.

Bob Frye said that 90-days following the receipt of the occupancy permit of the new house, the conversion of the old residence will be completed into an accessory building.

Rich Larkin discussed the implications of the Dunstable Zoning By-law, section 6.1 (a) – One building containing one dwelling unit used as a single family residence. He also reviewed the history of allowances that the Board has made in similar situations as to the temporary existence of two residences on one property. The residents lived in the old house until the new one was completed, and then the old residence could be removed. It

was ultimately one house on the property. The ZBA was careful to have a process in place to guarantee that the old house would be removed or otherwise disposed of in a timely fashion by requesting an escrow for the amount of the estimated demolition. This case is different from prior instances as the old residence will not be removed, but converted into a barn or non-residential accessory building. He said that it brings us to the question as to what the Board's definition of a house is and how to convert the existing house into a lawful non-residential structure so that it satisfies the Board.

Aina Pallis asked what is a house.

Alice Ekstrom said that in order to not be categorized as a house, it needs to have no kitchen, no bathroom and no bedrooms.

Rich Larkin said that the present house has to be categorized as something.

Bob Frye said that he has a drawing that shows that the converted building will have no kitchen.

Wes Goss confirmed that within 14-days of receipt of the occupancy permit of the new residence, that the kitchen will be removed in the old house and within 90-days of the same, the old house will be completely converted to an accessory building?

Rich Larkin said that the house has to turn into something else besides a house and the criteria have to be determined for that converted structure. He said that he is not a construction expert and cannot say what the criteria are at this point.

Wes Goss asked if the converted building will have heat.

Jeff Pallis said, yes, baseboard.

Aina Pallis said that the building will be used for storage. She'll also have a green house area and an area for a workshop to refinish furniture.

Jeff Pallis said that he doesn't have any room in the existing barn for more animals and would like to move equipment and outdoor furniture to the new converted building. He said he would categorize it as an out building. Older farms have barns and out buildings that are not necessarily for animals.

Wes Goss asked what the time frame was for the new house to be completed.

Jeff Pallis said one year.

Joshua West said that in his experience with construction, that legally, removing the kitchen in a house makes it not a house.

Rich Larkin said that the board must collectively determine what it will accept as to the conditions for the old house to be a non-residential accessory building.

Josh West said that as a legal issue, there are certain requirements to make a house a house and that to remove those requirements would make it not a house.

Lisa O'Connell said that in her opinion having the interior look less like a house with separate rooms is important.

Bob Frye said that the engineer stated that the only requirement for making a house not a house, is removing the kitchen.

Rich Larkin asked if that alone would satisfy the Board that the old residence is not a house. The group must come to an understanding of what will satisfy the board's definition of the residence no longer being a house. Is it the façade, no kitchen, interior changes?

Alice Ekstrom said that she would like to see a detailed drawing of the completed interior. She asked if they intended on removing walls.

Aina said right now there are 3 bedrooms, a living room and kitchen, 1 ½ baths and downstairs is a drive-in garage.

Josh West said that backing things off to make it an accessory building is not an easy transition from an existing residence. He said an interior floor plan would be helpful.

Wes Goss asked if they would gut the house and remove the sheet rock to bare studs.

Jeff Pallis said that he would like to remove as little sheet rock as possible as it was built in the 50's and there might be asbestos in it.

Josh West said that it's probably plaster over lathe or gypsum rock.

Bob Frye said that they would remove some, but not all sheet rock as it would be nice to have it in the work areas. It's cleaner and easier to maintain.

Wes Goss asked if it would be beneficial to the Board and the town to have Dana Barnes inspect the progress every 60-days.

Rich Larkin said we are addressing a prohibition of the by-law and it would be better to come together now to agree on what would satisfy the Board in the end.

Lisa O'Connell asked if they should consider what would satisfy the Building Inspector.

Wes Goss asked if it was as simple as making a decision based on the definition of an accessory building according to DZBL section 20.1 – *A use or structure on the same lot*

*with, and of a nature customarily incidental and secondary to, the principal use or structure.*

Rich said that the group should come to a decision as to what should be done to the residence to satisfy the Board and come up with a list of items. When that list of items has been completed, then the requirements have been met and it is a completed project.

Jeff Pallis said that the second floor will be a workshop and that all appliances will be removed.

Bob Frye said that it is not a dwelling if there is no kitchen according to the letter from Jeff Hannaford.

Rich Larkin asked that in order to adhere to the by-law, it would not be sufficient merely to render it uninhabitable. Instead, the question is, what resulting configuration will satisfy the Board? He said that starting from scratch is different from converting a residence to a non-residence.

Bob Frye said that he could send the board a detailed drawing of the proposed converted building's interior.

Leo Tometich said that conditions could be removing the kitchen, including the appliances, cabinets, washer and dryer.

Wes Goss said that they could ask to have the interior doors be removed except for the bathroom that will remain in use.

Lisa O'Connell said that an additional condition would be that the façade of the completed conversion will substantially match the drawing that was presented to the Board of the completed project.

Josh West said that the Board needs to receive an interior floor plan of the existing house and the proposed conversion with the rooms labeled as to what they will be used for.

Wes Goss said that it should be labeled as a non-residential accessory building and not a barn.

Bob Frye said that if anyone wanted to make this accessory building a house again, it would be a lot of work to bring it up to code.

Rich Larkin said the Board should vote on its findings as to the petitioner looking to construct a new house, while living in the existing house. When the construction of the new house is complete, the existing house will be converted into a non-residential accessory building. The conversion is complete when it has been rendered as substantially shown in the drawings, that the modifications that will satisfy the Board are made and that the decision of the Board is based on these expectations. He said that a

cash security from the petitioner should be held by the Town Treasurer and in the event that the project as specified is not carried out, the town has recourse.

He said the following wording in the decision could be used:

The Board is treating this matter as an administrative appeal under section 6.1(a) of the Dunstable Zoning By-law which limits a lot to one dwelling unit.

The petitioner's intent is to construct a new house on the lot while they continue to reside in the existing house and upon completion of the new structure, the existing house will be converted into a non-residential accessory building.

It appears to be the Board's consensus position that this can be done in compliance with the by-law provided that safeguards are implemented to ensure the removal of the original house or its conversion to a non-residential accessory structure within a reasonable period of time.

The Board's decision would be based on the following conditions:

1. Within 24 hours of the receipt of the occupancy permit of the new structure, the kitchen will be removed from the existing house, including the refrigerator, stove, washer and dryer.
2. Within 180-days of the receipt of the occupancy permit of the new structure, the existing structure will be completely converted to a non-residential accessory building, including transforming the façade as substantially described in the drawings presented to the Board, removal of the kitchen cabinets and the interior doors, with the exception of the ½ bathroom that will remain in use.
3. Prior to receipt of the decision, the petitioner will submit plans of the interior of the existing house, both existing and proposed conversion including labeling the use of the different areas of the converted building.
4. Within 24-months of the date of filing the decision, the entire project of construction of the new house and the conversion of the old house will be completed.
5. The petitioner will submit a cash security of \$10, 000 (ten thousand dollars) to the Town Treasurer to be held by the town until the entire project is complete to the Board's conditions.

Alice Ekstrom motioned to vote to grant or deny the administrative appeal based on the above mentioned conditions of the decision. Josh West seconded the motion. Lisa O'Connell called the roll:

Wesley Goss – to grant  
Joshua West – to grant  
Alice Ekstrom – to grant  
Leo Tometich – to grant

Wes Goss called for Lisa O'Connell's vote:

Lisa O'Connell – to grant

The motion to grant the administrative appeal was unanimously voted by the Board according to the conditions described above.

The board heard evidence on the petition for an in-law apartment that will be constructed as part of the new residence. Wes Goss asked the following questions to which the petitioner answered:

Will there be a separate Kitchen in the apartment?

Jeff Pallis said, yes

Will there be separate interior bath/toilet facilities?

Jeff Pallis said, yes

Will the apartment have an adequate heating system?

Jeff Pallis said, yes.

Is the relation of the in-law apartment occupants to the occupants of the principle residence by blood or marriage?

Jeff Pallis said, yes. It is his mother.

Will the owner(s) of the principle residence remain the principle residents as long as the related occupants of the In-law apartment are in residence?

Jeff Pallis said, yes.

Will a separate entrance to the in-law apartment be provided from the outside?

Jeff Pallis said, yes. There will be 3 means of egress – one through the garage and two directly outside.

Will the outside appearance of the premises remain that of a single family residence?

Jeff Pallis said, yes.

The Board will receive written evidence by means of the Dunstable Board of Health of the approval and verification of the adequacy of a water supply for both drinking and sewage disposal.

Jeff Pallis said, yes.

Will all turnaround and parking areas be provided on the lot?

Jeff Pallis said, yes. He presented a drawing of the floor plan of the new residence including the In-law apartment as evidence for the record.

Alice Ekstrom motioned to vote to grant or deny the petition for an in-law apartment to the petitioner based on the evidence the Board received. Josh West seconded the motion and Lisa O'Connell called the roll:

Wesley Goss – to grant  
Joshua West – to grant  
Alice Ekstrom – to grant  
Leo Tometich – to grant

Wes Goss called for Lisa O'Connell's vote:

Lisa O'Connell – to grant

Alice Ekstrom motioned to close the hearing and adjourn the meeting. Joshua West seconded the motion and all were in favor. The meeting was adjourned at 8:35 p.m.