

2. Denial of Building Permit by Planning Commission. The Applicants requested that the Commission approve a building permit to connect their garage via a covered walkway to their house and to convert the garage to living space.

Applicants' building permit request was denied by John A. McClelland, a member of the Commission, by letter dated November 28, 2005. On behalf of the Commission, Mr. McClelland denied the permit because the Commission found that the construction of a walkway from the house to the garage violates Article VII, sections 2.113, 4.2, 7.1, and 7.2 of the Ordinances regarding single-family residences and the number of family residences permitted on a lot.

3. Scope of this Decision. Although the Commission denied both the construction of the walkway and the proposed conversion of the detached garage to a separate living facility, Applicants brought before the Board only the question of whether the walkway may be constructed between the house and the garage. The Board therefore did not consider whether the Commission erred in its determination that conversion of the garage to living space violates one or more of the Ordinances.

4. Applicable Ordinances. Article VII, section 2.113 of the Ordinances states that
Not more than one (1) detached residence shall be located on any one lot, nor shall a detached residence be located on the same lot with any other principal building.

The pertinent parts of Article VII, section 4.2, Definitions, are

Accessory Building

A building subordinate to and located on the same lot or contiguous lots under the same ownership with a main building, the use of which is incidental to that of the main building or of the land, and which is not attached by any part of a common roof to the main building.

Household

A group of persons living together, consisting of either (1) a single individual, (2) a group of persons all of whom are related by blood, marriage, or adoption, or (3) if the group does not fall into category (1) or (2) above, the group may not consist of more than five persons.

Article VII, section 7.1 of the Ordinances states, *inter alia*, that the purpose of section 7

(Residential Zones, One Family) is to

provide for the establishment and maintenance of residential areas of low to moderately low density, so as to make available the types of living environment to meet the housing needs and preferences of those present and future residents of the Town who find it desirable or expedient to live in one-family residences.

Article VII, section 7.2, Use Regulations, of the Ordinances states in part that

no building, structure or land may be used and no building or structure may be erected, structurally altered, enlarged or maintained, except for one or more of the following uses:
(a) one-family detached dwelling unit. ...
(c) buildings and uses normally accessory to permitted use. ...

[The remainder of section 7.2 lists other permitted uses as places of religious worship, signs, home occupations, parking of vehicles, and private swimming pools.]

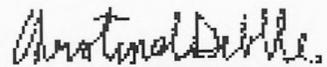
5. Household / Family. The Board finds that Applicants, who are brother and sister, together with Richard's wife and children, meet the definition of a household set forth in Article VII, section 4.2, since, as stated in clause (2) of section 4.2, they are "a group of persons all of whom are related by blood, marriage, or adoption." The Ordinances do not define "family," although they make frequent references to families. Section 7.1, for example, mentions "one-family residences" and section 7.2 includes the term "one-family detached dwelling unit." In the absence of a definition of "family" in the Ordinances, the Board finds that the Applicants, together with Richard's wife and children, are a family.

6. Application of Definition of "Accessory Building" in Section 4.2. The Board has determined that Applicants are a household as defined in section 4.2. The other definition in section 4.2 that may be pertinent to this case is the definition of "accessory building." The Board finds:

- that the garage is located on the same lot as the house;

- that both the house and the garage are owned by Applicants;
- that the garage is subordinate to the house;
- that the detached garage, whether or not it is connected to the primary dwelling structure by means of a covered walkway, and whether or not it is used by part of the Haskett family as living quarters, remains an accessory building; and
- that, reviewing the plans submitted with the application, attaching the two structures by a covered walkway will not involve creating a common roof between the two structures.

7. Granting of Permit. For the reasons stated above, the Board adopts a resolution approving Applicants' appeal and granting the permit. The permit includes improvements to the facade of the garage as depicted in the plans submitted with the application. The Board grants the permit with the understanding that the garage continues to be considered an accessory building.



Christine Dibble
Board of Zoning Appeals

Date: March 22, 2006