

SOMERSWORTH ZONING BOARD OF ADJUSTMENTS
MINUTES OF MEETING
October 7, 2020

MEMBERS PRESENT: Coty Donohue, Matt Keiser Chair, Glenn Garvin-Alternate Ken Vincent-Alternate, Keith Perkins-Alternate, and Richard Brooks

Excused Members: Brad Fredette

STAFF PRESENT: Michelle Mears, Director of Development Services, and Dana Crossley
Planning Secretary

The meeting was called to order at 7:00PM.

Chairman Keiser appointed Perkins and Garvin as a full voting member for the meeting.

1) Approval of the minutes:

Brooks stated the first two sentences of page 9 of the September 2, 2020 minutes should read "*Brooks stated he feels this is similar to past applications they have previously approved, where through lots make the back yard be a front yard. He stated in those application's they required the fence to be at least 25' to ensure streetscape.*"

Brooks **MOVED** to accept the September 2, 2020 minutes with amendments as stated.

Donohue seconded the motion.

The **MOTION CARRIED** by 5-0.

Donohue **MOVED** to accept the minutes of September 16, 2020.

Garvin seconded the motion.

The **MOTION CARRIED** by a 4-0-1 (Brooks abstained)

2) OLD BUSINESS

A) Daniel Vincent is seeking a variance from 19.6.C.1.a to expand a non-conforming use (residential two-unit dwelling) by constructing a 916sf addition to a detached, carriage-house apartment on a property located at 21 Linden Street, in the Residential Single Family/A with Historic Overlay (R1AH) District, Assessor's Map 11 Lot 118, ZBA#06-2020 PUBLIC HEARING

Daniel Vincent was in attendance to represent the application.

Brooks recused himself from this item of the agenda because he is a direct abutter. Vincent recused himself from this item of the agenda because the applicant is a family member.

Mears stated the applicant has met with staff and informed them that he is seeking additional information from the City Clerk's Office. He has requested to continue his application to the November meeting.

Keiser read into the record the applicant's request to continue his application to the November 4, 2020 ZBA meeting. He stated the applicant is seeking more information that he needs in order to present his case.

Garvin asked what information is being sought.

Keiser stated the applicant is seeking information on the ordinance and how it affects his property. He stated though when an applicant submits their application it should be a complete application, the applicant has found additional information is needed to make the presentation. He stated he feels they should allow the applicant the opportunity to present his complete case to the ZBA. He stated he thinks it is the right thing to do to grant the continuance to the November meeting.

Donohue stated he agrees.

Keiser closed the public hearing.

MOTION: Donohue stated, I move to TABLE the application of Daniel Vincent for a variance from 19.6.C.1.a to expand a non-conforming use (residential two-unit dwelling) by constructing a 916sf addition to a detached, carriage-house apartment to the November 4, 2020 Zoning Board of Adjustment meeting.

The MOTION is SECONDED by Perkins.

Discussion: Keiser stated he would request the applicant report back to Staff at the next submittal deadline to be able to know if they will be ready to present.

The MOTION CARRIES by a 4-0 roll call vote.

Dan Vincent stated State Law allows for the Board to review the application without the hardship criteria. He stated it would help him to establish his presentation if the Board would determine if they would review his case without considering the hardship criteria. He stated this would be under the handicap provision. He stated the Board has an opportunity under the ADA forgiveness and State Law, applying for a variance under a handicap issue to not apply the hardship criteria to grant the variance. He stated he is asking the Board to give him that answer tonight to be able to present his request. He stated if he has to prove the hardship he would need an attorney.

Keiser stated the case would need to be presented and then the Board would make a decision.

There was a brief discussion on the handicap exception.

Keiser stated at this time the Board does not have enough information to make that determination.

Keiser requested that Mears provide the ADA allowances for the next meeting.

Brooks and Ken Vincent returned to the Board.

No other old business.

3) NEW BUSINESS

A) Dayle Crocker, is seeking a special exception to allow a Personal Service Establishment (hair salon) on a property located at 105 High Street, in the Residential/Business with Historic Overlay (R/BH) District, Assessor's Map 11 Lot 35, ZBA#09-2020 PUBLIC HEARING

Keiser opened the public hearing at 7:14 PM.

Mears stated the applicant is seeking a special exception to allow a Personal Service Establishment, specifically a Hair Salon. The applicant proposes to have additional employees on site. The applicant would be allowed to operate a hair salon as a home occupation if she were the only person engaged in the activity; adding any other employees triggers the need for special exception approval.

Mears noted that if the special exception is granted the applicant will need to receive site plan approval.

Keiser inquired why the previous hair salon that operated at this site did not need a special exception.

Mears stated the previous approval was for a home occupation which only allows the homeowner to operate the business. She stated this would be an expansion of the use to be a personal service establishment rather than home occupation. This allows the hair salon to have employees.

Vincent asked where there is going to be a business of the same type, in the same spot, if the special exception is not approved would they be able to seek variance.

Keiser stated they currently have a home occupation permit to operate a hair salon, they can run that business right now with only the home owner working there. He stated the special exception will allow them to have additional employees.

Brooks asked if it would matter if it was an independent contractor renting a booth space opposed to an hourly waged person.

Mears stated no.

Keiser stated a special exception goes with the land.

Judith Turgeon of 51 Myrtle St was in attendance to represent Dayle Crocker. Turgeon stated Crocker has lived in Somersworth all her life, loves Somersworth and wants to bring more people here. She stated the previous owners, a husband and wife, that operated a hair salon at 105 High Street also had booth renters. She stated there were booth renter signs in front of the house and was unaware that additional approval was required. She stated Crocker is seeking to have a couple of workers in there with her.

Turgeon stated Crocker is looking to work as the previous owner did. She stated they are not changing anything with the footprint or parking. She stated she has adequate parking and would not affect nearby properties since it has not changed in any way. She stated the current business model would not change.

Keiser asked for public comment.

No public comment.

Keiser asked how many booths are there.

Turgeon stated 3.

Keiser asked how many employees they would have.

Turgeon stated it would be Crocker and 2 employees.

Keiser asked how many parking spaces there are on site.

Turgeon stated about 6-8.

Keiser stated the current environment of the neighborhood is that there is a Verizon business across the street and other businesses in the area.

Brooks stated he has been in the business before. He noted the entry way was from the parking area in the back, right into the salon and there was one more room that was a stock room. He asked if there would be any expansion inside the house.

Turgeon stated it will be the salon area and the area that had been storage, which is in the salon now.

Vincent noted there are other businesses that surround this property. He stated there is small business traffic already existing.

Turgeon stated historically it had been a doctor's office as well.

Donohue asked if the booths were pre-existing.

Turgeon stated they were there and at one time there were 4 booths.

Donohue inquired if the applicant plans to expand.

Turgeon stated Crocker only wants to have 2 renters along with herself in the business.

Keiser closed the public hearing.

Board Discussion:

Garvin asked how often the Board sees a Special Exception.

Keiser stated they are not common. He explained the difference between a special exception and a variance.

Garvin noted it sounds like the previous business was operating at a higher capacity than what was allowed.

Keiser stated yes, it is believed the previous owner of the business was operating at a level more than what is permitted for a home occupation.

Brooks stated in review of the 7 criteria he does not see anything that makes him feel it is contrary to any of the criteria. He stated a hair salon business has always been operating at this site for as long as he has lived in Somersworth. He stated at the time that he had gone into the business there was certainly more than just the owners working there. He stated the business has not been a nuisance that he has witnessed over the years.

Garvin asked if they control how big the business is allowed to be.

Keiser stated this Board can grant the use and the site plan review process can provide restrictions.

There was a brief discussion of the site plan review process.

Vincent stated he feels this request should be granted. He stated the use will remain as a hair salon. He stated the parking is adequate on site and there is some street parking near. He stated he does not think there will be any bearing on the abutters.

Brooks stated he would agree with Vincent's comments. He stated it is a continuation of a business that has been operating and keep people coming downtown. He noted that this property is within the special parking overlay district and there would not be parking stipulations for the property. He stated the property does have adequate onsite parking. He stated he is in support of this request.

Keiser stated he is also in support of this request. He stated he feels it meets the 7 criteria for a special exception.

Donohue stated he agrees. He noted there has been a very similar business operating there for years. He stated it keeps in the character of the neighborhood, especially since it is continuing as what most people know as a hair salon and there are surrounding businesses. He stated it is within the Residential Business district and Historic District, but stays in line with those districts. He stated the additional employees could add some traffic but it sounds like they were already operating at this capacity. He stated he does not think it will add any burden to the City in regards to the utilities. He stated there are many uses allowed by right in that zone that would add more of a burden. He stated in that context it makes sense to approve this.

MOTION: Donohue stated, after review of the application, the file and all the information presented to the Board, I feel that all conditions have been satisfied because of reasons cited in application and discussion and I move that the request of Dayle Crocker for a special exception to allow a Personal Services Establishment, Hair salon, **be GRANTED.**

The MOTION is SECONDED by Brooks.

The MOTION CARRIES by 5-0.

B) Any other new business that may come before the Board.

Mears stated in time since Shanna Saunders left Somersworth, the Planning Secretary has been picking up a lot of extra work and doing a wonderful job. She stated she is thoroughly impressed with the Staff.

Brooks **MOVED** to **ADJOURN** the meeting. Garvin seconded the Motion. The **MOTION CARRIED** 5-0 by a roll call vote and the meeting **ADJOURNED** at 7:36 PM.

Respectfully Submitted,

Dana Crossley, Planning Secretary