

SOMERSWORTH ZONING BOARD OF ADJUSTMENTS
MINUTES OF MEETING
July 7, 2021

MEMBERS PRESENT: Matt Keiser Chair, Brad Fredette, Richard Brooks, Keith Perkins, Glenn Garvin-Alternate

EXCUSED MEMBERS: Kenneth Vincent

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

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

Keiser appointed Garvin as a full voting member.

1) Approval of the minutes:

Brooks **MOVED** to accept the June 2, 2021 minutes as presented.

Fredette seconded the motion.

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

2) OLD BUSINESS

A) Any old business that may come before the Board. - NO other old business.

3) NEW BUSINESS

A) **Joaquin R. German is seeking a variance from Table 4.A.1, footnote 2 to allow 100% residential on the first floor with on-site parking on a property located at 247 Main Street, in the Business (B) District, Assessor's Map 09 Lot 228, ZBA#08-2021 PUBLIC HEARING**

Keiser opened the public hearing at 7:03 PM.

Mears stated the applicant is seeking a variance Applicant is requesting a variance from Table 4.A.1 footnote 2, to allow the property to be 100 % residential within the Business zone. The applicant is requesting to have a four unit multi-family residential building with 100% first floor residential and on-site sparking. The applicant is proposing to have on-site parking with a three car garage constructed on the ground floors on and have up to five parking spaces on back side of the lot. The total required parking spaces for the site is eight spaces. This lot is currently a vacant lot. This use requires Site Plan approval from the Planning Board. She noted the property has received the following approvals from the Zoning Board:

- A variance in 2018 to construct a new structure that would have 25% commercial on the first-floor front of the building and 75% residential ZBA case #05-2018.
- A variance from Table 4.A.1 footnote 2 to allow for 100% residential on the first floor (the first level shall be parking for the accessory to residential use) in 2019 ZBA case #17-2019.

Garvin inquired the difference in this request from the 2019 request.

There was a brief discussion of the request tonight and the 2019 request.

Attorney Brian Barrington and property owner **Joaquin German** were in attendance to represent the application.

Barrington stated when they first came before the Board they had not gone to an architect to determine how they would build a structure on the lot. He stated the use variance has been granted but the current proposal has a very different first floor than what was approved in 2019 and therefore are seeking relief again. He stated it is an amended plan but there is not a clear procedure for an amended variance. He stated they are asking for a re-issuance of a variance, all of the criteria found before still apply. He stated they are seeking to have a residential use on the first floor and the other half of the first floor to be a garage. He stated there is already parking in the area for Somersworth Housing Authority and there are multifamily structures surrounding this lot. He stated it would fall into the nature of surrounding properties. The variance would not diminish surrounding property values and is not contrary to the public interest. He stated the public interest should acknowledge that there is no commercial office use in the surrounding area and is almost a pure residential area. There are empty commercial buildings in the area showing that commercial is not conducive to the area. He stated there is a hardship in that there is no way to rent the building for commercial use. The proposed use is reasonable because at least half of the first floor will have parking rather than all living space. Substantial justice would be done because it would be in keeping with the prior finding. He stated it is not contrary to the spirit of the ordinance because the only contrary thing would be to change the zoning but that would not necessarily solve the problem.

German stated there will be 5 parking spaces and 3 garage building spaces. The residential units are going to be about a 1000 SF and 2 bedrooms. He stated it will fit in with the neighborhood, this is the only vacant lot and is surrounded by residential units.

Keiser opened for public comment.

No public comment received.

Keiser clarified front of the lot is not very wide and therefore not conducive to someone driving by and seeing a business in the building.

German stated it is not, the lot is located at the corner of Summer Street and Main Street. He noted Summer is a small one way narrow street and there is no place for notoriety for a business to be located.

Fredette asked if the plan from 2019 was 4 units as well.

German stated yes, but at that time did not know how many units could be fit on the lot until the drawings were done.

Fredette stated with the removal of some of the parking from the first level that allows for an additional unit.

German explained the lot is not very wide and the building has to be three levels on the wider area, there will be one unit on the first floor, two units on the second and one on the third. The second floor would cover the residential and garage area.

Fredette stated the goal is to use part of the area that was previously approved as a garage as residential space.

Barrington stated this application would not increase the number of units proposed.

Keiser asked if the Planning Board would have jurisdiction on the number of units.

Mears stated yes.

Keiser closed the public hearing at 7:18PM.

Garvin stated he reviewed the site, there are no businesses in the surrounding areas. He stated he understands what the zoning is requiring but on Main Street around the end of GE/Auto Store it changes to a residential area. He stated he is in full support of this request. He stated he believes it would be good for the area.

Keiser noted that the Planning Board has been reviewing the zoning in that area, as recommended by the ZBA, it has slowed down due to COVID though.

Brooks stated he recalls when this applicant was before them in 2019 there was a long discussion of the feasibility of this being a commercial zone. He stated there have been many other requests for this area for the same relief. He noted there has not been many new businesses in this area as the zoning would like to see and it is clear there is no demand for commercial businesses in this corridor those that are there have been there for a long time. He stated there have not been any new businesses opening and it is almost as if the zoning is the hardship requiring commercial on the first floor on this entire strip. He stated he is in favor of this request, well justified.

Fredette stated he also agrees. He stated the uniqueness, even there was a business looking to develop, this is a small lot and does not think they could get a full commercial development. He stated there are several big residential buildings in this area. Thinks this is a reasonable request.

Keiser stated surrounding property values would not be affected if a new building was to be built. He stated it would not be contrary to public interest because there is nothing that would be negative to put a residential unit on the first floor there is very few commercial. To take this property and develop it as commercial, small lot, small frontage, no foot traffic, unique property where it used to have a house that burnt. Unique and creates a hardship. Substantial justice would be done by allowing them to develop the project. He stated the spirit is maintained because this project would not change the nature of this neighborhood.

MOTION: Brooks stated, after review of the application, the file and all the information presented to the Board, I feel that all five criteria have been satisfied and I move that the request of Joaquin R. German for a variance from Table 4.A.1, footnote 2 to allow 100% residential on the first floor with on-site parking on a property located at 247 Main Street **be GRANTED.**

The MOTION is SECONDED by Garvin.

The MOTION CARRIES by a 5-0 vote.

B) Election of Officers

Fredette MOTION to appoint Keiser as the ZBA Chair.

The MOTION is SECONDED by Garvin.

The MOTION CARRIES by a 5-0 vote.

Fredette MOTION to appoint Brooks as ZBA Vice Chair.

The MOTION is SECONDED by Garvin.

The MOTION CARRIES by a 5-0 vote.

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

Mears stated that a Motion for Rehearing has been received. The Board will need to hold a special meeting to make a decision on that request.

The Board determined they would hold a special meeting on Thursday July 22.

Fredette **MOVED** to **ADJOURN** the meeting.

Brooks seconded the Motion.

The **MOTION CARRIED** 5-0 at 7:30 PM.

Respectfully Submitted,

Dana Crossley, Planning Secretary