

SOMERSWORTH ZONING BOARD OF ADJUSTMENTS
MINUTES OF MEETING
February 2, 2022

MEMBERS PRESENT: Matt Keiser Chair, Richard Brooks, Keith Perkins, Kenneth Vincent, Ken Hilton - Alternate

EXCUSED MEMBERS: Brad Fredette and Glenn Garvin-Alternate

STAFF PRESENT: Michelle Mears, Director of Development Services, and Cyndi Harris – Building/Assessing Clerk

The meeting was called to order at 7:03PM.

Keiser appointed Hilton as a full voting member for the meeting.

1) Approval of the minutes:

Brooks **MOVED** to accept the January 5, and January 13, 2022 meeting minutes as presented.

Vincent seconded the motion.

The **MOTION CARRIED** 5-0.

2) OLD BUSINESS

A) CONTINUED: Brian Rodonets of Coastal Architects is seeking a variance from Table 4.A.1 and Table 5.A.1 to allow multifamily use and variance relief from the 150' frontage requirement on a property located at 271 High Street, in the Residential Duplex (R2) District, Assessor's Map 15 Lot 16A, ZBA#15-2021 **PUBLIC HEARING**

Mears stated the applicant, Brian Rodonets of Coastal Architects, submitted a letter requesting with withdraw the application. She noted at this point the party the applicant was representing may be submitting a new application.

Keiser noted as the applicant withdrew the application there is no further action required by the Board for this item.

B) CONTINUED: James Weisheit, is seeking a variance from Table 5.A.1 to convert an existing 3-unit to a 4-unit multifamily without the required frontage or lot size on a property located at 1 Silver Street, in the Residential Multifamily (R3) District, Assessor's Map 10 Lot 78, ZBA#16-2021 **PUBLIC HEARING**

Keiser opened the public hearing. He noted that this is a continued item, all testimony from the previous meeting is part of the record, does not need to be repeated but if desired to be emphasized that is allowed.

Mears provided review of the staff memo outlining the request.

James Weisheit, 154 Summer St. Kennenbunk ME was in attendance to represent the application.

Weisheit stated he provided additional information, he reviewed the neighborhood considering the average sizes of units. His unit sizes are on average 1,400 SF which are much larger than surrounding units in the area, expect to cost him more in maintenance due to more tenants in each unit. Rent would be a higher price

point and therefore finding quality tenants would be more difficult especially since the ordinance restricts no more than 3 unrelated adults in a unit. Expects finding quite tenants with a larger unit would be difficult and leading to noise and conflict with other tenants increasing turnover. Noted the existing tenant of 20 years would likely be displaced if required to remain a 3 unit. Stated he could not find another multi-unit that met the zoning requirements in the neighborhood. Researched the rental costs, renting this as 3-unit would be more difficult to find tenants. The multi-units in the area, 10-36 has an average of 473 SF per unit, 10-39 1,016 SF per unit and 10-40 has 1,134 SF per unit, and 10-98 has 1,092 SF per unit and he has 1456 SF per unit. If converted from 3-unit to a 4-unit would be still within the same size range as the surrounding properties. Stated he does not see any changes to the appearance in the building, no changes to the neighborhood values, strict enforcement of the ordinance would make it difficult for him to find tenants and deal with tenant conflicts. Appreciates that large families need places to rent, the way this building is set up does not see it as a good option to have lots of people in it.

Keiser noted there is no public in attendance for public comment and no comments have been received.

Keiser stated one of the criteria that must be met is something unique about the property, special condition, of the property that distinguish it from others in the area, can the applicant elaborate on the special conditions of the property.

Weisheit stated to him it is the SF per unit, it is an average of 1,456 SF/unit compared to the other rentals in the surrounding area. Just having that large space is going to harder and more expensive to rent. To him that is the uniqueness is the size of the property.

Keiser inquired if there is anything that would counter measure the fact the SF of the overall property is too small, seeking for a variance due to the fact that the lot is smaller, uniqueness of the property that even though it is smaller than what is required in the Zoning would make granting the variance ok.

Weisheit stated parking is an issue for properties in the area but he would be able to accommodate parking on site with a turnaround area. It would be an upgrade over other units.

Brooks inquired if this is his only rental property. If one, does it have similar sized units.

Weisheit stated he has another rental property in Dover, that is mostly 2 bedroom apartments, about 1,000 SF, 4-unit building. Does not have a similarly large unit.

Brooks stated the finished area is described as 43,000+ SF and then property itself is 14,505 SF, even though the building is larger than surrounding buildings the property is also slightly larger.

Weisheit stated yes.

Keiser closed the public hearing.

Vincent stated in consideration of SF that restricts the applicant, understands the Ordinance is the Ordinance but the neighborhood has changed from single family to multi-family, the area has changed but the Ordinance has not. Would be nice to know the reason to why ordinance changes were made. Noted he has a tough time enforcing some of these ordinances, applicant comes before them with a building that is not configured right, has enough parking, wants to make a small change but not having enough lot size SF is before them. Stated he is in support of this request.

Brooks stated he feels he is of the same opinion from that last meeting, understands Vincent's points, but this property already has more units than what is allowed by Ordinance and is grandfathered to continue with the 3-units, as he expects most of the surrounding properties are as well. Does not see the hardship part of this request, it may make sense but lacks the hardship. Stated he would not be voting in favor.

Perkins stated he is in support of the application, the hardship item in question is addressed by having the 4 bedroom unit, the Ordinance restricts that not more than 3 unrelated adults can live in a unit, eliminates a lot of potential renters making it more difficult to rent. As far as size, would be losing a bedroom with this

conversion. Noted the area being noted to convert to parking, looks like a garage or shed located on site, suggested a condition of approval to require that.

Keiser noted that parking requirements would be addressed through the Planning Board process.

Mears noted this application would be required to receive site plan approval if approved here.

Keiser stated the Zoning Ordinance has separate districts like the R1A or R2A that allow for smaller lot sizes but that is not the case for this district, in review of the information provided by the applicant, discuss the size of the building being unique but having a hard time relate the size of the building to size of the hardship fact for the land itself is not large enough to support a 4-unit building or that the frontage is too small, size of building did not seem to relate to that. This property is already a non-conforming property not meeting lot size or frontage requirements. This is a non-conforming structure because of the area restrictions, and noted the Ordinance states: 19.6.B.1.a. No such non-conforming structure may be enlarged or altered in any way which would increase its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity. Stated he understands the applicant is not trying to enlarge the structure but the SF requirements for a 3-unit is not met and now seeking to enlarge to a 4-unit in his opinion would make it more of a non-conformity and cannot support this variance request.

Vincent stated to pinpoint every building in that area not sure any of them would conform. Important to consider that there is no abutters in attendance speaking against this request, all properties are rental units and multi-unit buildings, possibly only one single family house in that area. Understands the requirements but there are variables in this.

Hilton stated he was in support.

MOTION: Perkins 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 as discussed, and I move that the request of James Weisheit for a variance from Table 5.A.1 to convert an existing 3-unit to a 4-unit multifamily without the required frontage or lot size on a property located at 1 Silver Street be **APPROVED**.

The MOTION is SECONDED by Vincent. The MOTION CARRIES 3-2.

C) Any old business that may come before the Board. - No other old business.

3) NEW BUSINESS

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

No other new business.

Brooks **MOVED** to **ADJOURN** the meeting.

Perkins seconded the Motion.

The **MOTION CARRIED** 5-0 7:34PM.

Respectfully Submitted,
Dana Crossley, Planning Secretary