

SOMERSWORTH ZONING BOARD OF ADJUSTMENTS
MINUTES OF MEETING
April 6 2022

MEMBERS PRESENT: Richard Brooks, Keith Perkins, Ken Hilton – Alternate, Brad Fredette, Matt Keiser Chair

EXCUSED MEMBERS: Anthony Jones and 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 Hilton as a voting member.

1) Approval of the minutes:

Hilton **MOVED** to accept the March 2, 2022 as presented.

Brooks seconded the motion.

The **MOTION CARRIED** 4-0-1 (Keiser abstained)

2) OLD BUSINESS

- A) Mears stated included in the Board's packet is information regarding Regional Impact. The Board would vote to determine if the application has potential for regional impact, meaning the proposal before the local land use board which in determination of such local land use board could reasonably be excepted to impact on a neighboring municipality because of factors such as, but not limited to, the following:
- Relative size or number of dwelling units as compared to existing stock;
 - Proximity to the borders of a neighboring community;
 - Transportation networks;
 - Anticipated emissions such as light, noise, smoke, odors or particles,
 - Proximity to aquifers or surface waters which transcend municipal boundaries;
 - Shared facilities such as schools and solid waste disposal facilities;

Keiser stated as a process, this can be brought up at any time by a Board member, but will vote prior to taking action on an item.

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

3) NEW BUSINESS

- A) **Richard Gurney & Carrie MacNeil are seeking a Variance from Table 5.A.1 to allow a 20' x 14' shed within the side and rear setbacks on a property located at 19 Rowland Street, in the Residential Single Family (R1) District, Assessor's Map 21 Lot 52, ZBA#03-2022 PUBLIC HEARING**

Keiser opened the public hearing.

Mears stated the applicant is seeking to construct a 20' by 14' (280 SF) shed within the side and rear setbacks of the property. The property owner is proposing the shed be located 7 ft off the rear property line whereas

30 ft is required and 4 ft off the side setback whereas 10 ft is required. The shed is larger than 120 SF and therefore must meet setback requirements.

Jodi Carnes was in attendance to represent the application on behalf of the property owner.

Carnes stated there is an existing shed in the location, property is in older development, bringing in a pre-fab shed. This would be to store snowmobile, lawnmower, etc. Would not need a variance if the shed was placed in the middle of the property but the aesthetics would not look great in the neighborhood. Have an ok from all of their abutting neighbors. This shed would fit better with neighborhood aesthetics to have it located in the corner. Neighborhood is trying to make things look nice and tidy. This variance would allow it to fit dynamics of neighborhood.

Keiser opened for public comment:

John Tripp 17 Rowland St: resides next door to applicant, agrees with the statements made. To locate the shed in the middle of the lawn would not look good, much better look to have it located in the corner. They have small yards, and he would also like to do the same thing at his property. Agrees with the request.

Hilton inquired the size of the existing shed.

Carnes stated 8'x10'.

Hilton asked how close it is to the property lines.

Carnes stated she did not have that information.

Keiser inquired if the new shed would replace existing shed.

Carnes stated yes.

Keiser asked if the applicant knew why such a large shed was needed, it is similar to a garage size.

Carnes stated it is not a garage size, snow blower, four-wheeler, lawn mower, wheelbarrow and rakes that without a shed would be in the yard. If all of those things are in the back yard, snowblower, four-wheeler, motorcycle, it would look messy, trying to improve property.

Keiser asked what made the property unique, special characteristics that create hardship.

Carnes stated the historical value of the property. This is an old neighborhood, that has been revitalizing itself. She stated It would not have been a neighborhood now by today's standards, the grandfathering of these neighborhoods would be helpful to all of the residents in this area. To locate the shed in the middle of the yard would not allow them to have their garden, the play space for children, the swing set, it would be just a giant shed they would have to mow around. Everyone has a fence line and everyone signed off on it.

Hilton inquired when the 30' setback requirement come into effect.

Carnes stated to meet the 30' setback requirement it would be in the front yard. Thanked the Board for their time and consideration.

Keiser closed the public hearing.

Regional Impact MOTION: Brooks stated I move that the request Richard Gurney & Carrie MacNeil variance from Table 5.A.1 to allow a 20' x 14' shed within the side and rear setbacks **DOES NOT HAVE POTENTIAL FOR REGIONAL IMPACT.**

The MOTION is SECONDED by Fredette. The MOTION CARRIES 5-0.

Fredette stated he understood the challenges of a small lot and respects what the applicant is trying to do. He does not feel it meets the hardship criteria. If the Board was to grant this variance for this shed it will result in a domino effect. Stated a better course would be for changing the zoning ordinance. If applicant wanted to

replace the existing shed in kind correct. There is nothing unique of this lot, there are a lot of lots in Somersworth that are under a quarter of an acre.

Mears stated sheds that are 120 SF or smaller it does not have to meet setback requirements.

Hilton asked when the 30' setback requirement was established.

Mears the dimensional regulations have been in effect for a long time, does not have the exact time frame that this was established.

Keiser stated he believes the houses meet the zoning requirements.

Hilton clarified the sheds have to be under 120SF to be put on the property line. Asked if they could put 3 sheds that are 120 SF each.

Mears stated she did not believe that was the intent of the ordinance.

Brooks stated he agrees with Fredette's comments, this request for a 14' x 20' shed is about the size of a one car garage. Have to lean towards the ordinance, this does not comply and needs a variance, but does not see the hardship criteria being met. Noted developments try to get as many lots in as possible and then lead to this.

Perkins stated though he does not like the ordinance, does not see the hardship criteria being met for this request and would not be voting in favor.

Keiser noted that the Board has brought up that the request does not meet the hardship criteria, is there any others not satisfied.

Fredette stated based on Brooks' comments think it is contrary to the spirit of the ordinance, as they ordinance permits for smaller sheds to be closer to the property lines and this would not fall into that category.

Hilton stated he finds it hard when someone wants to better their property, if someone comes to the Board like to try to work with them but understand the variances have criteria to be met, does challenge them as a Board to look at the zoning ordinance to see if it should be adjusted. This is something that limits the community from improving itself.

Brooks stated he appreciates Hilton's comments. Zoning is established to prevent things such as over crowding and over use of the property. His interpretation of the ordinance does not restrict how many sheds can be on the property.

MOTION: Brooks stated after review of the application, the file and all the information presented to the Board, I feel that the hardship and spirit of the ordinance criteria's of the five criteria have **NOT** been satisfied and I move that the request of Richard Gurney & Carrie MacNeil variance from Table 5.A.1 to allow a 20' x 14' shed within the side and rear setbacks **be DENIED**.

The MOTION is SECONDED by Perkins. The MOTION CARRIES 5-0.

B) Bruton & Berube, PLLC on behalf of Keep It Simple House NH, LLC is seeking a Special Exception per Table 4.A.5 to allow a Boarding House at a property located at 187-191 High Street, in the Residential/Duplex (R2) District, Assessor's Map 14 Lot 55, ZBA#04-2022 PUBLIC HEARING

Keiser opened the public hearing.

Mears stated the applicant is seeking Special Exception to allow for a Boarding House. This property is approx. .779 acres and currently has a 3 unit multifamily in the R2 District. There is currently a total of 14 rooms- 7

total bedrooms, 3 total bathrooms per Assessing records. The applicant has responded to the special exception criteria though staff has a number of questions outstanding.

Mears reviewed the following outstanding questions outlined in the staff memo:

1. How the use is a boarding house is a dwelling, not a commercial establishment.
2. Please explain how 187 High Street, located in the R2 use is a Boarding House compared to a Group Care Facility.
3. Is there on-site treatment, therapy, or social services?
4. 19.4.B.4.b. Criteria #2: Will the proposal change the character of the neighborhood? The applicant should provide detailed information about how many residents will be living on the site, typical stay (by week or month) as defined by Boarding House? Meals may be offered as part of the boarding service.
5. 19.4.B.4.c.- Criteria #3: The applicant should explain the operational matters such as trash and parking so the City knows what is proposed. Is a dumpster proposed? Are the utilities up to standard? Have the plumbing systems been inspected? This use may require site improvements which include delineated parking and current parking configuration. Does this use require special Fire safety consideration.
6. 19.4.B.4.d. Criteria #4: How will the applicant regulate that their tenants won't affect neighbors? Is smoking allowed on site? Will there be designated smoking areas? There should be no outdoor storage, etc....? The applicant provides additional buffering such as fencing and vegetated buffer this property is located in between single family residential and duplexes.
7. 19.4.B.4.e. Criteria #5: Is there adequate pedestrian connectivity? How will residents of the Boarding House access the site. Is there adequate sidewalks for foot traffic? Often times sober houses have residents without cars/licenses. Are there sidewalks from here to wherever? How many times per day will residences be picked up and dropped off by Ubers/friends/family? If there are 7 people living here, will that equate to dozens of vehicles trips each day? Please elaborate on the trips per day.
8. 19.4.B.4.f. Criteria #6 The applicant will need to provide the number of residents proposed in this boarding house. This use may require a sewer impact fee. The applicant will need to check with the Utility Billing Clerk regarding water/sewer demands.
9. 19.4.B.4.g. Criteria #7: Please explain what happens if residents do not stay sober? Please explain the security that is proposed on the site.

Mears stated she has spoken with the applicant's representative and does feel that as described the use is a Boarding House.

Keiser noted that the Director is the one who makes the determination of use, if it is a Boarding House or Group Care Facility, if Boarding House it is a Special Exception but Group Care requires a variance, she thinks she has received enough information to make the determination but the applicant will present additional information to allow for everyone to confirm it is the Boarding House use.

Attorney Lanzetta of Bruton and Berube was in attendance to representing Keep it Simple House NH LLC and the application. Also in attendance Christopher Foster, VP of Operations and Kevin Assad Director of Housing.

Lanzetta reviewed the property. Currently existing is a 3 unit building, proposing to have 14 residents across three units, 2 people per bedroom, could have three families at this property currently that would have a greater impact. Went through a slide show presentation that reviewed, the location, lot and surroundings, curb cut and site lines. Stated none of the residents would have a vehicle at the property, the traffic would be only the pick up and drop offs or staff. There are no treatments provided at this site, no medical or counseling services. It is a residential use, boarding house for people trying to remain sober as a stepping stone to make to back to normal. There is a sidewalk on one side of the road and larger shoulder on the other, providing pedestrian connectivity.

Lanzetta stated they have substantially addressed the SE criteria in the application. Has discussed the questions with Director Mears. Reiterated that this is a boarding house for sober living and impact as residential structure is no greater than current impact of the existing three unit. For criteria 4, each tenant is required to sign a good neighbor policy the Director of the house is required to introduce themselves to all surrounding neighbors for direct line of communication with the house. No other than positive aesthetic impact to the structure. There is no proposal to add to the property, smoking is permitted and discussed possible having a small fenced in smoking area. Normal duration of stay is a month to two months. Criteria #5 regarding pedestrian connectivity, there is a sidewalk and road shoulder adjacent to this property, not proposing to alter curb cut. For sewers, the applicant is happy to work with the City for any impact and for trash pick up requirements, can install a dumpster if necessary. There is zero tolerance for non-sobriety at this property, if the resident is unable to stay sober, for any of those who cannot stay sober they would attempt to relocate them to a care facility or be asked to leave.

Lanzetta stated the parking configuration would stay the same, anticipate four cars at most, that would be for staff. There would be security cameras on site and staff on site to monitor. The lot is wooded and screened from the surrounding properties; they intend to have a professional property maintenance company to maintain the grounds. Feels the site plan review is relatively aggressive for the property as they are not going outside of the structure and not changing the amount of people in the building, almost like for like, proposing the people would not be related and living there to try to stay sober.

Keiser opened for public comment.

Jodi Carnes of Rollinsford & Rollinsford Welfare Officer, stated if they are kicked out they would be attending the City's Welfare Office.

Nick Couturier of Dover, Board of Directors of Hope on Haven Hill: stated Hope on Haven Hill has similar housing throughout Seacoast for just women, properties they have, have had no issues and great asset for those people.

Fredette asked who owned the property.

Lanzetta stated currently IPPI but the applicant has a purchase and sales agreement. It is member managed.

Fredette inquired the percentage of boarders that remain sober.

Foster explained the different ways results are measured. He stated about 89% complete care. Hard to keep track once they leave the facility though.

There was a brief discussion of recovery success.

Fredette stated he is concerned that people that are kicked out would end up on the street, without a car and would produce risk for neighborhood and neighbors.

Foster stated if there is a re-occurrence while a resident is in the house, they have resources within the community to utilize, their organization owns a treatment facility (detox) in event of re-occurrence at the house, the Director would be notified and the resident would have option to go into another facility. Typically, people leave them prior to relapse. They do their best not push the boarders onto the street.

Fredette asked for additional information to how this use is a boarding house. What is the care or oversight plan, what services available in the house and oversight on site.

Foster stated residents in this home do not receive medical or clinical care in this residence. It is mandatory that they seek outside counseling, several outpatient centers in the greater area of Somersworth. Regarding monitoring, they have cameras throughout the property for safety to all. The Director of Housing oversees the boarding houses and sober houses, have monitoring staff that is present during the evening (3-11 and 11-7). In some cases, have live in manager but would not have that for this facility due to the size.

Fredette inquired how many bedrooms on site.

Foster stated 7 bedrooms, two 2-bedrooms and one 3 bedroom.

Keiser inquired how they would monitor the three units. Any walls being taken down.

Foster stated no, they would be supervising, the tenants would be living on their own primarily. There are not 'que checks' where they have to be seen every hour. Staff is ensuring the tenants are working the steps and other parts of recovery.

Brooks inquired if the three units would remain separate (roommates in each unit) or remodel for one kitchen. Foster stated no remodel. They like the three units because it gives the tenants a step towards normal living again. Two individuals to a bedroom.

Brooks clarified there would be 3 units with 3-6 tenants.

Foster stated yes, 14 residents if they were full. But they average about 85-90% full.

Brooks asked for more information regarding cars.

Foster stated they can have a car if they are with them over 3 months, but they are not typically with them that long. Does not foresee tenants having any vehicle.

Keiser inquired how many cars can fit in the parking lot.

Foster stated about 6 cars.

Keiser asked if there would be an issue for internal traffic flow. For pick up and drop off.

Foster stated no, there is plenty of line of sight and would not back out onto High St.

Fredette asked if this is a change of use.

Mears stated yes.

Fredette asked if it would be reviewed for life safety codes.

Mears stated that would be at the building permit (CO) level of review. Site Plan reviews the exterior of the building for items such as parking and landscaping, etc.

Brooks inquired how someone becomes a resident of this facility.

Foster explained the ways to get into their system of care. This is not a detox or residential care facility, tenants are 30-60 days sober by the time they would get to this facility.

Brooks inquired if they are responsible to pay rent.

Foster stated yes.

Fredette stated he is struggling with the use. Inquired if this is State funded or privately.

Lanzetta asked for clarification on the genesis of the question, unsure how it applies to the SE criteria. In NH, when applicants comply with all criteria it is a mandatory approval and feel they have done that.

Fredette stated his understanding was in order for this to be qualified as a SE the Board has to conclude it is a Boarding House and not a Care Facility. He stated he feels this is a residential care facility, trying to be persuaded otherwise that it is a boarding house.

Foster stated in NH there are certain regulations for certain facilities. They do not offer clinical or residential services, not funded by grants like a group home. They are helping individuals get the help they need to get back into society.

Lanzetta stated the individuals are living individually but with a roommate. The definition in the ordinance says group family household, this does not rise to the level of that. People are living individually, which is part of the boarding house definition, this is not a commercial use, it is a residential use in residential zone. This is a boarding house under the City's ordinance. Living, working, cooking, seeking treatment individually.

Brooks clarified the applicant did not feel they fell into the group family household.

Lanzetta read the definition into the record of group family household: *A group of individuals not related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single household unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.* Have people not related by blood, married or adoption, but these people are not living as one household, living separately. There

is not common household management plan. These people are individually seeking stability but it is determined individually. This is not a family or group, living as roommates and all attempting to live sober lifestyle.

Fredette stated he wanted to go back to the definition and the single dwelling unit aspect. Existing is a 3-unit apartment building, with 3 individual dwelling units, there has to be some agreement with the people living there they would do common household things in order for it to function. To him it seems like they would have people as roommates in apartments with some agreement to cohabitate.

Lanzetta stated no. Not related in any capacity, not a family function, living there as residents, not a group family household. If the City wanted to define a sober living household they could, but this is a boarding house.

Hilton clarified there is three kitchens and three bathrooms.

Lanzetta stated yes.

Keiser inquired where the individuals would be receiving services from.

Foster stated there are several facilities located in Dover, Portsmouth, Somersworth and Rochester. If there was a relapse there are services at Wentworth Douglass.

Fredette inquired the average length of stay.

Foster stated it differs for each resident, could be about one to two months, average of about 60 days.

Fredette asked for more information on the car aspect.

Foster explained they would be coming from a detox facility where they have nothing, then here they would assist them in getting back to normal, often they cannot afford a car, utilize the recovery community.

Lanzetta stated the residents for this proposed facility are not criminals, they are family friends, people of the community. These facilities are important and they have met the SE criteria. Request the Board grant this request based on the criteria. Not affecting the timbre of the neighborhood or increasing effect of residential use, numbers are apples to apples, slightly different use.

Keiser closed the public hearing.

Keiser stated he feels it could have regional impact due to the impact of surrounding communities and the services they would receive in other communities.

Fredette stated the hospital that would be utilized is in Dover.

Perkins stated he does not think it would be regional impact based on the definition. It would not impact the surrounding municipalities just private businesses.

Mears stated she agreed with Perkins statement, it would be impact to the municipalities.

Brooks stated he agrees would not impact municipalities.

Regional Impact MOTION: Perkins I move that the request Bruton & Berube, PLLC on behalf of Keep It Simple House NH, LLC is seeking a Special Exception per Table 4.A.5 to allow a Boarding House **DOES NOT HAVE POTENTIAL FOR REGIONAL IMPACT.**

The MOTION is SECONDED by Hilton. The MOTION CARRIES 5-0.

Keiser inquired the consideration of use.

Mears stated she would consider the request to be a Boarding House, because they do not provide onsite social services or therapies or counseling. The care aspect is provided offsite and this is just residential. If it did have those services would classify it as the group care facility/group family household.

Keiser noted this would require Planning Board review, who would review dumpsters and buffers, etc.

Hilton asked what level a sprinkler system is discussed.

Mears stated during SRTC review, the Fire Department would address those codes.

Fredette stated if they do not alter the interior, they would not apply for building permits.

Mears stated the Fire Department would review the site as part of the SRTC. Stated she feels this is a change of use that would require Planning Board review.

Brooks stated there are the SE criteria has 7 items, not finding anything that stands out to him that says this needs significant discussion. Traffic, there is good site line for distance, only concern is that they are at the bottom of the hill, could be a small impact there for traffic. Would have almost double trips since someone would be picking up and dropping off.

Keiser noted there are other commercial uses in that area, main roadway through the City.

Perkins stated the traffic would be handled under PB review. Feels the criteria has been met and is in support.

MOTION: Perkins stated after review of the application, the file and all the information presented to the Board, I feel that all 7 criteria have been satisfied, as discussed, I move that the request of Bruton & Berube, PLLC on behalf of Keep It Simple House NH, LLC is seeking a Special Exception per Table 4.A.5 to allow a Boarding House **be GRANTED**

The motion is seconded by Hilton. The motion carries 5-0.

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

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

Hilton seconded the Motion.

The **MOTION CARRIED** 5-0 at 8:22PM.

Respectfully Submitted,
Dana Crossley, Planning Secretary