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Exeter Zoning Board of Adjustment meeting.

EXETER ZONING BOARD OF ADJUSTMENT DECEMBER 28, 2010 MEETING MINUTES

Present:

Chairman: Hank Ouimet.

Regular Members: Steve Cole, John Hauschildt, Robert Prior.

Alternate Member: Patrick Driscoll.

Deputy Code Enforcement Officer: Barbara McEvoy.

The meeting convened at 7:00 PM.

It was announced that the applicant for Case #1412, The Riverwoods Company, formally requested that their hearing be rescheduled to the January 18, 2011 ZBA meeting. The board accepted the request and directed the planning staff to re-notice the hearing in January.

Agenda:

1. Case #1411: Variance request. 56 Lincoln Street.
2. Case #1412: Special Exception request. Riverwoods/77 Kingston Road.

Note: Case 1412 was re-scheduled for the January 18, 2011 meeting at the request of the applicant.

New Business:

1. Case #1411:

The application of James Battles for a variance from Article 5, Section 5.6.6 to permit an increase in the seating capacity of the existing restaurant located at 56 Lincoln Street with less than the minimum required number of parking spaces. The subject property is located in the C-1, Central Area Commercial zoning district. Tax Map Parcel #73-274.

Mr. Jim Battles approached the board to discuss his variance request. He mentioned that there are two tenants or clients interested in the 56 Lincoln Street property. He then stated that the interest includes use of the second floor for dining and liquor sales. Regarding parking, he stated that two spaces were granted in 2001 and that the spots were at the bank. Mr. Battles also mentioned that extra seating is used in the evening and that Lincoln Street is not crowded in the evening and that train station parking would be available.

Continuing, Mr. Battles stated that the property has been improved over the years and that there is zero lot area available resulting in no first floor expansion possibilities. He stated that the site needs to improve for it to remain a successful business and to enhance the productive activity in the area.

Mr. Hauschildt asked if there were twenty-four spaces now with two at the bank.

Mr. Battles replied that there were two spaces for residential use added when the 2nd story was added and that the property is grandfathered for the existing restaurant use and twenty-four seats. He also stated that the bank may be willing to give more and the property can seat thirty more people.

Chairman Ouimet mentioned that the requirement for parking is one spot for every three seats.

Mr. Prior asked if the residence goes away, will the parking transfer with the sale?

Mr. Battles stated that there was no documentation, it is not deeded and there is no documentation for extending the agreement with the bank.

Mr. Hauschildt asked if the upstairs would be opened for lunch and the answer was no.

Mr. Ouimet mentioned that the additional seats would be for evening use.

Mr. Battles said that the second floor would be used after the last train goes through and that he needs two bathrooms for the additional seats and liquor sales and the property does have two bathrooms.

Mr. Prior asked if other parking is permitted on the town lot and Mr. Battles answered yes.

Mr. Battles was asked what hours of operation he was planning for the operation and he answered five until midnight.

Mr. Prior asked if the property was going to be leased out and Mr. Battles answered yes. Mr. Battles also mentioned that Gerry's counter closes at 2:00PM. It was then mentioned that there are five parallel spots and two others across the street by Arjays which is an area adjacent to the site.

Mr. Prior asked if the building next door was still a residence and Mr. Battles answered yes.

Chairman Ouimet summarized the request by stating that the applicant was asking for 8-10 spaces, depending on the status of the bank spaces.

Mr. Battles then mentioned that the businesses downtown have a greater issue with parking, and Mr. Hauschildt and Mr. Prior each mentioned that there is a municipal lot there. Mr. Battles stated that there is one near his property also.

At this time, the chairman opened the hearing to public testimony and there was none.

DELIBERATIONS

Mr. Driscoll began a review of the variance criteria with the board.

In regard to the public interest, Mr. Hauschildt mentioned that the proposal does not pose a problem in the immediate neighborhood. Mr. Prior stated that there was a recent West End Exeter Development Charrette, and that there was no public testimony or concerns raised this evening.

The board agreed the spirit of the ordinance would be observed with this request.

Regarding substantial justice, Mr. Driscoll mentioned that this request changes a residential use (second floor) to a commercial/restaurant use and there is a residential building next door. It was mentioned that this is a C-1 zone, with restaurant use allowed and there was no testimony from the next door property owner.

Values of surrounding properties were discussed at this time and Mr. Cole mentioned that there would be no diminution. Mr. Prior stated that there would be no exterior change to the building.

In regard to literal enforcement of the provisions of the ordinance resulting in unnecessary hardship, Mr. Hauschildt mentioned that it falls under alternatively. Mr. Prior mentioned that the space had been added onto as an office and asked if a hardship would be created by not allowing the space to be used now.

Mr. Prior stated that the building was originally one story.

Chairman Ouimet stated that the applicant needs to satisfy both “a” and “b” of criteria five. (Not alternative).

Mr. Driscoll stated that he does not see a problem with the proposal. He stated that he was familiar with the area and mentioned that this proposal would benefit the area.

**MOTION: Mr. Hauschildt made a motion to approve the variance request to increase the seating capacity of the restaurant at 56 Lincoln Street (currently 24 seats) to thirty (30) additional seats in the second floor subject to use no earlier than 5PM on weekdays.
Mr. Cole seconded.
The motion passed unanimously.**

Other Business:

1. Minutes:

The board decided to wait to approve the minutes until Mr. Carbonneau was present.

Mr. Hauschildt commented that the paragraph on page five of the October 2010 minutes regarding the criteria was too vague and should either be deleted or written in a more generalized form.

**MOTION: Mr. Prior made a motion to adjourn.
Mr. Cole seconded.
The motion passed unanimously.**

The meeting adjourned at 7:55PM.

The next meeting of the Exeter Zoning Board of Adjustment will be held Tuesday, January 18, 2011 at 7:00PM in the Novak Room at the Exeter Town Offices.

Respectfully submitted,

Christine Szostak
Planning & Building Secretary