

ZONING BOARD OF ADJUSTMENT
March 21, 2016
DRAFT MINUTES

1. Call to Order

The session was called to order by Chair Laura Davies at 7:05 pm.

2. Introductions

Members present Rick Thielbar, Clerk, John Hauschildt, Laura Davies, Chair, Robert Prior and alternate Martha Pennell. Staff present: Barbara McEvoy, Deputy Code Enforcement Officer and Jennifer Dionne, Recording Secretary. Members of the public were present as well.

3. New Business

The application of Jeremy D. and Dianna J. Russman for a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses (Note 1) and Article 5, Section 5.2 for the conversion of the existing residential buildings located at 10 Highland Street into four residential units. The subject property is located in the R-2, Single Family Residential zoning district. Tax Map Parcel #65-142. Case #17-11.

Mr. Russman appeared before the Board. They have owned this property for a couple years now and it is currently a two-family residential with attached 2 car garage. There is another building adjacent to it. They are looking to convert the two-unit home into a 4-unit building. They are asking for the possibility to adding up to 400 square feet total to the footprint. They are not sure if they are going to need but it is part of the regulations. They understand that this can only be passed with a special exception. The applicant discussed the application that was submitted. Ms. Davies asked that he explain the calculations for the open space portion. It was determined he would have to recalculate this as impervious surface cannot be included but it still makes the requirement easily. The conversion would require two parking spaces for each 2-bedroom unit, and one additional unit which is how they came to 9 parking spaces. They are anticipating condominium ownership of the units, but he cannot guarantee the town and state will permit this. He understands they may require the planning director and other departments would have to review this. Mr. Prior explained that it is actually a requirement that they review it. Ms. Davies asked if the barn and garage would become living space. Mr. Russman explained that they may build above the garage but he would like to keep both the garage and barn. Mr. Theilbar asked if he would have a problem with any restrictions on any additional building in the back have setback restrictions. Mr. Russman did not have a problem with this. Mr. Prior wanted to clarify Mr. Thielbar's questions, did he mean the setback in the variance or the code. Mr. Russman said he understood it that he already has a variance for the setback, and there would be no footprint expansion of any building less than 25 feet from the rear boundary. Mr. Theilbar confirmed this is what he meant. Ms. Davies questioned the parking plan, she is not sure the flow and allowing for the backup is going to be easily done. Mr. Russman had not tried to lay these out on the plan yet but the Planning Board would also look into parking. Ms. Pennell had concerns about anyone having to back onto Highland Street. Ms. Pennell also had a question about the barn and if it was considered to connect it to the garage. Mr. Russman said that they haven't got that far into planning, he hadn't considered it but he guessed that they could. Ms. Pennell had a question for the Board because she is stuck on the open space portion.

She reads this as requiring 40% open space minimum and not 20%. The Board discussed this at length and it was determined that this may require 40%. Mr. Prior said he would have to be conscious of this fact when planning it out. Ms. Davies said if they approve this there should be a note for the planning board to pay attention to parking and open space requirements. Mr. Hauschildt said that if this is a condo association and the other ownership way was that one unit would have to be owner occupied. It was confirmed Mr. Russman planned to live in it if this was the case that went through. Mr. Hauschildt asked if he would be willing to only rent 50% at one time if the condo failed. Mr. Russman said that these would be expensive units and he would not want this to happen. Mr. Hauschildt said that if he sells the units and the new owners rent them out, then it doesn't meet the ordinance anymore. Mr. Russman doesn't believe that what people would pay for these that they would rent them out. He also doesn't feel he has the right to tell new owners what to do with their unit. Mr. Hauschildt said he is requesting that in the condo docs that they say that a certain amount of units that have to be owner occupied, or they can only have a certain amount rented at any one time. Mr. Russman disagreed with this, and said if it is condominiums it doesn't apply.

The Board closed public session and entered into deliberations. Mr. Thielbar said they already discussed that any new construction would adhere to the 25-foot setback. Mr. Prior wanted to also mention making it clear they make the open space requirement, otherwise he is in favor. Ms. Pennell had concerns about the density of the area, as other projects had brought up similar concerns in residential neighborhood. Mr. Prior did not feel that this number of units did not concern him in regards to density. Ms. Davies felt they met the criteria and it would mostly be within the existing structure. Ms. Davies agreed with Mr. Hauschildt that the spirit of the ordinance was owner occupancy but they do give a little wiggle room on units that become rentals. Mr. Prior said this was not part of what they are being asked to judge tonight. Mr. Hauschildt disagreed with Mr. Prior on this. Ms. Davies said there are condo projects that have become investor properties but this is a 4 unit project and does not feel it is likely to become that kind of an issue for that neighborhood. Mr. Thielbar did not feel this language was in there, and they cannot impose this on the owner. Mr. Hauschildt disagreed with this. Ms. Pennell's concerns were the parking on the property. She would like emphasis given to being able to turn the cars around. Mr. Prior said they have the amount of land for the parking spaces requirement and configuration is up to the planning board.

MOTION: Mr. Prior moved to accept the application as presented with two conditions that any expansion of footprint of the existing structures must adhere to all applicable setbacks. Mr. Thielbar seconded. The motion passed 4-1. Mr. Hauschildt voted nay.

Mr. Pennell requested that they talk to town officials about the rental units and clarify the language.

The application of John Randolph for a variance from Article 5, Section 5.3.1A.2 for the expansion of non-conforming use to permit the proposed construction of a second-story and third-story deck on the existing structure located at 22-24 Jady Hill Avenue. The subject property is located in the R-2, Single Family Residential zoning district. Tax Map Parcel #64-89. Case #17-12

Mr. Randolph appeared before the Board. They have already obtained a permit to install a dormer on the property. They are here tonight to discuss the deck they would like to build. There is a first-floor deck, and in order to make this more traditional looking they need a variance on the setbacks. The first floor deck is similar to a farmer's porch and the new second and third floor decks would be open. They would like to keep as much of the look of the current structure as possible. There are two units in this

building, and each side has 4 bedrooms. Mr. Hauschildt asked if he was covering any more land. It was confirmed he was not. Ms. Pennell said the plan shows a bump in the footprint. Maggie R. the architect explained this is within the setback so it is allowed. Mr. Hauschildt was appreciative of the drawings supplied that were provided. Ms. Pennell wanted to be clear, he has a farmer's porch currently and there would be no roof over the 3rd floor. Ms. Pennell asked if they had intentions of glassing this area in and it was confirmed that he did not have plans to enclose it.

The Board closed public session and entered deliberations. Mr. Hauschildt felt this was an easy case, it was an expansion but this has 0 negative impact. Ms. Pennell had concerns about the porches becoming living space and she would like it to be stated it to remain as an open porch. This was discussed at length and it was determined that in order for this to become living space they would have to appear before the board.

MOTION: Mr. Hauschildt moved to approve the application as presented, Mr. Prior seconded. The motion passed unanimously.

The application of Benham Investment for a variance from Article 5, Section 5.5.3 to permit the proposed construction of the two (2) principal buildings on a 7.23 acre parcel located at 28 Newfields Road. The subject property is located in the RU-Rural zoning district. Tax map Parcel #38-3. Case #17-13.

Gerry Hamel from Benham Investment appeared before the Board to discuss the history of the lot. This project has appeared multiple boards in the past few years. They had waited to build until the economy was better. The new zoning regulations came through on the frontage on a main road and they will now need a waiver for this because they are now pork chop lots. If they put both units on one parcel they can achieve the same plan they had originally. They are looking to put two buildings similar to what was there prior the highway being built. The plan presented Mr. Hamel felt was the least invasive for the property, he would like to try to save the trees that are there and not set the houses back further. They would have a shared driveway, and share the lot so this would be condominiums. Mr. Prior asked it would be possible in the future to subdivide further. Mr. Hamel felt that where they place everything would prohibit this. Mr. Thielbar asked if this was approved if he would have to appear before the planning board, it was confirmed that he does not.

The Board closed public session and entered deliberations. Mr. Hauschildt felt this meets the criteria.

MOTION: Mr. Hauschildt moved to approve the application as presented to allow the construction two single family dwellings as indicated on the application. Mr. Prior seconded. The motion passed unanimously.

Approval of Minutes:

December 20, 2016: Ms. Davies said that Martha Pennell attended this meeting and was missing from the introductions. There were also some spelling errors on page 2 in the names of Prior and Davies. On page 4, there was an error in wording, should say accept not except in the motion. Mr. Thielbar said there was discussion after the motion passed; this should be put before the motion.

MOTION: Mr. Hauschildt moved to approve the December 20, 2016 minutes as amended. Mr. Prior seconded. The motion passed 4-0-1. Ms. Pennell abstained.

January 17, 2017: Ms. Davies said that on page 3, first paragraph where it says “hope the parking will be minimal and the backyard will not have to be built.” This should read “back parking lot” instead of backyard. Also, instead of Gold Environment should be Gove Environmental. Mr. Theilbar said on page 7, “Mr. Haberson he’s trying to design” this should say “He is trying to”.

MOTION: Mr. Theilbar moved to accept the minutes from January 17, 2017 as amended. Mr. Hauschildt seconded. The motion passed 4-0-1. Ms. Pennell abstained.

February 21, 2017: Mr. Prior said under adjournment he is listed as Ms. Prior. Should be Mr. Prior. On Page 2, “Mr. Prior felt on one other than the home owner’s association” This should be “no one other”. Ms. Davies said the sentence that begins with the conceptual yield plan, “plan requires a special exception” This should end with because of the R2 district. Also, it wasn’t 14 units it was 14 lots. On the top of page 3, the first sentence “Mr. Clement wanted them to do a restriction rather than an easement.” Ms. Davies feels this should be the other way around because an easement has more weight than a restriction. The video would be checked for confirmation. Mr. Hauschildt said that on page 1, section 3 it says “Mr. Hauschildt did not feel there was a hardship” This should actually say “Mr. Hauschildt said they could make a case that there might not be a hardship...” Also Mr. Theilbar name is misspelled throughout the document. On page 4, second paragraph the second sentence needs to be broken up with a colon or a period. Mr. Prior suggested a semi colon. Mr. Theilbar said that on page 8, the last sentence ‘as far as the parking goes h” a sentence has been cut off and the video will need to be watched to correct this. Ms. Davies said there were some spelling errors as well.

MOTION: Mr. Hauschildt moved to approve the minutes as amended, Mr. Prior seconded. The motion passed 4-0-1. Ms. Pennell abstained.

Zoning Changes: Mr. Hauschildt explained the new zoning regulations on “pork chop lots” that were recently passed. In order to stop these types of lots, frontage is now required.

Adjournment

There being no other business before the Board this evening, Mr. Hauschildt moved to adjourn at 8:49PM, seconded by Ms. Davies, and the vote was unanimous. The session was adjourned by Ms. Davies.

Respectfully submitted,

Jennifer Dionne
Recording Secretary