

Town of Exeter
Zoning Board of Adjustment
February 18, 2025, 7 PM
Town Offices Wheelwright Room
Final Minutes

I. **Preliminaries**

Members Present: Chair Esther Olson-Murphy, Kevin Baum, Laura Montagno - Alternate and Mark Lemos - Alternate
Town Code Enforcement Officer Doug Eastman was also present.

Members Absent: Vice-Chair Theresa Page, Clerk Laura Davies, Robert Prior, Martha Pennell - Alternate

Call to Order: Chair Esther Olson-Murphy called the meeting to order at 7 PM.

I. **New Business**

- A. The application of J. Caley Associates for a variance from Article 5, Section 5.1.2. and Article 4, Section 4.4 to demolish an existing structure and rebuild in the same footprint (seeking relief from the required minimum side yard setbacks); and a special exception per Article 4. Section 4.4 Schedule III: Density and Dimensional Regulations-Non-Residential (Note #12) to permit the proposed construction of a structure fifty-feet (50') in height. The subject property is located at 97 Portsmouth Avenue, in the C-2, Highway Commercial zoning district. Tax Map Parcel #65- 125. ZBA Case #24-11.

Ms. Olson-Murphy asked the applicants if they would accept that there would be four voting members rather than five, and the applicants agreed.

Attorney Josh Lanzetta of Bruton & Berube PLLC of Dover spoke on behalf of the applicant. Attorney Lanzetta said this property is extremely narrow, under 50 feet wide. On this property, there is a building with a dry cleaning business. Many of the lots in the area are very large; this one is uniquely small. It would be impossible to use this lot if this ordinance was applied with the current side setback parameters. The ingress and egress are shared with BankProv, and the curb cut will not change. As proposed, the applicant would like to raze the existing structure and rebuild in the same footprint.

Mr. Baum asked the height of the existing building. Attorney Lanzetta said he estimates about 18 feet. Mr. Baum said this is a big wide open drive lane. Would there be no changes to that? Attorney Lanzetta said that's correct. Mr. Baum asked if there are existing cross easements for access to the rear of the lot. Attorney Lanzetta said yes, there's a 20-foot cross easement behind the bank. None of that is changing. Mr. Baum said there's a note about pervious pavers; are all the pavers in the plan are pervious? Attorney Lanzetta said that's correct. There's no drainage or stormwater plan now, so at site plan review that will likely be addressed. Ingress and egress would likely also need a traffic study.

45 Mr. Baum said his concern is that three stories are allowed by special
46 exception, but that would be fully within the setbacks. He said he's wondering
47 how it would compare to the buildings around it. It would fill the whole width of
48 that lot.

49 Ms. Olson-Murphy asked if this would be a "micro-hotel," and Attorney
50 Lanzetta said yes. It would have 18 rooms. Ms. Olson-Murphy asked about
51 parking, since it would require one spot per room plus employee parking; there's
52 also no indication of snow storage. Attorney Lanzetta said that would be a
53 Planning Board matter, but there is a parking easement for this property.

54 Mr. Caley said there is a parking plan but he didn't have the information
55 with him. He showed a preliminary design to address the Board's questions
56 about the scale. Mr. Baum said it looks like three stories plus a penthouse. Mr.
57 Caley said yes, it's 48 feet. Ms. Montagno asked how many feet the buildings
58 around it are. Mr. Caley said McClane Manor is a 4-story building with a walkout
59 at ground level. Each story would usually be 12-15 feet so probably 50 - 60 feet.
60 Ms. Montagno said it's probably also non-conforming to the height criteria. Mr.
61 Caley said when you drive down 108, there are plenty of structures 50 feet or
62 higher. It's an L-shaped lot so no windows are going to be affected by the
63 building. He doesn't think shading would be an issue. Mr. Lemos asked if the
64 building would reach the same height as the neighbors or if it will be two stories
65 above them. Attorney Lanzetta said he thinks it will fall into line with McClane
66 Manor. It's also proportionate to the rest of the neighborhood.

67 Attorney Lanzetta went through the special exception criteria. A) The use
68 is a permitted special exception as set forth in Article 4.2, Schedule I; yes, the
69 use is permitted. The height is permitted in the zone; it's a "must grant," not a
70 "may grant," which is quite different from a variance analysis. In the C2 Zone, it
71 permits 50 feet by special exception. The zoning regulations say 50 feet is
72 appropriate in this zone, they just want some scrutiny about issues like the
73 shading. It's well supported here to upgrade this building. B) That the use is so
74 designed, located and proposed to be operated that the public health, safety,
75 welfare, and convenience would be protected; yes, it would modernize this
76 location. A modern building is almost always safer and healthier with better air
77 quality. C) That the proposed use will be compatible with the zone district and
78 adjoining post-1972 development where it is to be located; yes, this is a micro
79 hotel and there are other hotels as well as residential and commercial uses, so
80 it's clearly in line with the timbre of the zone. D) That adequate landscaping and
81 screening are provided; he said this will go to site plan review and the applicant
82 is very willing to work with the town. It's possible that landscaping or screening
83 could be added. E) That adequate off-street parking and loading is provided and
84 ingress and egress is so designed as to cause minimum interference with traffic
85 on abutting streets; he said DOT will take a look at ingress and egress. It does
86 have the right of way and parking in the Margaritas lot. They did the calculation
87 and it's possible to accommodate the parking on the existing property. With the
88 lot being so small, that's the only way it could accommodate parking. F) That the

89 use conforms with all applicable regulations governing the district where located
90 [not discussed] G) The applicant may be required to obtain Planning Board or
91 Town Planning approval; [not discussed] H) That the use shall not adversely
92 affect abutting or nearby property values; yes, there's a general rule that when a
93 property is substantially improved, the value will at least remain the same; it's
94 likely that the value will go up for this particular property, which brings up all the
95 property values that are similar. I) and J) do not apply.

96 Attorney Lanzetta went through the variance criteria to allow the building
97 to have non-conforming setbacks and build in the same footprint. He said this lot
98 could not be used in any way if you applied the side setbacks as they're currently
99 drafted in 2025. 1) The variance will not be contrary to the public interest and 2)
100 The spirit of the ordinance will be observed; yes, it's in the public interest to
101 develop property in this zone that fits the timbre of this zone. A micro hotel is a
102 very appropriate use that's permitted in this zone. Upgrading this property is in
103 the public interest. By having a good site plan, it will create a safer environment.
104 3) Substantial justice is done; yes, this allows the applicant to use the property in
105 the best way given how narrow it is and its constraints. 4) The value of
106 surrounding properties will not be diminished; yes, improving the property will
107 improve the value of this property, which will bring up the value of all comparable
108 properties in the area. 5) Literal enforcement of zoning ordinance will result in an
109 unnecessary hardship; yes, the ordinance mandates certain dimensions for side
110 setbacks that no building or structure, other than maybe a shed, could comply
111 with. Applying the side setbacks would render this property unbuildable. What
112 we're proposing is reasonable. The applicant wants to raze the building and put
113 in a new state-of-the-art facility. It will look really good on the property and it
114 mimics the uses that are there so it's highly reasonable. This property is unique
115 because it's incredibly narrow. There's no other property near this that is as
116 narrow.

117 Mr. Baum said his concern is that it will be the tallest building in this area,
118 although it may be in line with McClane Manor. There are a lot of one- or two-
119 story buildings. Ms. Olson-Murphy said the back part of the Exeter Plaza is two
120 stories, but a big two stories. This building is set back from the street like the
121 hotel is. Ms. Montagno said it would be helpful to see it compared to the height of
122 the other buildings. She said was reading through section 5.4.2 which is the
123 special exceptions for height regulations, and everything in there is around
124 towers, chimneys, elevators, or spires. In the tower there can be no places of
125 habitation. She's questioning whether this is a special exception or a variance.
126 Mr. Lemos said the ordinance is trying to say that your chimney on your house
127 doesn't have to cap out at 35 feet. Mr. Eastman said if there is going to be living
128 space up there like this, the special exception would apply. If they're going to put
129 something like an elevator shaft, that could go beyond 50 feet. Mr. Baum said
130 this isn't the best language because it's not a "special exception," it's just an
131 exception to the height regulation. These are permitted as long as you meet the
132 height otherwise. He said 35 feet is permitted in this zone and 50 feet is a special

exception. Ms. Montagno asked if this is saying you could do towers and things over 50 feet, and Mr. Eastman said yes, if they want to do a cupola or a chimney on top it could exceed the 50 feet.

The Board said it would be helpful to see a view of how the height would compare to the buildings around it. Attorney Lanzetta asked if they are looking less for a design and more for just a box of the appropriate size against the surrounding buildings, and the Board agreed. Mr. Eastman said this would also be a good time for the Board to see a site plan with parking spaces. Attorney Lanzetta said he's worried about it becoming more of a site plan review rather than a Zoning Board matter. Ms. Olson-Murphy said parking is also in the Zoning Board's purview. You have to have a certain amount of parking for the hotel of 18 rooms plus the employees. Mr. Eastman said he thinks they can get more parking on their own lot. There are already 7 spaces in front of the building.

A member of the applicant's team said if a building of this size was built at the same grade as the manor next to it, would there be hesitation in granting the variance? Mr. Baum said the grade change is a big problem, but there's nothing you can do about it. We have to determine whether the use is compatible for the special exception, whether it impacts the character of the neighborhood, and whether this will jut out and not fit in. Without the grade it would be much less of an issue, but it's a site characteristic you have to deal with.

Attorney Lanzetta asked to continue the application to the next meeting. Mr. Caley asked if they could show the existing hotel alongside the buildings next to the hotel for comparison. Mr. Eastman said the hotel next to Dunkin Donuts got a special exception because they went to 50 feet. Mr. Baum said we're not limiting submissions, so if you think it's helpful that's great.

Mr. Baum moved to continue the application of J. Caley Associates for a variance from Article 5, Section 5.1.2. and Article 4, Section 4.4 to demolish an existing structure and rebuild in the same footprint and an application for special exception per Article 4. Section 4.4 Schedule III: Density and Dimensional Regulations-Non-Residential (Note #12) to the March 18 meeting. Ms. Montagno seconded. Ms. Olson-Murphy, Mr. Baum, Ms. Montagno and Mr. Lemos voted aye. The motion passed 4-0.

II. **Other Business**

A. Approval of Minutes - August 20, 2024

Mr. Lemos moved to approve the minutes of August 20, 2024 as presented. Ms. Olson-Murphy seconded. Ms. Olson-Murphy, Mr. Baum, and Mr. Lemos voted aye. Ms. Montagno did not vote, as she was not present at the August 20 meeting. The motion passed 3-0.

176 B. Approval of Minutes - November 19, 2024
177 The Board tabled these minutes for the next meeting.
178

179 **III. Adjournment**

180 Mr. Baum moved to adjourn. Ms. Olson-Murphy seconded. The motion passed 4-
181 0 and the meeting was adjourned at 8 PM.

182
183 Respectfully Submitted,
184 Joanna Bartell
185 Recording Secretary
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