

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
TOWN OFFICES
NEW HAMPTON, NH 03256**

November 6, 2013

MEMBERS PRESENT Mr. Hofling, Mr. Tierney, Mr. Smith, and Ms. Karnis

OTHERS PRESENT Mrs. Vose

CALL TO ORDER Mr. Hofling called the meeting to order at 7:00 PM.

Mr. Hofling appointed Mr. Smith to vote in place of Mrs. Erler and appointed Ms. Karnis to vote in place of Mr. Orvis.

PUBLIC HEARING
*Roger & Tricia Houghton,
on property belonging to
Mark & Gillian Abramson
Trusts, 1426 Winona
Road, Tax Map R-19, Lot
24, for a Special
Exception, Article IV,
Section A.3, of the New
Hampton Zoning
Ordinance*

Roger and Tricia Houghton were present to represent the application.

Mrs. Vose advised that the applicants, Roger & Tricia Houghton, have requested a Public Hearing in accordance with RSA 676:7, for a Special Exception request under Article IV, Section A(3) of the New Hampton Zoning Ordinance. The applicants' proposal is to operate a Bed & Breakfast on property owned by Mark and Gillian Abramson Trusts. The property is located at 1426 Winona Road, Tax Map R-19, Lot #24, in the General Residential, Agricultural and Rural Zone.

Mrs. Vose advised that all abutters were notified and none were heard from.

Mrs. Vose provided the board with a copy of the property assessment card.

Mr. Houghton advised that he and Mrs. Houghton have wanted to run a bed & breakfast for many years and have put a lot of work into the house. Mrs. Houghton said it will be an intimate setting and is looking for to the business.

Mr. Hofling asked if would be a full-time operation and Mr. Houghton advised he would run the business while his wife works. Ms. Karnis asked how many they anticipated having at one time and Mrs. Houghton said that there are four small upstairs bedrooms, 3 of which could be rented as doubles, and one single bedroom.

Mr. Hofling read the first criteria for the special exception.

The specific site is an appropriate location for such use: The applicants wrote: *It is an appropriate location for a small bed and breakfast.*

Mr. Tierney said he agreed it was a great location for that use.

There is an adequate area for safe and sanitary sewage disposal: The applicants wrote: *there is currently a septic system designed for five bedrooms.*

Mrs. Houghton advised there were be no more than 4 bedrooms rented out and no more than 6 guests. Ms. Karnis asked if there were any other bedrooms that would be used and the Houghtons advised there was one more bedroom, being theirs. They explained that the septic system was installed in 2009 and showed the board the approved plan. Mrs. Vose read the definition in the ordinance for a bed & breakfast stating it is “*a single dwelling where transient accommodations for sleeping or living purposes for not more than 6 persons are provided for a fee*”. Mr. Tierney advised that the board could put a condition on any approval relative to number of bedrooms and the septic design, but felt the regulation already limits that. The board agreed.

The use will not adversely affect the adjacent area: The applicants wrote: *The property will add value to the adjoining area and bring revenue to the town of New Hampton.*

The board agreed. Ms. Karnis asked if there was adequate parking and Mr. Houghton said there was a large area for parking and turning around.

There will be no nuisance or hazards created: The applicants wrote: *There would not be and that they would be offering a quiet, relaxing, “get away from it all” type atmosphere.*

Mr. Tierney stated that the type of facility that is being proposed fits into the character of the neighborhood, as it’s not densely populated. The board agreed.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use: The applicants wrote: *That adequate amount of bedrooms, bathrooms, and parking are present and will be provided to the guests.*

Mr. Tierney asked how many bathrooms there were and Mr. Houghton advised there are currently 3 and a fourth had been started previously and he intends to finish that, and add one more. Mr. Tierney asked how many

bathrooms will be available to the guests and Mr. Houghton said there would be four, when finished. Mr. Tierney asked how many parking spaces there were and Mr. Houghton said there are 6-7 spaces.

The use will not impair the aesthetic values exhibited by the surrounding neighborhood: The applicants wrote: *It will not – they have and will continue to invest much time and money into the restoration and beauty of their home and believe it will add to the surrounding area and bring revenue to the town.*

Mr. Smith advised it looks much better than it did years ago and the board agreed.

The building, parking, and/or driveway area shall not exceed 50% of the lot: The applicants wrote: *It will not exceed 50% of the lot. The current structure and parking area are present for viewing as are lot plans.*

Mr. Hofling asked about the size of the property and it was determined to be 1.3 acres for tax purposes. In looking at the property card it was determined it met this criteria.

Mr. Hofling asked if there were any abutters present. Mr. Lamos, husband to Jacinth Demers, abutter on Winona Road, and said the property is greatly improved and is happy to have it across the street.

Mr. Hofling advised that the hearing was closed and the board would go into deliberative session.

Mr. Tierney made a motion, seconded by Mr. Smith, to approve the special exception. The vote was unanimous.

112 South Facing Rentals LLC, Jeronimo Garrigues and Amy Kaufman, 112 Main Street, Tax Map U-7, Lot 16, for a Variance, Article IV, Section F.3, of the New Hampton Zoning Ordinance

Jeronimo Garrigues was present to represent the application.

Mrs. Vose advised that the applicants, Jeronimo Garrigues and Amy Kaufman, have requested a Public Hearing in accordance with RSA 676:7, for a Variance under Article IV, Section F.3, of the New Hampton Zoning Ordinance. The applicant's proposal is to construct a porch roof along the rear of the structure, within the 15-foot setback of the side property line, beginning at the NW corner of the structure, 2 feet from the property line. The property is located at 112 Main Street, Tax Map U-7, Lot #16, in the Village District.

Mrs. Vose advised that all abutters were notified and none were heard from.

Mr. Garrigues reviewed the plan saying the main purpose of this addition is that they are having problems with the rain dripping off

the rear of the structure, down into the concrete slab, which has caused damage requiring the replacement of flooring in several units. They had wanted to create a porch roof similar to the one in the front but discovered that they would have to appeal for a variance. They decided to then make it smaller, 3'11", but it would still be sufficient to remedy the problem. Mr. Garrigues advised that the architect has tried to solve the problem with the setback by angling the edge of the roof on the end unit, away from that setback. This was reflected on the drawings. He said that it will look nice and keep the building from deteriorating further as the water will not have as far to fall, which will keep it from splashing back onto the building. Mr. Garrigues said it will also allow for better egress from the second story windows.

Mr. Tierney asked if the applicant thinks the problems are coming from the rainwater and Mr. Garrigues advised the water splashes back and now it will not fall as far and when it does, it will be further away from the structure. Mr. Smith asked if the slab on the back of the building angled away from the structure and the applicant said it was either flat or angling away.

Ms. Karnis asked if there was any pedestrian traffic along that property line, as it was so close to Shingle Camp Hill Road and the board told her there was not. She said her concern was with whether the roof would create drainage issues where people walked. Mr. Tierney said it shouldn't and explained where there was a culvert and existing catch basin for all the stormwater runoff from the roadway.

Mr. Hofling advised that it has come to his attention that the application for a variance might not be the appropriate vehicle for this particular issue. He pointed out that this is a grandfathered, non-conforming building and believes the more appropriate vehicle would be a special exception. Mrs. Vose read the portion of the ordinance that related to this issue: Under Non-Conforming Uses it states "a structure which is dimensionally non-conforming, but which is part of a conforming use, may be enlarged by Special Exception if the applicant satisfies the general Special Exception criteria set forth in Article IV, Section A.5. Mrs. Vose advised this requires completion of a completely different section on the appeal application, and has a different set of criteria than a Variance.

Mr. Hofling had Mrs. Vose to read the criteria for a Special Exception.

Mr. Hofling advised that as they've reviewed what is being proposed that the board should go through the criteria for the special exception, even

though the applicant has not completed that section of the application.

Relative to each of criteria:

The specific site is an appropriate location for such use: Mr. Hofling pointed out that they were changing the use at all. The board agreed.

There is an adequate area for safe and sanitary sewage disposal: The board agreed that there was not affect on the sewage disposal.

The use will not adversely affect the adjacent area: The board agreed it would have any affect and would maybe make the building more attractive.

There will be no nuisance or hazards created: The board agreed there would be no hazard or nuisance, and in fact was meant to eliminate a hazard. Mr. Hofling noted that anyone having to exit the 2nd floor windows during a fire will have a safer exit.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use: The board agreed that this does not apply.

The use will not impair the aesthetic values exhibited by the surrounding neighborhood: The board agreed this would not create a negative, but possibly a positive effect.

The building, parking, and/or driveway area shall not exceed 50% of the lot: The board agreed this did not apply.

Mr. Hofling asked the board if they agreed that this was a better vehicle for this applicant's request. Mr. Tierney advised that the stringent requirements for proving a variance would make the applicant's request difficult to approve, the special exception request is a much better way to go. Mr. Tierney advised that as the applicant will angle the porch away from the building, and the building is already grandfathered to be within the setback, granting the special exception will not increase the non-conformity by much. The board agreed.

Mr. Hofling asked the applicant if there was an urgency to get this porch roof constructed and Mr. Garrigues said they would like to complete it prior to winter, to avoid further damage to the building.

Abutter Joel Powers, for the Cemetery Association, was present and advised that he was hoping the rear porch roof would match the front porch, but said that was a personal preference. He did not see any drainage problems.

Mr. Hofling advised that there has been discussion relative to the

Special Exception criteria as the Variance is not the appropriate vehicle for what the applicant is requesting.

Mr. Tierney made a motion, seconded by Mr. Smith, to approve the amended Variance application to make it a Special Exception with the condition that the applicant files the proper application for Special Exception by Dec. 13, 2013. Vote was unanimous.

DISCUSSION OF AMENDMENTS TO BYLAWS

Mr. Hofling advised that the board could approve changes to the by-laws at the next meeting in December, as it would constitute the required 3 meetings.

The board reviewed the draft by-laws. Mr. Tierney advised he reviewed the RSA's stated in the by-laws and explained each to the board.

Under Member & Alternates:

#3 - The board discussed the requirement that within one year of their appointment, that they attend training in land use law and rules and procedures in zoning. #2 - Relative to the statement that the town would reimburse "any expenses incurred for the training" they decided to add the words "*any expenses directly contributable to the training*" and Mr. Hofling pointed out that he would have to approve any expenses.

#4 - The board changed the wording for "any member unable to attend..shall notify the Chairperson..." to "notify the Chairperson *through the Office of Selectmen...*".

Under Meetings:

#5 - "When an alternate is needed, the Chairperson shall select...", the wording was changed to "the Chairperson shall *appoint* the alternate who has served the longest."

#7 - There was some discussion on adding further language in this section to reflect the responsibility of a member to disqualify themselves, but also to allow them to speak once disqualified, as a regular member of the public if they wish to do so. Mr. Tierney advised he would draft something.

Under Order of Business Mr. Hofling asked to strike "by the clerk" after roll call.

Under Application/Decision the board discussed the statement under 1) c. - that applications submitted will be heard within 30 days of receipt, as it was noted that it could be possible to get an application and whether this statement would force a hearing a day or 2 earlier than the regularly scheduled ZBA meeting date.

4) Decisions – Relative to posting the notice of decision at the Town Office and on the website, Mr. Tierney advised it was statutory to post it. Mrs. Vose advised the decision is contained in the minutes, which are posted on the website.

The board said after making appropriate changes they would likely adopt the by-laws at the December meeting.

MINUTES

A motion was made by Mr. Smith, seconded by Ms. Karnis, to accept the minutes of June 5, 2013, as written, with the amendments Mrs. Vose had made after reviewing the recording for a second time. Vote passed.

A motion was made by Mr. Tierney, seconded by Mr. Smith, to accept the minutes of 10/2/13 and the site visit of 10/3/13, as written. Vote passed.

CORRESPONDENCE

Copy of a letter from the Selectmen to Hilshar Associates, Inc. advising them that the use of the property for the sale of landscape materials could continue through to November 1, 2013, at which point they must cease and desist.

Mrs. Vose advised there is an extra copy being provided to the ZBA, of the NHMA Town & City magazine, which includes information relative to recent case law. Made copies of information relative to Attaching Conditions to Approvals on Land Use Boards. Mr. Hofling advised he will pass around the magazines for other board members to read.

An invitation to LRPC's Kimon Koulet's retirement celebration.

Mrs. Vose reminded the members that on 11/12/13 at 7:00 PM the Planning Board will be holding a work session to discuss proposed changes to zoning, for the 2014 warrant.

ADJOURNMENT

Mr. Smith made a motion, seconded by Ms. Karnis, to adjourn at 9:00 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose
Secretary