



**Stratham Zoning Board of Adjustment
Meeting Minutes
December 10, 2019
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM**

Members Present: Garrett Dolan, Chairman
Phil Caparso, Full Time Member
Bruno Federico, Full Time Member
Drew Pierce, Full Time Member
Richard Goulet, Alternate
Tana Ream, Alternate

Members Absent: Amber Dagata, Alternate

Staff Present: Shanti Wolph, Code Enforcement Officer/Building Inspector

1. Call to Order/Roll Call

Chairman took roll call. Mr. Dolan asked Mr. Goulet to be a full Board member. Mr. Goulet said he is an abutter to the application and recused himself. Mr. Dolan asked Ms. Ream to be a full Board member, she accepted.

2. Approval of Minutes

a. September 10, 2019

Mr. Caparso made a motion to approve the September 10, 2019 meeting minutes as presented. Ms. Ream seconded the motion. Motion carried unanimously.

3. Public Hearing(s)

- a. Case #651, Libbyanna Antiques Inc, 169 Portsmouth Ave, Map 17 Lot 45, Residential Agricultural Zoning District, represented by Bradley Richards of 98 Linden St. Exeter, NH.** The applicant requests a Variance from Section IV, Article 4.3(c) to build a duplex dwelling unit upon a parcel having less than the required 200' frontage.

Bernie Pelech, an attorney from Portsmouth, spoke on behalf of the applicant, Bradley Richards, who is present at the meeting along with Kyle Libby, the property owner, and Jonathon Ring from

Jones and Beach who has worked with Mr. Richards on the plans. Mr. Pelech explained the property and what is being proposed. The property is uniquely shaped and a duplex is being proposed to be built in the back and away from the street. Mr. Pelech explained the five criteria to explain why a variance is necessary. The construction of the new duplex structure will not alter the characteristics of the neighborhood or threaten public health, safety, and welfare. The hardship upon the applicant/ owner is not outweighed by any benefit to the general public in denying the variance. As the memo from Mr. Wolph stated, it would be possible to build a road, but that would not benefit the general public because it would need to be maintained by the town. The construction of a code compliant, new, attractive duplex will not adversely affect or diminish surrounding property values. It is the intent of the applicant to keep as much vegetation as possible. The property is a large lot, twice the required size for a duplex, which is an allowed use in the zone, however the frontage requirement is not met. The size of the lot allows construction of a duplex which would meet setback requirements, have adequate light and air, and have access for emergency vehicles. Mr. Pelech believes that the five criteria are met. He concurs with the Building Inspectors memo. Any questions about the plan can be addressed to Mr. Ring, Mr. Libby, and Mr. Richards.

Mr. Ring said he has a few larger plans for anyone who wants to see them.

Mr. Caparso asked if there is a drawing or configuration of the driveway and the parking lot.

Mr. Ring said they have not sketched out the possible leach field location, possible well, or a driveway location yet. If the variance is granted, they will need to submit that to the Town of Stratham. The answer to Mr. Caparso's question is no.

Mr. Dolan asked Mr. Wolph if he has any further comment beyond what is in his memo.

Mr. Wolph said the applicant captured what he had indicated in his memo, that the duplex is an allowed use in the zone. There is not enough frontage which is why the building permit was denied. The lack of frontage is made up with the acreage on the property. The ordinance restriction of having 3 acres and 200 ft. of frontage for a duplex is to allow for enough room for emergency vehicles, green space and to ensure the duplex isn't crammed if the duplex was right next to the road. Considering the proposed duplex is sitting 200 ft. back from the road, and also considering that if it was denied, the applicant could put in a road that the town would have ownership of and be required to maintain in and be a burden on the tax payer.

Mr. Federico asked when the lot was created.

Mr. Pelech answered that there was a lot line adjustment that created the lot in April of 2018. He showed a copy of the lot line relocation plan.

Mr. Libby said he had originally purchased a 1 acre and added 5 acres to the lot to make it a 6 acre lot.

There was further discussion on the lot line adjustment.

Mr. Libby explained his purpose in buying the land. Now his goal is trying to make it more of a neighborhood feel.

Mr. Federico asked if the Planning Board needs to approve a duplex condo for the recording of deeds.

Mr. Wolph said that would be a question for the planner. His understanding is that the duplex would not be a condo, therefore it is a duplex on an existing lot, no Planning Board is required and there would be no site plan review. It has already been recorded, it is at the registry of deeds.

Mr. Federico asked if it is going to be a condo.

90 Mr. Dolan answered that it is a duplex.

91 Mr. Federico wanted the applicant to be aware that if he wanted a condo, he has to go before the
92 Planning Board.

93 Mr. Federico asked if they have received any comments from the Heritage Commission.

94 Mr. Wolph said the town was notified as an abutter, he is unaware if the Heritage Commission is
95 aware. The meeting was posted on three boards in three separate places, in the newspaper, and on
96 the town website.

97 Ms. Ream asked if they knew what year the home that is going to demolished was built.

98 Mr. Wolph said the Demolition Review Committee will have to be notified.

99 Mr. Dolan asked if there were any members in the audience that had comments.

100 Mr. Dolan made a motion to close the public hearing and Mr. Caparso seconded the motion which
101 passed unanimously.

102 The Board voted on each criteria listed below:

103 1) The variance will not be contrary to the public interest.

104 a. Gary Dolan: Yes

105 b. Phil Caparso: Yes

106 c. Bruno Federico: Yes

107 d. Drew Pierce: Yes

108 e. Tana Ream: Yes

109 2) The spirit of the ordinance is observed.

110 a. Gary Dolan: Yes

111 b. Phil Caparso: Yes

112 c. Bruno Federico: Yes

113 d. Drew Pierce: Yes

114 e. Tana Ream: Yes

115 3) Substantial justice is done.

116 a. Gary Dolan: Yes

117 b. Phil Caparso: Yes

118 c. Bruno Federico: Yes

119 d. Drew Pierce: Yes

120 e. Tana Ream: Yes

121 4) The values of the surrounding properties are not diminished.

122 a. Gary Dolan: Yes

123 b. Phil Caparso: Yes

124 c. Bruno Federico: Yes

125 d. Drew Pierce: Yes

e. Tana Ream: Yes

5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship and the proposed use a reasonable one.

a. Gary Dolan: Yes

b. Phil Caparso: Yes

c. Bruno Federico: Yes

d. Drew Pierce: Yes

e. Tana Ream: Yes

The criteria have been established.

Mr. Caparso made a motion that the variance be granted as all the conditions have been met. Ms. Ream seconded the motion.

Mr. Dolan asked if anyone wants any conditions on the variance.

Mr. Federico would like to add a condition that the Heritage Commission review the plan.

Mr. Wolph said that they need to review the plan no matter what so it doesn't need to be a condition, but he will add it in as a condition.

The Board voted with unanimous approval.

4. New Business:

a. Discussion about future ZBA training.

Mr. Wolph said the training is the NH Municipal Association annual training. He spoke with Stephen Buckley, one of the NHMA attorneys. Mr. Buckley explained that for \$550, they come to a town. They recommend notifying other towns in the area to split the cost. It is a two hour seminar. Mr. Wolph thinks it is a great idea and he would recommend it. He asked the Board if they were interested.

The Board said they are interested in the training.

Mr. Wolph said he would reach out to other Building Inspectors in the area.

Mr. Caparso had a question about what they accept for evidence.

Mr. Wolph said the judiciary system accepts credential, expert witnesses. Anything short of that is there opinion. Mr. Wolph said it would be a good question to ask Mr. Buckley.

There was further discussion about the procedure for evidence brought to the Board.

Mr. Wolph asked if mid-end January would work for the Board for the NHMA training.

5. Other Business: None.

6. Adjournment

Mr. Dolan moved to adjourn and Mr. Caparso seconded. Motion passed unanimously.

Note(s):

1. Materials related to the above meeting are available for review at the Municipal Center during normal business hours. For more information, contact the Stratham Building/Code Enforcement Office at 603-772-7391 ext.180.
2. The Zoning Board of Adjustment reserves the right to take items out of order and to discuss and/or vote on items that are not listed on the agenda.