

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
Fire Department Training Room
26 Intervale Drive, New Hampton, NH 03256**

September 2, 2020

MEMBERS PRESENT Regular members: Mr. Tierney, Mr. Livernois & Mr. Newman.

OTHERS PRESENT Administrative Assistant Mrs. Vose

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

PUBLIC HEARING Alex Ray was present to represent the application.

Lisa Mure, Alex Ray, James & Megan Fox, 78 West Shore Road, Tax Map U-14, Lot 2, for a Special Exceptions under Article IV, Section A(3) of the New Hampton Zoning Ordinance.

Mr. Tierney advised that the applicant, Lisa Mure, Alex Ray and Jim & Megan Fox, 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 applicant's proposal is to operate a short-term rental, under the definition of a Bed & Breakfast/Tourist Home on property owned by Alexander Ray 1999 Revocable Trust, Lisa Mure, and Jim & Megan Fox, which is a permitted use by Special Exception. The property is located at 78 West Shore Road, Tax Map U-14, Lot #2, in the General Residential, Agricultural and Rural District and the Waukegan Watershed Overlay District.

Mrs. Vose advised that all abutters were notified, has received no correspondence for any, but noted one abutter John and Deborah Zermani were present as are several other residents of the neighborhood and area.

Mr. Tierney asked the board if they felt this application had any regional impact and the board agreed it did not. He advised Mr. Ray that there was a quorum with 3 members present, but that a full board is 5 members. He said that if Mr. Ray wants to move forward with the application, and if it was denied, the fact there is not a full board is not reason to appeal the decision. Mr. Ray understood and agreed to move forward with the 3 members.

Mr. Tierney asked the members if they had taken the opportunity to read the application submitted by the applicants and they said they had. Mr. Tierney asked Mr. Ray to explain their proposal.

Mr. Ray said two families purchased this home on West Shore Road for their personal use and extended family and though it wouldn't be rented often, they wanted to have the ability to offer it as a short-term rental, infrequently. Mr. Ray said they were told by the association that to offer it for short-term rental required approval by the town.

Mr. Tierney asked how many bedrooms and beds there were and Mr. Ray

said 3 bedrooms and maybe two twins and 3 full/queen beds. Mr. Tierney advised if this was approved they could not rent to more than 6 persons and Mr. Ray agreed. Mr. Tierney asked how many parking spots there were and Mr. Ray said 4 spots without parking in the road. Mr. Tierney asked how the renters would be supervised and Mr. Ray said they'd create policies and would be there to meet the renters when they arrived. He said they live in Holderness so they'd be there if there was an issue. Mr. Ray said the community and neighbors are very involved with each other and had not heard complaints about noise and trash related to short-term rentals.

Mr. Livernois asked if the road was private and Mr. Ray said it was a private, dirt road, and is cared for and paid for by the property owners and there is an association.

Mr. Newman asked if the road is maintained in the winter and Mr. Ray said it is. Mr. Newman asked if it would be rented in the winter months and Mr. Ray said it would not be, as they would be using it then.

Mr. Livernois asked Mr. Ray if he knew anything about the septic system and Mrs. Vose referred to the septic design that was in the property file which showed approval for a 3-bedroom system in 1993. Mr. Ray said when they purchased the home in 2019 the septic system was inspected.

It was noted as being .3 acres.

Mr. Tierney read into record a letter dated 9/2/20, that was submitted by resident Linda Heminway, who was present, from her husband Mark Heminway, who was not. Mr. Heminway asked that the application be denied based on his work in preserving the quality of the lake as the water quality is degrading and cited facts to attest to that. He attributed this to increased use of the lake, the septic systems nearby, and use of road salt. He said rental properties aggravate the problem as they are not invested in the community and lake. He said they recently saw 10 cars parked at an approved short-term rental - for several days, at a 3-bedroom home. Mr. Heminway pointed out the negative affect to loons by approaching boaters and use of fireworks. He said renters utilize other owner's properties and increase traffic on the private road.

Mr. Tierney advised interested parties that were present that in 2019 there were problems noted by residents because of short-term rentals. The town realized that if there was an ordinance to prohibit these types of rentals any current rentals taking place would be allowed this grandfathered, non-conforming use, with the new regulations not being applicable. The town then utilized the current regulation about bed & breakfast/tourist homes, which limits short-term rentals to no more than 6 persons through a Special Exception approval by the ZBA.

Abutter John Zermani pointed out the increased traffic on the road and increased noise. He asked if an approval was given to the present owner would the approval transfer to any future property owner and Mr. Tierney

said it would as it goes with the land. Mr. Zermani explained that this was a concern, though he understood Mr. Ray's proposal would likely not have much affect while a future owner's use of the property could have a negative effect.

Donna & Frank Murphy were present. Mrs. Murphy advised she was president of the Lake Waukegan Association said there are several homes in New Hampton and Center Harbor which are offered for short-term rental and wanted to learn more about the process. Mr. Murphy said residents have had interactions with the home that Mr. Heminway had mentioned in his letter.

Lakefront resident Mrs. Heminway said she was very distressed by the application, and reviewed her past and current involvement with lake protections. She expressed concerns with creation of a resort environment, with properties increasingly being turned into short-term rentals. She agreed that Mr. Ray's proposal may not have much impact that may change in the future with any approval going with the land. Mrs. Heminway expressed surprise with the statement that the approval is for no more than 6 persons as several weeks ago, as one of the properties that was granted short-term approval, had 10 vehicles for a full week, which may have been an overuse of the property and septic system. She said their lake began in the top 10 lakes for water quality but now the quality is very low and feels it's due to overuse. She said rentals take away from the sense of community and volunteerism. She expressed concern with the added guests and overuse of the septic systems which are very close, and uphill of the lake and guests not using environmentally safe products in the rental. Mrs. Heminway said that her estimate is that 10% of the Lake Winona properties in New Hampton and Center Harbor are short-term rentals.

Mr. Tierney advised that the ZBA is does not handle enforcement, advising Mrs. Heminway that if she is aware of a non-compliance, she would need to notify the Selectmen.

Lakefront resident Warren Haigh said the properties are changing hands constantly and said that for many owners, the only way to keep and maintain their property for generations is to offer it for short-term rentals. Mr. Haigh said he agrees the rentals could negatively affect the septic systems. He advised that as long a people are parking off the road and not leaving trash, he doesn't see much issue with this use. He said having 6 people staying in a house whether they own it or are renting it, makes no difference in the use. He is concerned about vehicles parking on the road but believes Mr. Ray's lot can accommodate 3 vehicles, maybe 4. He said trying to control having no more 6 people can be difficult.

Mrs. Heminway asked if the ZBA has considered making this Special Exception a temporary approval so a property would have to re-apply and Mr. Tierney advised that any change to the ordinance would need to be done through the Planning Board.

Mr. Zermani agreed with the degradation of the lake quality over the years and is worried about the effect short-term rentals may have.

Mr. Tierney advised the board would go into deliberations.

The board reviewed the Special Exception criteria:

1. The specific site is an appropriate location for such use:

Mr. Newman said he didn't see a problem with this criterion after discussion on there being suitable parking and the features of the house. Mr. Livernois agreed saying that the testimony given mostly expressed concern with there being short-term rentals, in general, on the lake but that this specific site was appropriate for the use, unlike some others heard by the board in the past.

2. There is adequate area for safe and sanitary sewage disposal:

Mr. Tierney said there is a state approved system in place and was also inspected at the time of the sale and Mr. Newman and Mr. Livernois agreed.

3. The use will not adversely affect the adjacent area:

Mr. Newman pointed out that the Special Exception allows the limitation of not more than 6 persons while a house that has not received this approval can technically have many more persons in the house, which is a concern of the residents on the lake. He said he understands the concerns but whether it 6 renters or 6 owners on the property the affect on the adjacent area would be the same. Mr. Livernois stated his agreement.

4. There will be no nuisance or hazard created:

Mr. Livernois said he didn't hear any specific testimony that would give him reason to think a nuisance or hazard was created on this property. He said there is adequate room for parking and as it hasn't been used as a short-term rental yet, there is no information on whether it is a nuisance or hazard or that it will be in the future. Mr. Newman agreed. Mr. Tierney said if it was a nuisance or hazard it would be the responsibility of the owner who is supervising the rental to address that.

5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use:

Mr. Tierney said they have an appropriate septic system, appropriate number of bedrooms, and adequate parking. Mr. Livernois and Mr. Newman agreed. Mr. Newman asked how deep the well was and Mrs. Vose said that is not information the town would have.

6. The use will not impair the aesthetic values exhibited by the surrounding neighborhood:

Mr. Livernois and Mr. Newman said they didn't have a problem with this.

7. **The building, parking/or driveway area will not exceed 20% of the lot:**

Mr. Tierney said it was a 0.3 acre lot at 13,068 sq ft., the building is 1,476 sq. ft. which represents 11.3% coverage.

8. **The criteria relative to Agritourism was not applicable to this application:**

The board agreed this does not apply to this application.

Mr. Livernois made a motion, seconded by Mr. Newman to approve the Special Exception for short-term rental use of this property, as presented. Vote was unanimous.

Mr. Tierney advised that the Fire Chief would get a copy of decision and therefore an inspection by the department would be required as this would be a rental.

PUBLIC HEARING

William Hodges & Anne Tarryk, 102 Seminole Avenue, Tax Map U-10, Lot 11, for a Special Exception under Article V, Section D.1 and a Variance under Article VI, Section 4(ii) of the New Hampton Zoning Ordinance.

There was no one present to represent the application.

Mr. Tierney advised the applicants, William Hodges and Anne Tarryk, have requested a Public Hearing in accordance with RSA 676:7, for a Special Exception and a Variance.

- The Special Exception request is under Article V, Section D.1 of the New Hampton Zoning Ordinance. The applicants' proposal is to construct a septic system within the 20-foot setback of the property line; the proposed location of the leach field being 10 feet from the side setback. A Special Exception may be granted by the Zoning Board of Adjustment for septic systems on substandard size lots with a setback no less than 10 feet from the property line, unless the NHDES grants a waiver to reduce the setback further, in which case the Zoning Board of Adjustment may consider reducing the setback to be consistent with NHDES allowable setback.
- The Variance request is under Article IV, Section 4(ii) of the New Hampton Zoning Ordinance. The applicants' proposal is to replace an existing home with a new house on a different footprint, 28 feet from the front right-of-way, which would be within the 35-foot setback.

The property belonging to William Hodges and Anne Tarryk is located at 102 Seminole Avenue, Tax Map U-10, Lot #11, in the General Residential, Agricultural and Rural District and the Waukewan Watershed Overlay District.

Mr. Tierney advised that he had previously reviewed the application submitted and as a result of what was found the following email was written to the ZBA, from William Hodges and Anne Tarryk. He read into record the email which was sent by Town Administrator Mr. Irvine to Julie Hayward, the contractor who would have represented the applicants on their application. The email advised Mrs. Hayward that there were inconsistencies found by the ZBA Chair Mr. Tierney being discrepancies found between the deed, tax maps and subdivision plan versus the documents submitted for the application, which reduces the lot size and affects the lot coverage. The email advises an additional variance may be

necessary for this and for the fact that with a new proposed structure being outside of the existing footprint on a substandard lot a variance may be necessary for the increased non-conformity.

Mr. Tierney advised that Mr. Hodges and Ms. Tarryk followed up with an email to the ZBA requesting a withdrawal of the application, without prejudice, to prepare a proper application for all possible variances with appropriate plans and details.

Mr. Livernois made a motion, seconded by Mr. Newman, to allow the application to be withdrawn without prejudice to be resubmitted at a later date. Vote was unanimous.

MINUTES

Mr. Livernois made a motion, seconded by Mr. Newman, to allow the application to approve the minutes of 8/5/20 as written. Vote was unanimous.

OTHER BUSINESS

There was none.

CORRESPONDENCE

There was none.

ADJOURNMENT

Mr. Livernois made a motion, seconded by Mr. Tierney, to adjourn at 8:02 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose
Administrative Assistant

DRAFT