

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

June 3, 2020

MEMBERS PRESENT Regular members: Mr. Tierney, Mrs. Belanger & Mrs. Arsenault, and alternate members Mr. Livernois & Mr. Newman.

OTHERS PRESENT Administrative Assistant Mrs. Vose and Town Administrator Mr. Irvine to facilitate video and audio capabilities for the purpose of televising the hearings if more than 10 people were present in the meeting space. Fire Dept. member Kendall Hughes was present.

CALL TO ORDER Due to technical difficulties getting the audio and video ready for the meeting Mr. Tierney called the meeting to order at 6:55 PM.

Mr. Tierney appointed alternate members Mr. Livernois and Mr. Newman to vote in place of the 2 vacant positions.

PUBLIC HEARING Wendy Traynor was present to represent the application. Abutter Jack Daniel was present as were many other residents of the neighborhood.

Wendy Traynor, 3 Cove Way, Tax Map U-13, Lot 14, for a Special Exceptions under Article IV, Section A(3) of the New Hampton Zoning Ordinance.

Mr. Tierney advised that the applicant, Wendy Traynor, has 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 Traynor Belknap Realty Trust, which is a permitted use by Special Exception. The property is located at 3 Cove Way, Tax Map U-13, Lot #14, in the General Residential, Agricultural and Rural District and the Waukewan Watershed Overlay District.

Mr. Tierney advised that all abutters were notified and some letters were submitted by nearby residents relative to this application which will be read into record. It was noted that there were additional interested parties located in the apparatus bay of the Fire Department, for social distancing purposes. Audio and video of the meeting was available to everyone in the apparatus bay. Mr. Tierney advised that once the applicant, abutter, and ZBA members were done with questions/comments he would allow anyone seated in the apparatus bay to have an opportunity to speak.

Mr. Tierney advised that the board must determine if this application had a regional impact and the board agreed it did not.

The board reviewed the application and criteria:

1. **The specific site is an appropriate location for such use:** The applicant wrote *“this is a continuation of a pre-existing use that has gone one for many years. The property is located in a recreational area on the shore of Lake Winona which is largely populated by seasonal residences and summer homes. This continued activity will not alter or change the neighborhood or area.”*
2. **There is adequate area for safe and sanitary sewage disposal:** The applicant wrote *“the property is served by a state approved septic system sized adequately for the number of bedrooms located on-site.”*

Mr. Livernois asked about the septic system and if there any problems with it. Ms. Traynor said she has it pumped every year. He confirmed with Ms. Traynor that the cottage had one bedroom. Mr. Livernois asked how many people she rented the cottage to and Ms. Traynor said 5 or 6 though she prefers to rent to a couple as people will push the limits. She said there is no washer, dryer, or dishwasher and it has a camp shower.

3. **The use will not adversely affect the adjacent area:** The applicant wrote *“there will be no adverse impact on the adjacent area. Whenever the property is rented, it is used as a single family residence and no more. Potential guests are screened for the size of their family and the purpose of rental to ensure that there are no negative impacts. I am familiar with my renters and maintain high standards to ensure appropriate behavior and usage.”*

Mrs. Belanger asked if the limitation was for only one family if it were to be 5-6 people and Ms. Traynor said it has been different configurations of people, not necessarily one family, and that she carefully screens potential renters, reads the renters reviews on Airbnb, explains the plumbing is that of a camp, and proximity to neighbors.

Abutter Ms. Daniel expressed frustration with the various renters that have stayed at the property and how she feels they’ve abused the use of the property and she shared stories of how some of their acts have negatively affected her and her belongings. She also expressed concern with the renters coming from out of state and not quarantining during the COVID-19 pandemic.

Mr. Tierney asked Ms. Traynor if she is currently renting out even though the governor has limited accommodations. Ms. Traynor said she could rent to emergency workers. Mrs. Arsenaault advised that in her profession she assists in writing CDC guidelines and said that it is allowed to rent to emergency workers but that they are still required to self-quarantine for 14 days if they come from out of state. Ms. Traynor said she was told she could rent to these essential workers as they couldn’t get hotel rooms. Mr. Tierney asked if she lives in the area and she said she splits here time between here and MA. He asked who oversees the property when she is not staying at her other property in New Hampton and Ms. Traynor said she has someone in Laconia

who handles it.

4. **There will be no nuisance or hazard created:** The applicant wrote *“no nuisance hazard will be created. I maintain multiple properties in locations in both NH and MS. Activities for this property will be limited to typical vacation/relaxation activities and neighbors may be assured that there will be no nuisance or improper activities. These are my properties and I want my New Hampton neighbors to be treated as if I were in residence myself. Additionally, I do have a summer home on Lake Winona that I personally occupy and will be able to monitor activities at the rental.”*
5. **Adequate and appropriate facilities will be provided for the proper operation of the proposed use:** The applicant wrote *“the property is appropriately built and equipped as a single-family residence. All appropriate facilities (water, waste disposal, etc.) are provided and in proper working order.”*

Mr. Tierney asked how much parking was available and Ms. Traynor said there is room for one vehicle with possibly another small one squeezed in, with overflow parking available down the road at a turnaround.

Ms. Daniel said she has had renters park in her spot and has had to contact Ms. Traynor to have them move their vehicles.

Mr. Tierney asked what supplied the water and Ms. Traynor said it comes from the lake with renters providing their own drinking water.

Mrs. Arsenault asked if the parking spaces were specified or marked and Ms. Traynor said there is a railroad tie which indicates it.

Mrs. Belanger asked if there is information provided to the renters on parking, rules, etc. and Ms. Traynor said the Airbnb provides those particulars. When asked if she specifically pointed out there being only one parking spot Ms. Traynor said that has never been necessary but she tells them there is a parking spot and overflow parking.

6. **The use will not impair the aesthetic values exhibited by the surrounding neighborhood:** The applicant writes *“no changes are being made to the property as a result of the summertime rentals. It is, and will continue, to be maintained as a single-family residence and will continue to blend with the surrounding neighborhood.”*

The board had no questions.

7. **The building, parking/or driveway area will not exceed 50% of the lot:** The applicant writes *“no new building or impermeable area is being created.”*

The board reviewed the square footage of the lot and developed area

determining that it met this criterion.

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

Mr. Tierney read into record a letter from abutter Barry Allen. He expressed a strong opposition to the application saying it did not meet the special exception criteria. He recommended a site visit because he stated the cottage is in a private, tightly packed area and questioned the legality of the right-of-way access across Cove Way to access this cottage. He stated that there were six properties confined within 50 feet of each other with the roadways being private, with very limited parking, resulting in congestion and renters parking on private property. Mr. Allen relayed negative experiences with short-term renters over the past 2 years in his letter, including excessive speed on the roadway, renters trespassing onto their property and damaging their trees, increased noise and loud music, excessive trash and cigarette butts along roadway, increase in fishing lines and hooks appearing on their property, all resulting in a negative adverse effect to the neighborhood. Mr. Allen expressed concern with the quality of the lake water with an abundance of short-term renters.

Mr. Tierney read an email from Heather Anderson who objects to the special exception based on the cottage's close proximity to other seasonal cottages. She expressed concern with the negative impacts to parking, beach access and water supply and has seen problems with the short-term rentals of the applicant's property.

Mr. Tierney read an email from Timothy Doyle, Anchorage Road, said he is unopposed to the short-term rentals but takes issue with the parking of extra vehicles which has blocked his property on occasion and that the road is a right-of-way they own, which the renters pass through. Mr. Doyle pointed out that beach rights do not belong to 3 Cove Way.

Ms. Traynor addressed the letter and emails saying there are 13 cottages in close proximity, several who use the mason lodge, including trailers who locate there and that many cottage owners have guests and friends at their properties including excess vehicles in need of parking. She said other people smoke and fish - not just her renters. Ms. Traynor said the Allens have pine trees which are within striking distance of her cottage. She said she participates in the local associations and helps pay for plowing. She said her septic system is updated and maintained. She said not all traffic and speeding cars are attributable to her renters only as there are many other people visiting the cottages.

Mr. Tierney said he wanted to take input from the attendees in the apparatus bay. Linda Scarlata said she has been going to her property since a child and is opposed to short-term rentals for the same reasons given in the letter and emails and that all the other property owners don't rent their cottages but are used by family or their own friends.

Question from a property owner on Bay View Road) asking if the septic

system is rated by number of people staying in a bedroom as this is a one-bedroom cottage while Ms. Traynor is advertising it for 5-persons.

Ms. Daniel supported Mr. Allen's letter as he had made the same statements to Ms. Daniel last summer. She is most concerned with the beauty and calmness of the lake and the cottages being within close proximity of each other. She expressed concern with COVID-19.

Mr. Irvine asked to speak as a resident of New Hampton. When there was discussion on sufficient parking he noted that relative to the parking at a turn-around – the turn-around is used for emergency responders and shouldn't be used for permanent parking. Relative to property owners have family or friends stay at their cottages, Mr. Irvine said those owners are invested in their properties and their guests reflect on them which can be very different than an absentee landlord, whose renters have no reflection on them but have an impact on their neighbors.

Ms. Traynor said since she purchased her house on Anchorage Road she's seen cars parked there. She said many visitors to the cottages are staying overnight and said she understands the concern over the virus.

Ned Scarlata, neighboring cottage, said the cottages have always been family friendly and family owned and expressed concern with opening a B&B during COVID.

Mr. Tierney advised the board would go into deliberations. (Pam Already noted earlier.)

Mr. Livernois advised that as this special exception would run with the land the property itself should be looked at to see this use is appropriate as any subsequent owner could offer short-term rentals if this is approved. He said his biggest concern is with the small size of the lot and its proximity to neighbors along with the parking issues and lack of water. Mr. Livernois suggested a site visit to see the property on the ground. Mrs. Arsenault said she would like something in writing relative to septic system and expressed concern with the offering of rentals during the pandemic. Mr. Tierney advised that anything related to COVID was not germane to the application.

Mr. Livernois made a motion, seconded by Mrs. Belanger to continue this hearing and perform a site visit to 3 Cove Way, with the date and time being determined after hearing the following applications as they are all on the same lake and for the same short-term rental use. Vote was unanimous.

II PUBLIC HEARING

Wendy Traynor, Terrapin Station Group LLC, 60 West Shore Road, Tax Map U-15, Lot 9, for a Special Exceptions under Article IV, Section A(3) of the New

Wendy Traynor was present to represent the application.

Mr. Tierney advised that the applicant, Terrapin Station Group (Wendy Traynor), has 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

Hampton Zoning Ordinance. on property owned by Terrapin Station Group, which is a permitted use by Special Exception. The property is located at 60 West Shore Road, Tax Map U-15, Lot #9, in the General Residential, Agricultural and Rural District and the Waukegan Watershed Overlay District.

Mr. Tierney reviewed the application.

1. **The specific site is an appropriate location for such use:** The applicant wrote *“the house has been used as a rental for many years. I bought it approximately 2 years ago and the former owners had been listing it through rental agencies to support the cost – not sure which agencies.”*

Mr. Livernois advised that this was a much bigger lot at 1.1 acres. He confirmed with Ms. Traynor that the property had its own frontage on West Shore Road and a dock.

2. **There is adequate area for safe and sanitary sewage disposal:** The applicant wrote *“the septic system is in great working order and is serviced and pumped by Lamprey (Septic Service).”*

Ms. Traynor confirmed for Mr. Livernois that this property has a leach field. Mr. Tierney advised that there was 2008 septic system approval for a 3-bedroom home, which is a problem as the Airbnb listing states it is a 4-bedroom home. Ms. Traynor said it has 2 proper bedrooms then a bedroom cut in half with a full bed and a bunkroom that is all one room and said she didn't think there was even a door between the rooms. Mr. Tierney reminded Ms. Traynor that if this application was approved, she could only rent to no more than 6 persons, which Ms. Traynor then acknowledged. Ms. Traynor said the 3rd/4th bedroom holds only 2 cot size beds and 1 full bed, with no closet.

3. **The use will not adversely affect the adjacent area:** The applicant wrote *“no I have not made any changes that would adversely affect the property.”*

The board had no questions.

4. **There will be no nuisance or hazard created:** The applicant wrote *“not at all.”*
5. **Adequate and appropriate facilities will be provided for the proper operation of the proposed use:** The applicant wrote *“the property is appropriately built and equipped as a single-family residence. All appropriate facilities – water, waste disposal, etc. are provided and in proper working order.”*
6. **The use will not impair the aesthetic values exhibited by the surrounding neighborhood:** The applicant wrote *“no changes are being made to the property as a result of the summertime rentals. It*

is, and will continue, to be maintained as a single-family residence and will continue to blend with the surrounding neighborhood.”

Mr. Livernois asked if it had its own driveway and parking area and Ms. Traynor there is no actual driveway, but there is parking for 3-4 vehicles easily, contained completely on the property.

7. **The building, parking/or driveway area will not exceed 50% of the lot:** The applicant wrote *“no new building or impermeable area is being created.”*

The board confirmed this criterion was met.

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

Ms. Traynor said she purchased the property about 1 ½ years ago, and it had been used previously as a rental. She said she’s a good neighbor, improved the property, is involved with the association and pays for winter maintenance. Her Airbnb rules are similar to the other property, ie. no smoking, respect the lake and the neighbors. She screens people in the same way; she doesn’t have a dishwasher or washer & dryer. These homes are only available during the warmer months due to lack of a heating system.

Mr. Tierney read into record a letter from abutter Marion Wrobel, signed by herself, her husband Andy and neighbor/Chair of the Road Committee, Jay Buckley, expressing concern with short-term rentals and increased number of visitors, who may pose risks to the peaceful atmosphere, pristine lake and fragile dirt road. They asked the board to take steps to ensure these concerns are addressed if the application is approved. The letter expressed their love and concern for the lake and those who use it, while protecting the watershed and nesting loons. The letter states the road is one lane and there is no parking on the roadway, privately maintained by the property owners. They asked for assurances that renters respect the lake and quiet atmosphere. They suggested conditions: limit number of vehicles to site, limit rental season, and create minimum stay requirements, create opportunity to review these at a later date. Mrs. Wrobel also included in a follow-up email - a welcome letter from Lake Winona Improvement Assn on rules/information and a copy of an email they sent to Ms. Traynor.

Mr. Irvine advised that all the attendees not present in the training room for the prior application had left, and the audio & video that was set up has now been taken down.

Nora Foster, 21 Anchorage Road, asked if there was a washing machine or dishwasher on the property and Ms. Traynor said there wasn’t. Mrs. Foster asked if there was a boat dock and Ms. Traynor said there was. Mrs. Foster said this property was very different than the property at 3 Cove Way as there is much more space around the home and more defined

parking. She said there is more of a negative affect to the lake coming from residents as they have washer & dryers, dishwashers, maintained lawns and gardens.

Vanessa Elliott O'Leary (next applicant), Jay Buckley, and Craig Weisman (Elliott abutter) were also present.

Jay Buckley said he manages the road with his biggest concern being additional traffic during the mud or winter seasons and if this is granted would like to review this use if the property changed hands. The board advised Mr. Buckley that any approval goes with the property.

Ms. Traynor said it isn't possible to stay during cold weather as the home isn't winterized and said to impose date limitations would be unfair. She said she felt she was being singled out because she is offering her rental above board. Mr. Tierney reminded Ms. Traynor that she was there because she offered her house for short-term rentals which requires a special exception based on the Zoning Ordinance. Mr. Livernois said this issue with short-term rentals is coming to the attention of towns & cities and that it isn't singling out property owners but recognizing these as businesses running in residential neighborhoods. Ms. Traynor said she is trying to comply and feels other properties need to be treated in the same manner as hers when they may be renting, but not above board.

Mr. Livernois advised that the board goes through similar hearings with many property owners and their applications.

Mr. Irvine asked to speak as Town Administrator and the board agreed. He advised that Ms. Traynor was not singled out, or victimized, but that enforcement letters went out to many property owners who were operating short-term rentals. If additional properties are made available and the town becomes aware of them, the town will take enforcement action. He said these regulations have been in the ordinance for a long time while some other towns are creating regulations to address this.

Mr. Tierney advised the board would go into deliberations.

Mr. Livernois said he has less problems with this location for the use as it is larger, has adequate parking, water and septic. He expressed concern with the number of renters due to the septic, but Mr. Tierney advised that the ordinance limits the rental to no more than 6 persons. Mr. Livernois said lakefront home having historically been offered for rent but the board needs to ensure the location is appropriate for the use.

Mr. Newman agreed with Mr. Livernois that this property appears to meet this criterion much more than the previous application.

Mrs. Arsenault made a motion to hold a site visit. There was discussion on whether or not it was necessary. Mr. Livernois asked if the property crosses the road and Ms. Traynor said it was on both sides. There was no second to the motion so it was the consensus no site visit was necessary.

Mrs. Belanger said relative to criteria #1 the size of the lot is much larger and there were less issues noted by abutters so the site was appropriate. The board stated their agreement.

Mr. Tierney said the sewage disposal system was adequate for no more than 6 persons. Mr. Tierney said the 3 vs 4 bedrooms would be an enforcement issue for the Selectmen. Mr. Newman agreed the septic system should not be an issue in this case.

Relative to the affect on adjacent areas the board agreed it didn't appear to have a negative affect and that no abutters had great concerns.

Relative to a nuisance or hazard, any resident would have just as much impact to the roadway as a short-term, seasonal rental.

As far as appropriate facilities, Mr. Livernois said with the septic, parking, water and dock - this criterion has been met.

The board agreed the aesthetic values of the neighborhood won't change if this application is approved.

The criteria relative to Agritourism was not applicable to this application

Lot coverage criterion has been met.

Mr. Tierney noted that it appeared the board was in agreement that all criteria had been met and the board agreed.

Mr. Livernois made a motion, seconded by Mr. Newman, to approve the Special Exception as presented. Vote was unanimous.

The board advised they would notify Ms. Traynor as to when the site visit would be scheduled.

PUBLIC HEARING

Vanessa Elliott-O'Leary, 60 West Shore Road, Tax Map U-15, Lot 5, for a Special Exceptions under Article IV, Section A(3) of the New Hampton Zoning Ordinance.

Mrs. Elliott-O'Leary and abutter Craig Weisman were present.

Mr. Tierney advised that the applicant, Vanessa Elliott-O'Leary, has 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 the Robert & Carole Elliott Trusts, which is a permitted use by Special Exception. The property is located at 28 West Shore Road, Tax Map U-15, Lot #5, in the General Residential, Agricultural and Rural District and the Waukewan Watershed Overlay District.

1. **The specific site is an appropriate location for such use:** The applicant wrote *"36 West Shore Road is a single-family residence with 3 bedrooms and 2 baths."*

2. **There is adequate area for safe and sanitary sewage disposal:** The applicant wrote *“yes, the property has a septic system that is checked and emptied bi-annually.”*

Mr. Tierney advised that the town has no record on file to show what the septic system is rated for. Ms. O’Leary said last time it was cleaned the service providing the cleaning estimated the tank capacity at 1500 gallons based on the amount removed. She said she thought it did have a leach field and the board agreed that was likely the case as it was constructed in 1981 and was on .85 acres. Ms. O’Leary said that as it has a dishwasher, washer and dryer they keep up with it bi-annually. She said her grandparents may remember; she is representing them on the application and manages the home for Airbnb.

3. **The use will not adversely affect the adjacent area:** The applicant wrote *“use does not affect the property itself or the adjacent area.”*
4. **There will be no nuisance or hazard created:** The applicant wrote *“correct – none.”*

Ms. O’Leary said her grandparent’s home is next door to this house, which she stays in sometimes and offers it for rent. Mr. Livernois asked if this home was rented out historically and Ms. O’Leary said no, she grew up in the neighboring house and her grandparents purchased this one at auction so additional family members would have a place to stay, so it’s not offered to rent every week in the season and they don’t rent it in the winter.

5. **Adequate and appropriate facilities will be provided for the proper operation of the proposed use:** The applicant wrote *“yes.”*

Mr. Tierney asked if it was self-contained, and Ms. O’Leary added that it has washer & dryer, dishwasher and 2 showers, 3 toilets.

Asked about parking she stated that there was a spot for 2 vehicles near the septic area and 3 spaces by the garage and a boat ramp area that can be used for parking.

6. **The use will not impair the aesthetic values exhibited by the surrounding neighborhood:** The applicant wrote *“it will not affect aesthetics; the home maintains its original look and landscaping.”*

Mr. Livernois asked if it is waterfront and Ms. O’Leary explained it was and it has a dock, small sandy area, wooden dock and swim float. Relative to the separation of the lot from neighbors she said the line splitting the properties is fairly clear, reflecting a border.

7. **The building, parking/or driveway area will not exceed 50% of the lot:** The applicant wrote *“agreed”*.

Mr. Tierney calculated that this criterion was met.

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

Mr. Tierney asked abutter Mr. Weisman if he had any questions or comments. Mr. Weisman said they purchased their property as the lake is quiet and unique, praised the improvements made to the Elliott property and agreed there was little risk to renters trespassing onto his property. He said his concern is that this is a cove area, therefore the swim floats are close together and doesn't want it to become too noisy. He said it's difficult to monitor the renters when the owner is not close-by. Mr. Weisman asked if there was a well and Ms. O'Leary said there was an artesian well. She said she prefers families and she states "no parties" in the listing and doesn't mind putting restrictions on any approval. Mr. Weisman asked if her grandparents intend to keep their property and Ms. O'Leary said they did. Mr. Tierney advised Mr. Weisman to contact police if noise is an issue.

Mr. Tierney advised the board would go into deliberations.

The board agreed that the site was an appropriate location for the use.

The board agreed the area was adequate for safe and sanitary sewage disposal.

Relative to adverse effects to the adjacent area Mr. Livernois noted the abutter raised the noise issue, but the owners live next door and are willing to work with neighbors on problems, and the lot size is large. The board agreed.

The board agreed there was no nuisance or hazard and Mrs. Belanger pointed out that there was adequate parking.

The board agreed that there was adequate and appropriate facilities for the use proposed.

The board agreed the use would not impair the aesthetic values of the neighborhood as evidenced by the abutter's testimony.

Mr. Tierney advised the lot coverage criterion was met and the criterion on agritourism was not applicable.

Mr. Livernois made a motion, seconded by Mrs. Belanger to approve the request for the Special Exception to offer the home as a bed & breakfast/ tourist home. Vote was unanimous.

The board discussed a date and time to perform a site visit at 3 Cove Way, agreeing to 6/11/20 at 6:00 pm.

