**Town of Jefferson**

Office of the Zoning Board of Adjustment

**Minutes**

September 14, 2023

The meeting was called to order at 7: 35 pm.

**Members present**: Chairman Kim Perry, Jason Call, Tom Walker, Rodney Houghton, Wayne Bilquin, alternate

**Absent**: Biff Wyman

**Others present**: Charlene Wheeler, Board secretary; Barbara Ingerson, Earl Taylor, Jr., Maura Chappelle

In the absence of a regular member, Wayne Bilquin was designated a voting member for this meeting.

**Hearing – Case # 216-2023 – Barbara Ingerson and Earl Taylor, Jr.**

Chairman Perry opened the public hearing for an application from Barbara Ingerson and Earl Taylor, Jr. for a Variance, Article VII, Section B. They propose to have two residences on one lot at 678 Presidential Highway, Map 5A, Lot 47A. Board members had already received copies of the application to examine. Chairman Perry read the application. He asked Ms. Ingerson to relate to the Board some history of how the current structures on the lot resulted in being placed in their current location.

The lot was vacant until a convenience store with gas pumps opened there. When the lot was owned by Chris Nelson, her son-in-law, Ms. Ingerson said she had originally applied for a Special Exception in 2004 to operate a minis golf course which was ultimately denied by the Board. She purchased the lot from Mr. Nelson. She then applied in 2005 for a Special Exception to operate a dairy bar/restaurant in the downstairs of the former convenience store and have an apartment on the second floor which didn’t work out. She then was granted a Special Exception to operate the dairy/bar in a separate structure which was smaller and built on the same lot, the original store becoming two apartments. A barn was also added later. The business operated for about 5 years then closed and the building remained. During the summer months Ms. Ingerson had a motorhome she lived in on the same lot. Now she wants to use the former dairy bar building as a full-time residence. The two apartments have been turned into a one family residence for a rental. The buildings and property have been taken care of over the years.

The Board secretary she had not received any comments or questions from any abutters or the public by telephone, email, or in writing. Jason Call said the Land Use Ordinance doesn’t allow two separate residences on any lot which is why Ms. Ingerson is asking for a Variance from that rule. The lot is also just short of the 3.75 acres required for a duplex two-family dwelling with the two units attached. The lot in question contains 3.65 acres. Mr. Call also asked about the septic system and its ability to handle both residences. Ms. Ingerson said that at the time the dairy bar/restaurant was built, a septic system was designed and installed which could handle a 24-seat restaurant and two apartments. Cathy Conway was hired to do the design, but Ms. Ingerson said she wasn’t able to locate her copy of the plan. No problems with the system have occurred since it was installed around 2005. Everything situated on the lot is within the required 50 feet setback.

There being no other questions or comments, Chairman Perry closed the public portion of the hearing and deliberations began.

Jason Call led the Board in going through the five criteria needing to be met to grant the Variance.

1. The Variance will not be contrary to the public interest; the Variance would not injure the public or the private rights of others property owners. Yes, Ms. Ingerson’s property is surrounded by two businesses, the fire department, a private home, and another home which is applying to operate a short-term rental. The structures on the lot have existed for almost 20 years and there have not been any reports of disturbances to neighboring properties. No abutters have made any objection to Ms. Ingerson being granted this Variance. These are residences being proposed, not a business or business which potentially would create more noise and traffic. Ms. Ingerson is reminded that any change in use from residences, such as a short-term rental, etc., would require a Special Exception.
2. The spirit of the Land Use Ordinance (as outlined in its preamble and Article II) is observed. Yes, the structures already on the lot have blended into the community for years and added to the tax base of the town. The second structure is a full-time rental unit. Such units are in short supply in the town.
3. Substantial justice is done. Yes, the current configuration of buildings on the lot has existed for quite some years without complaint. Ms. Ingerson is trying to do the correct thing by asking for a Variance to be in compliance with the town’s ordinances.
4. The value of surrounding properties is not diminished. Yes, this property with its structures and the surrounding properties have existed together for years without diminishing property values.
5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship: (An unnecessary hardship is deemed to exist if owing to special conditions or uniqueness of the property that distinguishes it from other properties in the area, the property cannot be reasonably used in strict conformance with the Land Use Ordnance, and a Variance is necessary to enable a reasonable use.) A hardship in this sense is **not** considered a monetary hardship. Yes, denying the Variance would be a greater hardship for Ms. Ingerson to be denied living in the building or having to remove a structure perhaps, or to live in the rental unit itself, than it would be for the town which would lose a needed rental unit or lose tax income. There will be no additional impact on town services. The effect on surrounding properties would remain less than if the original business was still there. The size of the lot is just short of the acreage needed for a two-family residence. It is a reasonable compromise.

Jason Call made the comment that perhaps a designated commercial zone including a number of lots in this area should be considered by the Planning Board which would allow for an increased density of buildings. Perhaps this could run from the Waumbeck Golf Course to Santa’s Village for example.

Tom Walker made the motion to grant the Variance, seconded by Wayne Bilquin. The vote to accept the motion was unanimous.

**Minutes**

Jason Call made the motion to approve the minutes of the August 10, 2023, meeting minutes, seconded by Tom Walker. The vote to accept the motion was unanimous.

**Other Business**

Board members inquired if there were any new applications to be scheduled. The Board secretary reported she had received an application from Marlene Rouleau and members of her family who have a lot at 279 Old Cherry Mountain Road, Map 17, Lot 8D. She is seeking a Special Exception to operate a short-term rental. A hearing is being scheduled for October 12. Also, Bailey, Colby, and Pierre Couture have almost completed an application for a short-term rental at 671 Presidential Highway, Map 5A, Lot 6 which hasn’t been scheduled as yet.

The Planning Board has completed a draft ordinance for campgrounds which has now been sent for review to its engineer. Although some residents may seek to ban campgrounds altogether. A hearing will be held, and any resulting warrant will be voted on a town meeting. The Planning Board also plans to address short-term rentals, on which discussion has started at their last meeting.

Jason Call made the motion to adjourn the meeting, seconded by Rodney Houghton. The meeting was adjourned at 8:50 pm.

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Charlene Wheeler

Secretary to the Board