**Town of Jefferson**

Office of the Zoning Board of Adjustment

**Minutes**

January 11, 2024

The meeting was called to order at 7:30 pm.

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

**Absent**: Biff Wyman

**Others present**: Charlene Wheeler, Board secretary; Richard Garabedian, Andi Gendron, Sandra Cashen, Rick & Diane Zito, Joe & Fay Vigneault, Rebecca & Michael Le Beau, Jim Dziekan, Maura Chapelle, John & Frances Merner

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

**Hearing – Case # 221-2023 – Garabedian**

Chairman Perry opened the public hearing for an application from Richard Garabedian for a Special Exception, Article III, Section 2 of the Land Use Ordinance. He proposes to operate a short-term rental at 55 Chambers Road, Map 17, Lot 3A. Board members had already received copies of the application to examine. Mr. Garabedian gave copies of more information to the Board, including the deed to the property. No picture of the residence was submitted with the application. Chairman Perry read the application. He asked Mr. Garabedian if he wanted to add anything to the proposal as was read. Mr. Garabedian said there were a list of rules for renters to follow. He said he would personally be onsite answering any calls if an emergency should occur. He didn’t want guests who cause trouble for anyone. The residence contains 3 bedrooms, 3 baths and there is room to park 4 vehicles. The house sits quite a distance from neighbors, the nearest one being about a half mile away, who have been told of the plans for short-term rental unit. The driveway is about 800 feet long from Chambers Road. The entrance is clearly marked. Board members agreed that their formula for occupancy is the number of bedrooms times 2 plus 2 which would put the allowed maximum capacity of guests at 8. Mr. Garabedian was also asked if any safety inspection had been done and he said it hasn’t been done yet, but he will contact Chief Milligan. The Board secretary asked if there were two residences already in the building and Mr. Garabedian said he had previously had longer term renters in a basement apartment. One of the three bedrooms is in the basement and two are upstairs. Also, rooms and meals taxes need to be paid to the state.

Chairman Perry opened the meeting to public questions or comments. The Board secretary reported she had received no questions or comments about the application from abutters or the general public.

There being no further questions or comments, Chairman Perry closed the public portion of the hearing.

Jason Call led the Board through the 4 criteria for granting a Special Exception.

1. “The proposed use shall be one permitted by the Land Use Ordinance.” Yes, this use is permitted by Special Exception as a Tourist Accommodation and Lodging Units in Article III, section 2 of the Land Use Ordinance.
2. “The specific site is appropriate for the location and of adequate size for such use.” Yes, the site is of adequate size for the number of guests allowed. There are three bedrooms and there is sufficient parking and privacy from surrounding abutters. The house is at a distance from any abutter. No objections from abutters to the application were received. The maximum number of guests would be limited to 8. The lot is located on a public road maintained by the town. There are plans in place for maintenance of the house and identification of the property for ease in locating. A safety inspection is planned as well as a posted list of rules, warnings, and a contact person in case of emergencies. A licensed NH real estate firm and/or the owner will manage the rental unit.
3. “The use will not adversely affect the adjacent area.” Yes, the use will not affect the adjacent area. The residence has been on the property for years. There were no objections received from abutters to the application. It will increase taxes paid to the town without significant impact to schools and services.
4. “The proposed use will be in keeping with the stated purpose of the Ordinance.” Yes, it will not interfere with the small-town atmosphere and further erode the rural nature of the community. This is not overcrowding the neighborhood as this residence has already existed for years. It will bring business and income that will benefit the town. Safety rules will be posted. There will be no impact to schools as there might be with a full-time rental. Chief Milligan will be contacted to perform a safety inspection and whose recommendations will be followed by the applicants.

Jason Call made the motion to grant the application for a Special Exception, with conditions (see copy of notification of decision), seconded by Rodney Houghton. The vote to accept the motion was unanimous.

**Hearing – Case # 222-2023 – Dziekan**

Chairman Perry opened the public hearing for an application from James Dziekan for a Special Exception, Article III, Section 2 of the Land Use Ordinance. He proposes to operate a short-term rental at 529 Turnpike Road, Map 6, Lot 32A. Board members had already received copies of the application to examine. Chairman Perry read the application. It was noted there is a right-of-way across the lot from Turnpike Road across railroad track running along the back boundary of the property providing access to a large lot beyond the railroad. Lot 32A contains about 3.74 acres. The house has three bedrooms and one and a half baths. A maximum of 8 guests are allowed. There is room to park two cars in the driveway. There should be no parking on cars along Turnpike Road. Mr. Dziekan said he has hired a housekeeper/ manager to maintain and monitor the house. He said most guests will be family or friends and they will use the property as well. No large parties will be allowed. Chairman Perry asked who will respond in a short period of time if an emergency occurs. There should be a list of rules and a local number to call posted for guests. A fire and safety inspection has not been done as let. Mr. Dziekan said they have no plans to add any new structures to the property.

Chairman Perry opened the meeting to public questions or comments. The Board secretary reported she had received no questions or comments about the application from abutters or the general public.

There being no further questions or comments, Chairman Perry closed the public portion of the hearing.

Jason Call led the Board through the 4 criteria for granting a Special Exception.

1. “The proposed use shall be one permitted by the Land Use Ordinance.” Yes, this use is permitted by Special Exception as a Tourist Accommodation and Lodging Units in Article III, section 2 of the Land Use Ordinance.

(2) “The specific site is appropriate for the location and of adequate size for such use.” Yes, the site

is of adequate size for the number of guests allowed. There are three bedrooms and there is sufficient parking and privacy from surrounding abutters. No objections from abutters to the application were received. The maximum number of guests would be limited to eight. The lot is located on a public road maintained by the town. There are plans in place for maintenance of the house and identification of the property for ease in locating. A safety inspection is planned as well as a posted list of rules, warnings, and arrangement for a contact person to be reached in case of emergencies. A housekeeper and/or the owner will manage the rental unit.

(3) “The use will not adversely affect the adjacent area.” Yes, the use will not affect the adjacent area. There were no objections received from abutters to the application. Parties will not be allowed, and the property will be maintained. It will increase taxes paid to the town without significant impact to schools and services.

(4) “The proposed use will be in keeping with the state purpose of the Ordinance.” Yes, it will not

interfere with the small-town atmosphere and further erode the rural nature of the community. his is not overcrowding the neighborhood as this residence has already exists. It will bring business and income that will benefit the town. Safety rules will be posted. There will be no impact to schools as there might be with a full-time rental. Chief Milligan will be contacted to perform a safety inspection and whose recommendations will be followed by the applicants.

Tom Walker made the motion to grant the application for a Special Exception, with conditions (see copy of notification of decision), seconded by Wayne Bilquin. The vote to accept the motion was unanimous.

**Hearing – Case # 223-2023 – Vigneault**

Chairman Perry opened the public hearing for an application from Joseph and Fernanda Vigneault for a Special Exception, Article III, Section 2 of the Land Use Ordinance. They propose to operate a short-term rental at 119 Jason Ave., Map 6, Lot 31F. It is located on the corner of Jason Ave. and US Rt 2. Board members had already received copies of the application to examine. Chairman Perry read the application. The lot contains about 3.37 acres and located less than a mile from Santa’s Village. Mr. Vigneault said a fire and safety inspection had already been done and this was confirmed by the Board secretary who said she has already received a letter from Chief Milligan confirming it had passed inspection. The house has three bedrooms and 2 baths. Mr. Vigneault said a maximum of 12 guests will be allowed. However, the Board indicated the maximum number based on the three bedrooms should be a total of only eight. There is adequate parking for cars. There are two driveways on the lot. The Vigneaults have hired a housekeeper/ manager as well as a landscaping company to maintain and monitor the property. No large parties will be allowed. Chairman Perry asked who will respond in a short period of time if an emergency occurs. Mr. Vigneault asked if this could be the town office number and was told this wasn’t an option. It must be someone close by who could respond to emergencies in a short period of time. There should be a list of rules and a local number to call posted for guests.

Chairman Perry opened the meeting to public questions or comments. The Board secretary read a letter from Michael and Rebecca LeBeau endorsing approval of the application. Maura Chappelle attempted to enter complaints about the residence from someone who wouldn’t identify themselves and Chairman Perry said the Board did not take testimony from unidentified sources. Mr. Merner, an abutter, said he had not seen any disturbances at the Vigneault property, they have been good neighbors. Fireworks sometimes are seen from Santa’s Village or the North Road but not in that location on Jason Ave.

There being no further questions or comments, Chairman Perry closed the public portion of the hearing.

Jason Call led the Board through the 4 criteria for granting a Special Exception.

(1) “The proposed use shall be one permitted by the Land Use Ordinance.” Yes, this use is permitted by Special Exception as a Tourist Accommodation and Lodging Units in Article III, section 2 of the Land Use Ordinance.

(2) “The specific site is appropriate for the location and of adequate size for such use.” Yes, the site is of adequate size for the number of guests allowed. There are three bedrooms and there is sufficient parking and privacy from surrounding abutters. No objections from abutters to the application were received. The maximum number of guests would be limited to eight. The lot is located on a public road maintained by the town. There are plans in place for maintenance of the house and identification of the property for ease in locating. A safety inspection has been completed. An arrangement will be made for a contact person to be reached in case of emergencies in a short period of time. A housekeeper and/or the owner will manage the rental unit.

(3) “The use will not adversely affect the adjacent area.” Yes, the use will not affect the adjacent area. There were no objections received from abutters to the application. Parties will not be allowed, and the property will be maintained. It will increase taxes paid to the town without significant impact to schools and services.

(4) “The proposed use will be in keeping with the state purpose of the Ordinance.” Yes, it will not interfere with the small-town atmosphere and further erode the rural nature of the community. This is not overcrowding the neighborhood as this residence already exists. It will bring business and income that will benefit the town. Safety rules will be posted. There will be no impact to schools as there might be with a full-time rental.

Wayne Bilquin made the motion to grant the application for a Special Exception, with conditions (see copy of notification of decision), seconded by Rodney Houghton. The vote to accept the motion was unanimous.

**Hearing – Case # 224-2023 – Zito**

Chairman Perry opened the public hearing for an application from Richard Zito for a Variance, Article IV, Section 2 of the Land Use Ordinance. He proposes to add an addition to a residence closer to a lot line than allowed at 140 Valley Road., Map 15, Lot 18A. Board members had already received copies of the application to examine. Chairman Perry read the application. It was noted that Mr. Zito had already received one Variance to build a storage building closer to a lot line than allowed and is now asking for another Variance to add a two-story extension on to the existing residence closer to a lot line than allowed. Metal storage containers are still on the lot. It had been hoped they would have been removed by now. The lot is long and narrow and is crossed by the state rail trail and has wet areas constraining use of the property. It is on a town-maintained road. There was a plan showing how the residence should appear after the addition. This is the most reasonable way to add the space for the lot involved. Mr. Zito was asked about the septic system’s capacity. Jason Call said the design is stated as approved on the NH Department of Environmental Services website. Mr. Call asked if there would be a full foundation under the addition and Mr. Zito said he was not sure as yet. The nearest neighbor’s house is quite a distance away.

Chairman Perry opened the meeting to public questions or comments. The Board secretary reported she had received no questions or comments about the application from abutters or the general public.

There being no further questions or comments, Chairman Perry closed the public portion of the hearing.

Jason Call led the Board through the 5 criteria for granting a 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, Mr. Zito’s property is a private home on a narrow lot with a public right-of-way crossing it. The lot is on a town=maintained road and the nearest residence is some distance away. There have not been any reports of disturbances to neighboring properties. No abutters have made any objection to Mr. Zito being granted this Variance. This is an addition to a residence which from its plan looks to be esthetically pleasing. It wouldn’t create more noise and traffic in the area. Even though it will be within the 50 feet setback it still would be a reasonable distance away from the lot line.
2. The spirit of the Land Use Ordinance (as outlined in its preamble and Article II) is observed. Yes, the residence already on the lot has blended into the community for years and added to the tax base of the town. The addition to the residence will look pleasing. It is hoped the metal storage containers will be removed sooner rather than later.
3. Substantial justice is done. Yes, the current configuration of buildings on the lot has existed for quite a number of years without complaint. Mr Zito 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. This proposal will only add to the value.
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 Mr. Zito to be denied the addition to the residence given the uniqueness of the lot, which is long, but narrow, with a septic system and a garage already situated on the opposite side of the residence. Also, there is a right-of-way running across the lot behind the structures and wet areas with which to contend.

Rodney Houghton made the motion to grant the application for a Variance with conditions (see copy of notification of decision), seconded by Tom Walker. The vote to accept the motion was unanimous.

**Minutes**

Jason Call made the motion to approve the minutes with a typo edit, of the December 14, 2023 meeting, seconded by Tom Walker. The vote to accept the motion was unanimous.

**Other Business**

The Board secretary circulated draft copies of the Zoning Board of Adjustment’s report to the town. Jason Call made the motion to approve the draft report, with one redundant sentence deleted, seconded by Wayne Bilquin. The vote to accept the motion was unanimous.

The Planning Board will present draft Warrant Articles for residential campground and for short-term rental unit regulations at a public hearing on Tuesday, January 16. Also, there is a petitioned warrant to stop the development of campgrounds in the town which is required to be presented as well.

The Board had questions about the renovations being planned and has started on the Waumbek Golf Course. It was agreed the current structure being raised there looks wonderful, but it certainly must be outside the footprint of the structure, a converted portable classroom, which previously had been situated there. This is and other plans would be considered an expansion of the previous business. Has the correct process been followed to grant this expansion, not that the development seen so far wouldn’t be welcomed. It is only fair to make everyone follow the same procedures and rules. There is a lack of consistency, and all should be working together.

The Board will add a second meeting date to this month’s calendar as it has had to address a number of applications all at once. They will again meet on Thursday, January 18, 2024 at 7:30pm.

Jason Call made the motion to adjourn the meeting, seconded by Tom Walker. The meeting was adjourned at 8:45 pm.

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Charlene Wheeler

Secretary to the Board