

MINUTES
ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH

Monday, April 5, 2010 – 7:00pm
1 Grove Street, Peterborough, New Hampshire

Present: Maude Salinger, Alice Briggs, Vice Chair Loretta Laurenitis, Jim Stewart, Sharon Monahan, Bertha Harris

Also Present: Tom Weeks, Code Enforcement Officer; Nicole MacStay, Assistant to the Town Administrator

Vice Chair Laurenitis called the meeting to order at 7:00pm, appointed Ms. Monahan to sit on both cases and read the first notice: **Case No. 1079A Norman Langevin of Depres and Associates, Inc. for David Sutton** Request for a Variance to Article II, §245-7A of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to permit one of the 9 dwelling units that was permitted by Case No. 1079 to be rented as 8 individual rooms with shared bathroom and laundry facilities on property located at 80 Pine Street, Parcel No. U019-023-000 in the General Residence District. There was no objection to the notice.

Norman Langevin and Shirley Depres spoke for the applicant. Mr. Langevin first read from a letter dated 3/12/10 which was included in the application, and then explained that Unit 9 does not have a kitchen, which Mr. Weeks has said is required to consider the unit a residential unit. The applicant therefore asks that the Board grant a variance to allow eight individual units, which is the best layout. Vice Chair Laurenitis asked if the eight rooms are currently rented. Mr. Langevin said that they are. Vice Chair Laurenitis asked for a description of the building. Mr. Langevin explained that what were formerly two buildings is now all under one roof; there is the primary house and the attached carriage house. The carriage house section was converted to residential units 1-5, and the main house was converted into units 6-9. Ms. Salinger noted that the original decision allowed for nine individual units, and the applicant is now asking for a use variance. She noted that a rooming house is not permitted in the General Residence District, and asked if density and parking should also be considered. Mr. Weeks explained that there are no density requirements for a rooming house because rooming houses are no longer a part of the town's ordinance.

Ms. Salinger asked Mr. Weeks why if there are people living in these rooms full-time why they are not considered dwelling units. Mr. weeks explained that the rooms do not meet the criteria of dwelling units; there are no kitchen facilities or common area. Ms. Depres said that the structure does not lend itself to adding a kitchen or living room. Ms. Briggs said that there was nothing that would prevent that. Mr. Weeks explained that these were offices that were converted into individual residential rooms; they were supposed to be converted into a single dwelling unit, however the two years has expired, and as such the owner was put on notice to resolve the outstanding issues. Regarding parking, Mr. Langevin stated that there was enough parking space for thirty vehicles.

Vice Chair Laurenitis asked what was discussed in the meetings with Mr. Weeks and Chief Lenox. Mr. Langevin said that there were issues regarding spring doors, a second means of escape in a couple of the rooms, and electrical requirements. The biggest item was for a sprinkler system for which the owner has gotten quotes, but is waiting for the outcome of this hearing before going forward. Ms. Briggs asked how many people are living on the lot at this time. Mr. Langevin said that there are twenty individuals, and two vacancies in the individual rooms. Ms. Briggs asked if

there are any special conditions of this property which distinguish it from other properties in the area. Ms. Depres said that the main house is on the National Historic Register. Mr. Langevin said that there were no other special conditions that he is aware of.

Mr. Stewart asked if the rooms were rented to individuals or multiple persons. Ms. Depres replied that all are rented to single individuals, except one room which is rented to two adults. There was a discussion regarding whether or not the unit could be defined as a “rooming house” or if another definition would better apply. Mr. Weeks said that how it was defined is not relevant to the case since the only residential dwellings allowed in the General Residence District are single, two-family and multi-family dwelling units. Ms. Briggs added that it does not matter what it is called as it is not an allowed use. Vice Chair Laurenitis asked how long people typically stay in these rooms. Ms. Depres said that three of the tenants have been there since her company took over management in 2007, otherwise, three to six months has been typical.

Vice Chair Laurenitis asked if there was any public comment, either for or against; hearing none, she asked the Board if they had any further questions. Ms. Salinger asked if the owner were to install a kitchen and living room, would there be anything to restrict the rental of rooms. Mr. Weeks said that there would be no restriction; blood or legal relationship have nothing to do with renting a dwelling, rather a “family” is defined as one or more persons living as a single housekeeping unit. Ms. Monahan asked with regard to safety, does each room have their own fire escape. Mr. Langevin said that there are fire escapes only on one side, and are prevented from doing so on the other side of the building by a deed restriction. Chief Lenox has said that if a sprinkler system were installed that would satisfy the fire code. Ms. Salinger asked Mr. Weeks if a site plan review would be required; Mr. Weeks said that if the Board is uncomfortable about the parking situation that could be determined by the Planning Board, otherwise no, there is no need for a site plan review. Hearing no further questions, Vice Chair Laurenitis closed the public hearing portion of the meeting.

Motion:

In a motion made/seconded (Briggs/Stewart) in **Case No. 1079A Norman Langevin of Depres and Associates, Inc. for David Sutton** Request for a Variance to Article II, §245-7A of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to permit one of the 9 dwelling units that was permitted by Case No. 1079 to be rented as 8 individual rooms with shared bathroom and laundry facilities on property located at 80 Pine Street, Parcel No. U019-023-000 in the General Residence District is hereby DENIED.

The Board finds:

1. Granting the variance would be contrary to the public interest because it would allow a non-conforming use and a use that is not permitted in any zoning district in the Town of Peterborough.
2. The proposed use is contrary to the spirit of the ordinance because it would not support orderly and harmonious development or promote health and safety.
3. Granting the variance would not do substantial justice because there is no gain to the general public by permitting a use that the Town of Peterborough does not allow.
4. The proposed use would diminish surrounding property values because the proposed use is inconsistent with the zoning in the area and the neighborhood.

5. Special conditions of the property do not distinguish it from other properties in the area because the only special conditions detailed by the applicant are that the front part of the building is on the Historic Register and the building is large; these conditions do not prevent the eight rooms considered in this case from being converted into a permitted use as a dwelling unit, provided that a variance for density, which had been previously obtained and was allowed to lapse, is reobtained.
6. Literal enforcement of the provisions of the ordinance would not result in an unnecessary hardship as the rooms could be converted to a permitted use.
 - i. A fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of the provision to the property because the zoning restrictions promote a valid public purpose to restrict uses in residential areas and to prevent overcrowding, and to promote the health, safety and welfare of the public.
 - ii. The proposed use is not a reasonable one since it is not a permitted use and a permitted use is possible.
7. The property can be reasonably used in strict conformance with the ordinance, and this variance is therefore not necessary to enable a reasonable use of it.

Vote:

The Board voted unanimously in favor of the motion; the motion carried.

After a brief recess, Vice Chair Laurenitis read the notice for the next case: **Case No. 1153 Monadnock Community Hospital** Request for a Special Exception to Article VII, §245-33(D)(2) as provided for in §245-33(I) of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to permit average illumination that is being proposed for site not to exceed 1.0 foot candles on property located at 452 Old Street Road, Parcel ID No. U007-001-000 in the Monadnock Community Healthcare District. There was no objection to the notice.

Peter Gosline, Tom Humphries and Bob Taft were present on behalf of Monadnock Community Hospital. Mr. Gosline spoke, saying that this request is intended to enhance the lighting in the parking lot areas for the purpose of improving patient and employee safety and security. He explained that two of the three shifts either arrive or depart at night, and many employees feel that it is too dark. There is also a safety concern with regard to patients coming in at all hours, and they are concerned that if the lighting is too dim there may be a risk of slips and falls. In bringing forward this proposal they have considered a number of factors, including the need to be respectful to both the environment and the neighbors. They feel that there is a need to enhance lighting in ten locations, and only one location needs a new pole. In five cases they are suggesting expanding the lighting from two to four heads, and in four cases, expanding from two to three heads, and installing the new pole at the hospital's roundabout. They are also asking to install twenty-two ballards, which are waist-high along the sidewalk. The lighting they plan to add will be shielded night lighting, and the overall lumens should not increase off the hospital property. Mr. Humphries then reviewed a site plan which showed the foot candles and campus lighting locations.

Mr. Weeks reminded the Board that the hospital had previously received a special exception for lighting at the Wellness Center which allowed for 1.22 foot candles. Ms. Salinger asked if the Planning Board will still be required to review and approve the changes. Mr. Weeks said that there

is a provision that allows the Director of the Office of Community Development to make minor revisions to a site plan, and she will make that decision pending the outcome of this hearing.

Motion:

In a motion made/seconded (Briggs/Monahan) in **Case No. 1153 Monadnock Community Hospital** Request for a Special Exception to Article VII, §245-33(D)(2) as provided for in §245-33(I) of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to permit average illumination that is being proposed for site not to exceed 1.0 foot candles on property located at 452 Old Street Road, Parcel ID No. U007-001-000 in the Monadnock Community Healthcare District is hereby GRANTED.

The Board finds:

1. The proposed use of increased lumens will not cause unreasonable risk of harm or adverse disturbance to the environment or to other premises because shielded and night sky-compliant lighting fixtures will be used and the lumens at the periphery of the internal parking and roadway system will not be increased beyond what is shown on the plan entitled "Monadnock Community Hospital Site Lighting Photometric Analysis" dated March 26, 2010.
2. The proposed increased lighting will be directed at internal roadway, parking areas and walkways.
3. The proposed increased lumens will not jeopardize health or safety on or off the site because the increased lumens will promote the safety and security of hospital staff, patients and visitors of this 24-hour acute healthcare facility.

The Board imposes the following conditions:

1. The average lumens will not exceed 1.5 foot candles for the entire site.
2. The lighting will be in substantial compliance with the plans entitled "Monadnock Community Hospital Site Lighting Photometric Analysis" dated March 26, 2010 and "Lighting Plan for Monadnock Community Hospital" dated February 9, 2010.
3. The lumens at the periphery of the internal parking and roadway system will not be increased beyond what is shown on the plan entitled "Monadnock Community Hospital Site Lighting Photometric Analysis" dated March 26, 2010.

Vote:

The Board voted unanimously in favor of the motion; the motion carried.

As there was no further business, the meeting adjourned at 9:33pm.

Respectfully Submitted,

Nicole MacStay, Assistant to the Town Administrator