

ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, December 2, 2013 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire

Board Present: Jim Stewart, Bob Lambert, Sharon Monahan, David Sobe, Peter LaRoche, Loretta Laurenitis and Peter Leishman

Staff Present: Laura Norton, Office of Community Development and Dario Carrara, Code Enforcement Officer

Chair Stewart called the meeting to order at 7:00 p.m. “Good evening and welcome” he said adding “this is the December monthly meeting of the Zoning Board of Adjustment. My name is Jim Stewart and I am the Chair.” He introduced Board members and Staff and noted “so we have two cases on the agenda tonight but we received a letter of withdrawal so I would like to note for the record that Case No. 1198 is withdrawn and we will continue with the next case.”

Chair Stewart reviewed the process of reading the application followed by a presentation by the applicant; questions from the Board; questions/concerns from the audience (in favor then opposed); rebuttal and closure of the hearing followed by deliberation and decision. He concluded by noting anyone interested in speaking to the case please state their name, address, and relationship (abutter, agent, concerned citizen) for the record.

Chair Stewart then read the applicant’s request: “Case No. 1199 – George Thomson. A request for a Special Exception for a physician office accessory to a dwelling, as regulated by the zoning ordinance, Article IV, Section 245-24 D, Professional Uses and Customary Home Occupations. The property is located at 3 River Street, Parcel No. U017-057-000 in the General Residence District.”

“With that being said” he looked to Dr. Thomson and asked him to begin. Mr. Lambert interjected “Mr. Chairman, you only have four regular members.” Chair Stewart replied he would appoint the alternate right before deliberation. Mr. Lambert noted the applicant was his physician and recused himself and left the table.

Ms. Laurenitis interjected “I know the applicant from the Well School” and asked the applicant if he was comfortable with her sitting on the Board. Dr. Thomson replied “that is fine.”

Dr. Thomson began “this is a very simple proposal” adding “Brenda Berry owns 3 River Street on the banks of the Nubanusit.” He noted he had rented the house since April. He told the Board the house was quite large and he would like to have his family practice located there as well. He went on to note “I have a different type of patient” adding he did consultant work for fairly specific diseases. “There is no surgery, no extensive clinical treatment. It is mostly me consulting with patients.” He noted any further evaluation or testing such as blood work or X-rays were done off site.

Dr. Thomson said his present practice was located at 69 Main Street. He noted the location was difficult for many of his patients to access. "For some of my patients just to get up steep granite stairs to enter the building is difficult." He also noted some flooding in 2008 where "the mold has done its damage" and that the air in his office must be filtered "24 hours a day, 7 days a week" to maintain air quality.

Chair Stewart asked "how big is your (office) space now?" Dr. Thomson replied "about 900 square feet" adding "the house is about 2200 square feet and the practice will occupy about 500 square feet." Chair Stewart asked "how many patients do you see in a day?" Dr. Thomson replied "I see patients 4 days a week and I usually see 6 to 8 patients a day." He went on to note "I see patients from 9:00 a.m. to 5:00 p.m. with no after hours and no weekend appointments."

Ms. Laurenitis asked the property be pointed out on the Elmo. Code Officer Carrara did so with two different graphics. Ms. Monahan asked if the property was on town water and sewer with Dr. Thomson replying it was. Mr. Carrara pointed out parking resources for the property on the graphic. It was noted a letter of authorization for the practice from owner Brenda Berry was intact.

Ms. Laurenitis asked "is this a long term plan?" Dr. Thomson replied it was. Ms. Monahan asked "how do you lease? Year to year?" Dr. Thomson replied he currently had a lease through 2015 with first right of renewal. A brief discussion about whether or not the Special Exception would go with the property followed with Chair Stewart noting his interpretation was that the *use* must be occupied by the person using it. Mr. Carrara added "it would have to be the resident of the building running the business." He also noted if another resident were to move in "it would be the use that would continue." With a smile Ms. Laurenitis interjected "so it would help to be another doctor right?"

Mr. Carrara also noted there were slight modifications to the Home Business ordinance going to ballot at Town Meeting in May 2014. He explained the amendments to the ordinance "makes it clearer as to what a Home Business is and explains the second and third tiers." After a brief discussion of some of the definition changes Mr. Carrara concluded "these are very slight changes." Chair Stewart interjected "but we should be clear because once posted it is the law until voted up or down." (RSA 676:12 VI)

The members went on to discuss parking with Mr. Carrara pointing out the resident's spaces and patient parking spaces. Ms. Monahan asked about the Special Exception Criteria noting nothing in writing had been provided the Board in advance. Dr. Thomson noted he planned to review the criteria orally. "It is simple" he said noting "starting with *Location*. There is adequate water, sewer and drainage, and can accommodate the proposal without any substantial environmental damage." He went on to note "there is no risk to air, land, or water resources and it will not preempt any other use of the land or harm agriculture on prime agricultural soils." He concluded this section by noting there will be no impact on the general neighborhood. "Only beneficial ones" he said.

Activity type and mix: Dr. Thomson noted the house served his housing need and would not broaden the diversity of housing in town. *Visual consequences:* Dr. Thomson noted "there will

be no interruption of view other than what is there.” Access: Dr. Thomson noted the access to the location would not entail congestion or hazard. “The access for vehicles and pedestrians is better than the current office” he said. *Process*: Dr. Thomson noted he had consulted with many of his abutters. “They are good” he said adding “there is no negative effect on them.”

Chair Stewart asked about a sign with Dr. Thomson replying “I intend to have a small sign with my name on it.” Chair Stewart then opened the hearing to the audience.

Henry Taves introduced himself as an abutter and said “we have no objections. Geordie is an asset to the community.” Ellie King introduced herself as an abutter. She pointed out her property as well as the Berry property on a graphic. She also pointed out her property line (she pays property taxes on the lot) “but somehow the Barry deed gets parking rights” she said.

Ms. King told the Board that while the resident of the house may park on her lot “I do not want strangers on my property.” She referred to an incident with a former tenant that made her sensitive to people she did not know. She concluded by noting her property line went to the Berry House “so I may have to go through the gate to prune my garden.” Chair Stewart looked around and asked “how is the Board feeling?” Do you think you have enough information to go to deliberation?” Each member replied they felt they did and Chair Stewart noted he would entertain a motion to do just that.

A motion was made/seconded (Monahan/Laurenitis) to close the hearing and move to deliberation with all in favor. Chair Stewart appointed Mr. LaRoche to sit and read the Rules of Procedure for deliberation.

Deliberation

Chair Stewart began with a straw poll. He told the members he felt the applicant met all the criteria with minimal impact. He went on to note “if he leaves (the house) the use ceases. There is not much impact and the neighbors support it.” He looked to his left and said “Loretta?” Ms. Laurenitis noted that while she did have some concerns about parking “but as long as we can stipulate *no more than 4 parking spaces* I support it.” Me. Leishman agreed as well noting “I am good, I wish they were all this easy.” Ms. Monahan noted she was on board as was Mr. LaRoche who pointed out new building “was a more acceptable location.”

A brief discussion about patient parking followed with Chair Stewart adamant that the patient parking be on the rented area across the street (or another designated area) “but not I front of the house per Ms. King’s wishes.” Ms. Monahan recommended signage for the patient parking to make things clear.

Following the crafting of the Decision a motion was made/seconded (Monahan/Laurenitis) to accept it as written below with all in favor.

Minutes

A motion was made/seconded (Leishman/Monahan) to approve the minutes of November 4, 2013 with correction of typos with all in favor.

The meeting closed at 8:35 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant

ZONING BOARD OF ADJUSTMENT

NOTICE OF DECISION

Case Number 1199

December 2, 2013

You are hereby notified that the request of George Thomson, for a **Special Exception** to Article IV, Section 245-24 D of the Zoning Ordinance, for a Professional Use and Customary Home Occupation of a doctor office, on property located at 3 River Street, parcel number U017-057-000 is hereby **GRANTED**.

In granting the special exception, the Board finds that:

All of the general Special Exception criteria of 245-41 D have been met, including: location, activity type and mix, visual consequences, access, and process. The Board also finds that the criteria in section 245-24 D for Professional Uses and Customary Home Occupations have been met, including:

1. The physician's office and all related activity will be conducted entirely within the residence.
2. No more than two people will be employed at the site.
3. There shall be no exterior changes to the residence and no variation to the residential character of the premises other than permitted signage.
4. The professional use will not generate traffic that will be significantly inconsistent with residential use.

The Board also finds that the criteria in section 245-24 B for Professional Uses and Customary Home Occupations have been met, including:

1. Doctor Thomson will reside in the dwelling unit.
2. The physician's office will be secondary to the primary residential use.
3. The physician's office will not change the character of the premises or the surrounding neighborhood.
4. The required off street parking will be provided.

In granting this special exception, the Board imposes the following conditions:

1. The use approved is for a physician's office.
2. Patient parking will be located across the street and designated as patient parking. Patients will not be allowed to park on parcel U017-058-000.
3. Office hours will be restricted to Monday through Friday, 8:00 am to 6:00 pm.

Signed,

James Stewart, Chair

Note: An application for rehearing on any question of the above determination may be taken within 30 days of said determination by any party to the action or person directly affected thereby according to the provisions of New Hampshire Revised Statutes Annotated, Chapter 677. Decisions for Variances and Special Exceptions shall become null and void in two years if substantial compliance with said decision or substantial completion of the improvements allowed by said decision has not been undertaken after the date of approval. If this decision becomes null and void, the owner must reapply to the Board of Adjustment for a Variance or Special Exception as provided for in §245-42 of the Peterborough Zoning Ordinance.