

SOMERSWORTH ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
JULY 6, 2016

MEMBERS PRESENT: Paul Maskwa, Chair, Matt Keiser, Vice Chair, Roland Dumont and Bill Griffith, Alternate.

MEMBERS ABSENT: Don Routhier.

STAFF PRESENT: Tracy Gora, Planning Secretary.

The meeting was called to order at 7:00 pm.

Maskwa appointed Griffith as a voting member of tonight's meeting.

1) APPROVAL OF THE MINUTES OF THE MEETING OF JUNE 1, 2016.

Motion: Keiser moved to approve the minutes of the meeting of June 1, 2016.

Seconded by Griffith. Motion carried with a 3-0-1 vote with Dumont abstained.

2) OLD BUSINESS

A) Any old business that may come before the Board.

None.

3) NEW BUSINESS

A) Kenneth Robinson is seeking a variance from Table 5.A.1 of the Zoning Ordinance to build within setbacks on property located at 58 Milo Lane, in the Residential Single Family (R1) District, Assessor's Map 69, Lot 2D31, ZBA #15-2016.

Maskwa read the Director's memo (see attached) and stated that this property already got a variance to build the deck but now they want to enclose the area under the deck for storage and put a roof over the deck. Stated that only a portion of the proposed deck is within setbacks.

Public hearing opened 7:03 pm.

Kenneth Robinson, property owner, addressed the Board and distributed a handout (see attached). Stated that he got a variance to build the deck but he didn't build it as big as the variance was for. Stated that the septic system is in the front of the property so the house is setback to the rear of the property more so than other houses in the area. Stated that there are about 90 feet between this deck and the closest other deck. Reviewed the handouts.

Keiser asked how big the deck is.

Robinson stated that it was approved for 14'x32' but only constructed 13.5'x19'.

Keiser asked how much farther the roof extends out.

Robinson stated that it is about six inches past the deck, which is about four feet in the setback area. Stated that he wants to put lattice under the deck that he will color match the house.

Maskwa asked if the picture on the last page of the handout is an actual picture.

Robinson stated that it is an actual picture.

Maskwa asked how high the deck is.

Robinson stated that it is just over nine feet with one straight staircase down.

Maskwa confirmed that the deck does not completely go into the setback because it is cut at an angle.

Robinson confirmed and stated that there is a triangle area in the setback.

Public hearing closed 7:10 pm.

Keiser asked if this needs a variance because it was only approved as a deck before.

Maskwa stated that it is nonconforming and they are making adjustments to it so it needs another variance.

Dumont confirmed that the deck was already approved.

Maskwa confirmed.

Dumont stated that the roof is now being constructed in the setback.

Maskwa stated that both the roof and the under deck storage will be in the setback.

Keiser stated that he feels that all five criteria have been met and that it is hard to put a reasonable size deck on the house that isn't in the setback because of the septic system in the front yard. Stated that it is in the spirit of the ordinance and does justice.

Motion made by Keiser: After review of the application, the file and all the information presented to the Board, I feel that all five criteria have been satisfied and I move that the request of Kenneth Robinson for a variance from Table 5.A.1 of the Zoning Ordinance to build within setbacks be **GRANTED**.

Seconded by Dumont. Motion carried with a 4-0 vote.

Maskwa stated that he failed to mention at the beginning of the meeting that there are only four voting members present tonight and a motion needs three votes to pass. Stated that the applicants may ask to be tabled until next month for the possibility of a full Board.

- B) Imants and Grace Millers are seeking a variance from Table 4.A.1 of the Zoning Ordinance for a multi-unit dwelling in a single family district on property located at

86 South Street, in the Residential Single Family (R1) District, Assessor's Map 15, Lot 23, ZBA #16-2016.

Maskwa read the Director's memo (see attached) and stated that they are applying for a variance to use the property as multi-family. Stated that the applicant submitted a tax map showing the use of abutting properties but that the map was mislabeled. Stated that the map also shows the large size of the lot and that there is enough area and frontage for a subdivision. Stated that going to a multi-family property may increase water and sewer hookup fees and that it would also need site plan approval.

Public hearing opened 7:15 pm.

Brian Barrington with Coolidge Law Firm represented the applicant and addressed the Board. Stated that he has been working with the Millers since the house burned down and stated that they supplied a history of all the occupants of the building. Stated that a lot of people have lived on the property at once. Stated that when going to a multi-family use you are increasing the intensity but the history of this property shows that there always have been a lot of people living here. Stated that regarding the map he submitted with the uses of the surrounding properties, it was his best guess of the uses. Stated that one of the immediate abutters was a commercial property. Stated that Somersworth was built in layers over the years with different sized houses and lots. Stated that on the Hill, many of the properties have had to go to a multi-family use to pay the taxes. Asked if it is better to subdivide the property or try to restore a historical building. Stated that the property has been exposed to the market for many months and there is no interest in it. Stated that it is a big house on a big lot. Stated that this property is at the intersection of High Street and that a large single family will not want to go there. Stated that the single family neighbors will still be protected and there won't be a negative impact. Stated that there used to be a permit for a daycare with 12 children here. Stated that the hardship has to come from the nature of the property and not from economics. Stated that this will not diminish surrounding property values. Stated that there is significant yard area and the trees and size provide a buffer. Stated that traffic won't be a problem for abutters because the driveway exits almost onto High Street. Stated that what is affecting property values is that there is a burnt out house sitting there and there is still a mortgage due on the house so there is no money to demolish it. Stated that the property is an eyesore and that is what is affecting property values. Stated that regarding the public interest criteria, due to the unique lot size density won't be a problem which serves the public interest. Stated that a multi-unit house with multi families is better than having two houses. Stated that this is a large house with barn and that there used to be horses. Stated that other fields in the City have become houses. Stated that if the variance isn't granted than there will probably be an application for another sober house or homeless shelter. Stated that having a multi-unit building will be true workforce housing. Stated that this is a reasonable use due to the size and that there is plenty of room for parking. Stated that special conditions of the property include the size of the lot, the many bedrooms and the barn. Stated that regarding substantial justice, rebuilding and preserving the character of the house is just. Stated that they would rebuild on the existing footprint. Stated that regarding the spirit of the ordinance is met because this property is in an area where there is a transition from single family to multi family.

Imants Millers, property owner, addressed the Board and stated that he came to Somersworth from Minnesota. Stated that his family grew and that at one point there

were seven families living at the house. Stated that the fire happened and that some of the family has left the area. Stated that he almost wishes that the fire burned all the property so they could start from scratch. Stated that he enjoys the woods and the area but that he couldn't rebuild the house.

John Stevens of 62 Myrtle Street addressed the Board and stated that half of their property is an open field that abuts the Millers' property in the back and they can see the entire property. Stated that he is concerned with over development and how it will change down the road. Stated that there is much crime in the area and that this will devalue their property.

Julie Stevens of 62 Myrtle Street addressed the Board and stated that she enjoys the Millers family and feels badly about what happened but she still lives there and will not benefit from this. Stated that that threat of a sober house is a battle for another time.

Greg Guilmette of 68 Myrtle Street addressed the Board and stated that his property is directly behind the Millers' property. Stated that he feels very badly for the family and what happened was awful but he hopes the Board considers the facts and not the hearts. Stated that the historic use of the property and the neighboring properties was discussed but two wrongs don't make a right. Stated that it is hard to justify putting additional housing here because other properties have too many people living there. Asked how many units or beds they are proposing.

Maskwa stated that this Board is just concerned with whether to allow a multi-unit dwelling instead of a single family dwelling. Stated that the number of units is not handled by this Board; that would be part of Planning Board review.

Guilmette asked what the definition of a multi-family is.

Maskwa stated that it is more than two units.

Guilmette stated that he is concerned about this.

Richard Turcotte of 66 Myrtle Street addressed the Board and stated that he has been in Somersworth his entire life. Stated that he can offer some history about this property and that it was once owned by wealthy people and that there was never more than one family living there. Stated that his children would play in this backyard and that it seemed like a privilege to have the country feeling in the area. Stated that a developer came in and wanted to turn this to multi-family but the neighbors were concerned about losing the country look of the area and got together and designated this a single family area. Stated that the work has already been done and asked why they have to start over. Stated that financial issues should not be the reason they change something that a group of people wants. Stated that everything keeps growing and that there will be a new developer here and will expand beyond the intent from 40 years ago. Stated that there aren't too many residential areas left in the downtown. Stated that he sympathizes with the Millers but that he doesn't want to break expectations of former generations. Stated that the Millers have had time to improve the house in 40 years and they are good people, but so are we.

Barrington stated that he would like to respond to the abutters' comments. Stated he could draw a line through the backyard of the Millers' property and it would be the same

size as the two abutters. Stated that the abutters' lots are a quarter of this lot and they want to mandate/dictate that no multi families be on it. Stated that this lot is four times the size of the abutters' lots so they have the benefit of the open space. Stated that they have small backyards that they voluntarily bought. Stated that this request is specific to four units and no more. Stated that they cannot design the building until they get a variance for it.

Stevens used a tax map to show the Board where his property is and stated that they would be affected by this. Stated that there is no agreement on size or how many building but this opens the door and he doesn't want that to happen.

Barrington stated that the variance request is to convert a single family to a four unit. Stated that as far as the neighborhood going to heck, that won't happen with a new apartment.

Guilmette stated that Barrington used the word dictate but he is actually just concerned. Asked if they will be using the existing footprint.

Maskwa stated that they will find that out and that the applicant said the footprint would stay the same.

Turcotte asked if all four apartments would be in the same footprint or if it would just be one apartment with three other new buildings. Stated that their intention is for four building total.

Maskwa stated that is not what they are proposing.

Barrington stated that it is clear that this is for four units on the existing footprint.

Keiser asked if any of the lot is on High Street.

Barrington stated that the driveway faces toward the opening of South Street.

Keiser asked if they are planning to sell the property to a developer or if the applicant will develop it.

Barrington stated that the applicant will not develop it themselves and that they plan to sell to someone. Stated that site plan approval will be needed.

Griffith asked if a variance is needed for a duplex.

Maskwa replied yes and stated that this is a single family district.

Barrington stated that if the Board votes for two units not four, then that is the decision. Stated that the Board has options for specificity.

Maskwa stated that there are options and one of them is to renovate the building and have four units. Stated that another option might be to tear down the building and build a new one. Stated that a variance is not needed to have a new single family house. Stated that it looks like the lot has the frontage to subdivide into two lots.

Barrington stated that he has not looked into the subdivision option.

Maskwa stated that if they subdivided, the new houses would be closer to the lot lines than the existing footprint. Asked about the hardship and confirmed that the property has been in this state since May 2015. Asked if there has been an attempt to renovate the property.

Barrington stated that bids went out to renovate the property. Stated that the hardship goes to the use of the land due to its characteristics.

Public hearing closed 8:01 pm.

Dumont stated that he has lived in Somersworth his entire life and there were large families living there before. Stated that there is a big difference between one large family versus four separate, smaller ones. Stated that they want the variance to make the lot more appealing but he understands how the abutter's feel with wanting a single family area. Stated that he doesn't know if he can support this.

Keiser stated that this property is unique as it is larger than the others in the area but he doesn't see the size of the property creating a hardship. Stated that he doesn't think this meets the spirit of the ordinance. Stated that the City established zones and they need to draw the line somewhere. Stated that this is a single family area and it doesn't meet the spirit of the ordinance.

Griffith stated that he feels it would change the character of the neighborhood and maybe property values.

Maskwa stated that he is on the other side of the fence with this proposal. Stated that he feels there is a hardship and that they are better off having a single entity on the lot. Stated that he is concerned with four units but the particulars would be vetted out at the Planning Board. Stated that there are multi-family units within walking distance of this lot. Stated that he is in support of this request.

Motion made by Keiser: After review of the application, the file and all the information presented to the Board, I feel that the hardship and spirit criteria have not been satisfied and move that the request of Imants and Grace Millers for a variance from Table 4.A.1 of the Zoning Ordinance for a multi-unit dwelling in a single family district be **DENIED**.

Seconded by Dumont. Motion carried with a 3-1 vote with Maskwa opposed.

- C) Duane Jellison, on behalf of White Worth Realty, LLC is seeking a variance from Table 4.A.5 of the Zoning Ordinance to allow a mini-warehouse use on property located at 380 Route 108, in the Commercial Industrial (CI) District. Assessor's Map 58, Lot 04, ZBA #17-2016.

Maskwa read the Director's memo (see attached) and stated the proposal is to expand the existing self-storage facility. Stated that the use is allowed in the Industrial (I) District but this portion of the property is in the Commercial Industrial (CI) District, which does not allow the use. Stated that if this is approved, they will also need site plan approval.

Public hearing opened 8:07 pm.

Jay Stephens with Civil Consultants represented the applicant and addressed the Board. Stated that it is an existing storage facility and there are wetlands to the north and behind the facility so there is no ability to expand in another direction. Stated that they want to modify the lot line with Dunkin Donuts and that this area would be suitable to expand the facility. Stated that the existing facility looks great and has been there for years. Stated that there will be no new driveway or entrance because they will use the existing one. Stated that they will add a stormwater treatment area and an Alteration of Terrain (AoT) permit will be needed from the State. Stated that when the facility was first built, the zoned allowed for this use but the zoning has since changed. Stated that they have already done an expansion but there is no more space in the back and this is the only area with suitable soils and area. Stated that Dunkin Donuts doesn't need the land and is willing to sell it and they will need to apply for a lot line adjustment. Stated that this will not adversely impact surrounding property values because it is the same use. Stated that there will be minimal impact on municipal services because they don't use much like water and sewer. Stated that the biggest justification for this is that when it was originally built, it was a permitted use. Stated that this would be the last expansion.

Duane Jellison, agent of the owner, addressed the Board and stated that they got a variance in the past to expand and showed that area on the plans. Stated that when they purchased the land the use was permitted. Stated that they are a good clean facility and they pay all their taxes. Stated that they aren't adding any kids to the school system and that this is a very reasonable use of the property. Stated that he is hoping that they get approval to expand and that this is the biggest the facility will get.

Griffith asked what the property would be used for if not for this. Asked what other types of facilities could go there.

Maskwa stated that the Table of Uses indicates what uses can go in the CI District.

Stephens stated that if this land was developed as something else, then there would be a new entrance off of Whitehouse Road and more traffic. Stated that this is a minimal use for this area.

Griffith stated that this would prevent more demand on City services.

Public hearing closed 8:19 pm.

Maskwa stated that he finds no issues with this request and that this is the only area to expand the business and would be a good use of the land. Stated that there would be no increase on City services, they would use the same entrance and traffic isn't an issue with this use. Stated that this would end the expansion of this business and that he supports this.

Griffith asked if these would be one-story buildings like what exists.

Jellison replied yes and stated that they would be exactly the same as what is there.

Motion made by Keiser: After review of the application, the file and all the information presented to the Board, I feel that all five criteria have been satisfied and I move that the

request of Duane Jellison, on behalf of White Worth Realty, LLC for a variance from Table 4.A.5 of the Zoning Ordinance to allow a mini-warehouse use be **GRANTED**.

Seconded by Dumont. Motion carried with a 4-0 vote.

D) Any other new business that may come before the Board.

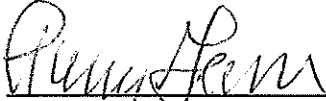
Maskwa stated that if there is anyone interested in joining the Vision 2020 Committee then they should call in to the Planning Department.

Motion: Dumont moved to adjourn the meeting.

Seconded by Griffith. Motion carried with a 4-0 vote.

Meeting adjourned at 8:23 pm.

Respectfully submitted:



Tracy Gora, Planning Secretary
Somersworth Zoning Board of Adjustment