

SOMERSWORTH ZONING BOARD OF ADJUSTMENTS
MINUTES OF MEETING
October 6, 2021

MEMBERS PRESENT: Matt Keiser Chair, Richard Brooks, Keith Perkins, Brad Fredette

EXCUSED MEMBERS: Glenn Garvin-Alternate and Kenneth Vincent

STAFF PRESENT: Michelle Mears, Director of Development Services, and Dana Crossley
Planning Secretary

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

1) Approval of the minutes:

Brooks **MOVED** to accept the September 1, 2021 minutes as presented.

Perkins seconded the motion.

The **MOTION CARRIED** by a 3-0-1. (Fredette abstained)

2) OLD BUSINESS

A) Any old business that may come before the Board. - No other old business.

3) NEW BUSINESS

A) **Carl Aimesbury, is seeking a Variance from Table 5.A.1 and 5.A.2 to allow a second dwelling unit within the existing structure without the required lot area and frontage for a property located at 7 Myrtle Street, in the Residential Multifamily (R3) District, Assessor's Map 09 Lot 27, ZBA#12-2021 PUBLIC HEARING**

Keiser opened the public hearing.

Mears stated the applicant is seeking to add a second unit in the existing single-family structure on a property that consists of .38 Acres (16,552.8 SF) with 118' of frontage. This property is located in the R3 District but the Zoning Ordinance states **Residential uses shall be developed in accordance with the density and dimensional regulations applicable to the number of dwelling units proposed (i.e., one dwelling unit shall be developed in accordance with the regulations of the R-1 District).** For a Duplex (2 Family) the following are the dimensional and density requirements:

- 20,000 SF minimum lot size
- 150' of frontage
- 22,872 SF for two units (11,436 SF per/unit) Table 5.A.2
- 2 parking spaces per/unit (4 total)

Keiser clarified the memo.

Carl Aimesbury was in attendance to represent the application.

Keiser stated there are 4 members present, the applicant has the choice to continue the application for a full Board or move forward with a short Board.

Aimesbury chose to move forward with a 4 member Board.

Aimesbury stated he has a house built in 1851, walk out basement with pavement that goes around the house. He stated the previous owners had partially finished the basement and he is looking to add a bedroom, bathroom and full kitchen (there was existing stove and sink there). He stated there would not be a change to the footprint, it would be all internal and not visible from the outside. He stated parking will be on his lot in the rear. The area is zoned R3 for multifamily and 7 of his abutters are multifamily units on non-conforming lots. For him to do what he is doing will not change the neighborhood in look or feel. He stated several of the neighbors are multiunit and does not think his change would change the neighborhood. He stated he is a landlord and knows there is a need for housing, understands the variance stays with the land. He stated it would fit in with the neighborhood.

Keiser noted there is no public in attendance and there were no comments received via mail or email.

Keiser inquired if the applicant lives at the property.

Aimesbury stated yes.

Brooks inquired if the applicant sought alternate options such as an ADU.

Aimesbury stated yes, however the space he intends to convert is larger than the allowed 800 SF for an ADU, the space is difficult to bring down to the 800 SF due to the layout.

Keiser asked how large the space is.

Aimesbury stated between 900-1000SF, would be within the basement, there is one space about 200 SF that will be a mechanical room.

Brooks asked how the applicant feels the property is unique and in a way that creates a hardship.

Aimesbury stated the property was built in 1851, basement has old stone walls, there was an electrical contractors office operated out of it for many years, not sure there is something special that makes it unique.

Keiser inquired what the hardship created that this should be allowed but the neighbors should follow the strict ordinance.

Aimesbury stated he would be fine with his neighbors attempting to do something like this, he has the largest lot of his abutters by a small fraction, some of those surrounding properties have a higher density on their lots and none of those are conforming and feels it would be a hardship to be denied to do what the neighbors are already doing. He stated there would be more of a hardship to go back and enforce on everyone that is already non-conforming. He stated the area is relatively densely populated but not over populated and this would not create a hardship to add a one bedroom apartment in the neighborhood.

Keiser inquired where the entrance would be.

Aimesbury stated in the rear of the lot, two entrances one to the kitchen and one to the living room.

Keiser noted the applicant stated the lot is slightly larger than surrounding lots, there is 118' of frontage where 150' is required.

Aimesbury stated the nice thing about the property is that from the street it goes down, plateaus and then goes down again, the initial plateau is where the parking would be. The parking would be all off street and not visible to most of the neighborhood, only the lot behind him who also has a 2-unit. He stated he does not see this having an impact on the neighborhood, density, cosmetic or increased traffic.

Keiser closed the public hearing.

Fredette stated he is in favor of the request. He stated he the hardship discussion is discussed often with Main Street where there needs to be a commercial use on the first floor but there is not a good adaptive use for the old small buildings for the commercial space. Neighborhoods change along with society, in this situation there

is a hardship because most of the surrounding properties are multi-families, by leaving one single family within that surrounded by rentals creates a hardship for the one property owner that is subjected to a single-family requirement. He stated the normal concerns he has have been addressed, parking there is adequate on site, the frontage difference is not that much. He stated the applicant is not seeking a 3-family but rather just a 2-family. Does not think it is unreasonable, would become a nice unit being an owner-occupied building. Would help the City and address a housing problem.

Brooks stated he does not see how this satisfies the hardship primarily, but does feel the surrounding uses are good point and, in his mind, he still cannot meet all of the criteria, but the application does make sense. Questioned if the applicant would still be grandfathered to operate the business use.

Perkins stated he agrees with Fredette and in favor of the request.

Keiser stated changing the use to a duplex would not affect the surrounding property values, there is a public interest for more housing and therefore it would not be contrary, substantial justice would be met by allowing the applicant the apartment they are seeking, and in essence because there are surrounding multi-family and duplexes and would not change the characteristics of the neighborhood and is in accordance with the spirit of the ordinance. He stated regardless of how much they like a proposal the hardship criteria needs to be considered, for the frontage he would consider if the lot was triangular that could create a hardship for reason to grant it. He stated it comes down to density and how densely the City desires to make neighborhoods, existing properties are either grandfathered or were granted a variance. He stated he agrees with Brooks and not finding where the property meets the criteria that it is unique enough to grant a variance.

Fredette stated another point he would make it, another hardship to consider the house is well kept for what it is but looks like it is ready for some improvement, putting an applicant in a situation where a house needs some time and energy and to expect the time and energy into a single family that will not be as marketable puts someone into a hard situation. He stated his understanding is that there has not been a business at this location in about 30 years without additional approvals. He stated it is unique that there is a large business space that cannot be used for a business. He stated it is a very reasonable proposal.

Mears stated that is correct the business would not be able to re-operate.

MOTION: Fredette stated, after review of the application, the file and all the information presented to the Board, I feel that all five criteria have been satisfied due to reasons discussed and I move that the request of Carl Aimesbury for a Variance from Table 5.A.1 and 5.A.2 to allow a second dwelling unit within the existing structure without the required lot area and frontage for a property located at 7 Myrtle Street be **GRANTED WITH THE FOLLOWING CONDITIONS:**

1. It shall be limited to a duplex (2-unit);

The MOTION is SECONDED by Perkins.

Discussion: Brooks if this was granted as a duplex could he still add an ADU.

Mears stated no.

Fredette stated he considers an application that was on W. High Street when they were seeking an additional unit but over an ADU size and the variance was granted for a house in the R1, unique to him where the applicant is seeking to put the second unit within the existing structure.

The MOTION Fails with a 2-2 vote.

The Board discussed next steps.

MOTION: Brooks I move that the request of Carl Aimesbury for a Variance from Table 5.A.1 and 5.A.2 to allow a second dwelling unit within the existing structure without the required lot area and frontage for a property located at 7 Myrtle Street be **CONTINUED to the meeting of November 3 at 7PM for the following reasons:**

1. To allow for a full Board.

The MOTION is SECONDED by Fredette. The MOTION CARRIES 4-0.

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

Mears stated if anyone is to be absent from a meeting requesting that they contact at least 2 people, this will ensure that the message will be received incase someone is out of the office.

Brooks **MOVED** to **ADJOURN** the meeting.

Perkins seconded the Motion.

The **MOTION CARRIED** 4-0 at 7:31PM.

Respectfully Submitted,

Dana Crossley, Planning Secretary