

SOMERSWORTH ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
MARCH 24, 2016

MEMBERS PRESENT: Paul Maskwa, Chair, Matt Keiser, Vice Chair, Donald Routhier, John Kennedy and Bill Griffith, Alternate.

MEMBERS ABSENT: Roland Dumont.

STAFF PRESENT: Bob Belmore, City Manager/Interim Director and Tracy Gora, Planning Secretary.

The meeting was called to order at 6:00 pm.

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

The Board took a recess at 6:02 pm.

The Board returned from recess at 6:25 pm.

1) NEW BUSINESS

- A) Motion for Rehearing: A rehearing has been requested of the Zoning Board's decision to approve a variance from Table 4.A.2.3 of the Zoning Ordinance for a group care facility on property located at 472 High Street, in the Residential Commercial (RC) District, Assessor's Map 40, Lot 04-A, ZBA #12-2015.

Routhier stated that he read over the rehearing petition and found no new issues raised. Regarding the five criteria for a variance, there was no discussion on this reducing property values. Stated that he believes that under the law, they can rely on their own knowledge of the property. Stated that this is an existing building with no alterations and he does not think property values will be diminished. Stated that this use will not interfere with the neighbors and that it is a semi-residential use in a commercial area. Stated that it is not contrary to the character of the neighborhood. Referred to the hardship criteria and stated that all the neighbors of the property are commercial enterprises and listed examples. Stated that this is the only building that looks different from the others in the area and that makes it unique and qualifies for a hardship. Stated that it cannot be used for other commercial uses. Stated that this use keeps with the spirit of the ordinance and protects residential uses. Stated that this is a commercial use and they pay their taxes as commercial and the use is a reasonable one. Stated that the history of the property being used as office and of a boarding house keeps with the neighborhood and would do substantial justice to be used as it has always been. Stated that the use is good for the community and is not against the ordinance. Stated that it is a commercial use so it keeps with the spirit of the ordinance. Stated that he is not in favor of granting the rehearing.

Keiser stated that there was no new information or facts provided but that he is looking at the variance criteria. Stated that he feels that the property value of an apartment is based on how full it can be kept with residences and that based on the ZBA meeting for this variance, they may not be able to keep the apartment full, thus possibly reducing the property value. Stated that he does not see evidence that this meets the hardship criteria and that he does not think the property is unique. Stated that there are other uses for the property that can be done without a variance. Stated that he does not know

if substantial justice has been done for the abutting property. Stated that as he reads the ordinance, he feels the spirit has been met but he does not see a hardship. Stated that he would vote in favor of having a rehearing.

Kennedy stated that this use is a commercial business and he feels that there are no hard facts that values will be diminished. Stated that this was used as a boarding house in the past, which is similar to a group care facility. Stated that he will vote against the rehearing.

Griffith stated that there is a presumption that group care is residential but this is an LLC and people are paying for service so it seems like commercial. Stated that the ordinance says that there can be no new residential construction but they are not constructing anything. Asked if the definition of group care facility needs to be looked at.

Maskwa stated that he agrees with Routhier and pointed out that in the packet for the variance there was a letter from a Realtor addressing the property value question, which states that the use will not devalue surrounding properties. Agreed that there is no new information and that he will not vote to grant the rehearing.

Keiser stated that there was evidence that the use would negatively affect property values.

Kennedy stated that people spoke about that but there were no hard facts presented.

Routhier stated that he feels they can rely on their own opinion of the community and he feels this will not devalue the property. Regarding the hardship, stated that this is a sore thumb in the area and that there are few residential buildings there. Stated that this is a residential building where the others in the area are not.

Griffith mentioned that down the street there are offices that look like residences but are used for business purposes.

Motion: Routhier moved that the request of Prunier & Prolman, on behalf of John J. Flatley for a rehearing of the Board's decision to approve a variance from Table 4.A.2.3 of the Zoning Ordinance for a group care facility be **DENIED**.

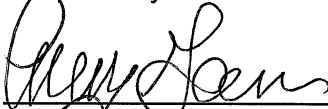
Seconded by Kennedy. Motion carried with a 4-1 vote with Keiser opposed.

Motion: Keiser moved to adjourn the meeting.

Seconded by Kennedy. Motion carried with a 5-0 vote.

Meeting adjourned at 6:38 pm.

Respectfully submitted:



Tracy Gora, Planning Secretary
Somersworth Zoning Board of Adjustment