

Town of Winchester
Zoning Board of Adjustment
Minutes
5-13-21

Meeting opened: 7:00pm

Members present: Mike Doherty, Jason Cardinale, Lou Fox (Chair), Becky Beaman and Bill McGrath. Colby Ebbinghausen is an alternate present. Margaret Sharra is the Land Use Administrator.

Public: Eric Farris.

First order of business: The board reviews the minutes of 2-23-21 for approval. **J. Cardinale moves to approve as written, M. Doherty seconds. The vote is 4 yes. (BM abstained)**

Second order of business: The board reviews an application for a variance submitted by Farris Development regarding property at 30 Keene Road. The applicant asks to convert a single family home (previous restaurant) into a two family. The LUA reads the application and confirms all notices were sent and posted and it appears all in in order. **M. Doherty moves to accept the application as complete, B. Roy seconds. The vote is 5 yes. B. McGrath moves to go into a public hearing, L. Fox seconds. The vote is 5 yes.**

Mr. Farris speaks to the application. The current building is very run down and was a restaurant for many years (Deano's). He has been converting it to a 4 bedroom single family as permitted by right. He feels this property with its limitations is better suited for 2- two bedroom units. He received a building permit for the renovations. He owns the 11 unit apartment building next door. He wants to coordinate the two buildings with the same residential look by matching siding, windows, and roof. His building is about 2000ft in size and on a tiny lot.

He reads the response to the variance criteria.

- 1) No contrary to public interest because there is a region wide housing shortage. The occupancy rate in Cheshire County is almost not existent. This building has been vacant and an eyesore for years. This will improve downtown aesthetics.
- 2) Spirit of the ordinance is observed because it is a residential use, same as the surrounding properties. The lot size was determined many years ago. The lot size and shape are controlled by a river and a highway. Single family homes and duplexes are permitted in the district. He can't make the lot larger.
- 3) Substantial justice would be done because residential is the only viable use. Two family is more of an asset to the town. No new structure could be built there. It is impossible to add land because of the river and road. This maintains a tax revenue and improves downtown.
- 4) Properties will not diminish in value. The closest properties are an 11 unit apartment building (he owns) and an unsightly gas station.
- 5) There is a hardship because the lot is limited in size and there is no way to add to it. This is a legal nonconforming property. This use will improve the appearance of downtown. This lot was created long before the ordinance. The large structure can be a single family with 4 bedrooms but it would be more appealing, logical and needed as a 2 bedroom 2 family building.

L. Fox asks for proof of a housing shortage. Mr. Farris states statistics of the region and explains he gets over 40 calls a day from persons looking for a rental unit.

Mr. Farris is asked for more information on improvement. He describes that he will be trimming the trees and cutting dead wood around the building. This includes hiring a crane, a receiving permission from the state for the work. He will have the roof, siding and windows the same as his abutting building.

There is a total of 12 parking spaces between the town buildings. Right now, there really isn't any for the apartment building. This will improve parking for all tenants. He wants to pave the parking area if the state permits it. He will remove the signage and change outdoor lighting to down lighting.

L. Fox asks if there are existing security cameras at the apartment building. Yes.

B. Roy asks if green area is required. Yes. The LUA reads from the ordinance on lot size and green/recreation area.

B. McGrath does not see in the ordinance where the district wants residential uses. He reads that the Planning Board may approve a residence with a business. The LUA reads in the ordinance in Table of Usage that single family and duplexes are permitted in the district. This reason for the variance is the lot size.

B. McGrath and L. Fox do not see a hardship. Mr. Farris replies that 2 two bedroom units are better than a four bedroom single family. That is less of an impact on town services. The board can deny but this request is good for the property and town. Because of the craziness of the housing market right now he could sell the 4 bedroom home immediately.

The LUA asks Mr. Farris if he knows what hardship is. B. McGrath reads the hardship requirements.

Mr. Farris says the limited lot size is a hardship, period. There is no land to obtain to increase the lot size because of the road and river. The existing lot itself is the hardship. The fact remains a 4 bedroom home means children will live there. In 2 bedroom units only 30% of those have children. There is no increase in revenue for the town but there would be less for the town to pay out. That is a hardship for the town. The board confirms a single family is permitted by right in this district/property.

J. Cardinal and B. McGrath think it can stay a commercial use and that some business can go in there.

Mr. Farris explains the property has been on the market for years and that the family did try again to make a go of the restaurant a few years ago and it didn't work.

There are no questions from the public. **B. McGrath moves to close the hearing, J. Cardinale seconds. The vote is 5 yes. 7:37pm.**

The board discusses the application. B. Roy asks the board for help in the hardship criteria. She can see no hardship when switched from commercial to residential. But, a duplex is a permitted use but is needing a variance because of the lot size, then that is a hardship.

B. McGrath refers to the 5 criteria. He says the public interest is ok, spirit of the ordinance is no issue, Diminished value is not an issue. He does think there are other uses of the property, so he questions meeting the justice requirement. He does not think there is a hardship.

L. Fox heard Mr. Farris comment about hardship to the town, 4 bedrooms vs 2. He agrees. He also thinks the proposed use is reasonable. Mr. Farris convinced him.

B. McGrath moves to deny the variance because it does not meet the hardship requirement. (there is no second at this time).

B. Roy wants to discuss this further. She does believe #3, substantial justice is met. She agrees with L. Fox, this is the most practical use. She also believes #55, hardship, has been met. This is a gain to the town, and less strain to town services.

L. Fox wants to know if the owner inspects the buildings regularly? Yes, all units are inspected quarterly. He purchased the building for more room and parking for the apartment building. He will make it beautiful.

L. Fox comments that he knows the building had been for sale for a long time. B. Roy reiterates a duplex is allowed there; the problem is the lot is too small. Mr. Farris says this is a unique lot for a large building of 2000 sqft. That is a hardship. This is the best and highest use.

J. Cardinale seconds the motion. The vote is 2 yes (BM,JC) and 3 no(LF,BR, MD). Motion fails.

L. Fox moves to approve the variance, M. Doherty seconds.

B. McGrath asks L. Fox what is the hardship? L. Fox says the unique size and shape of the lot. This use is one of a few. B. McGrath thinks a single family is better, L. Fox disagrees.

B. Roy encourages the tree trimming but be careful with the state. Mr. Farris explains there is an urban exemption on the property, so he does not to comply with the Shoreland Protection Act.

B. Roy insists this building is aesthetically pleasing and for it to look like a home.

The LUA suggests conditions since this project will not come before the PB.

L. Fox suggests removing the loading dock. Mr. Farris will if can, if not will work it into the building. J. Cardinale suggests the storage shed be improved and used for storage of bikes and other stuff. That way it keeps the outside. They discuss landscaping. That is dependent upon if the board wants green space or more parking. Mr. Farris will do what the board want. The sidewalk in front of the building is poor. The boards decide for the owner to work with the Building Inspector and Code Enforcement Officer for aesthetic improvements in landscaping, parking and the building. The members are clear this building is to look residential and inviting when entering the downtown. L. Fox says this is an ugly building and expects the owner to improve it. Mr. Farris agrees with the conditions and states he will abide and make the building residentially pleasing. **The vote is called. 3 yes (BR,LF,MD) and 2 no(BM,JC). Motion passes.**

Third order of business: L. Fox's term expires this year, and he would like to continue on the board.

J. Cardinale moves to nominate to the BOS to approve another 3 years for L. Fox, M. Doherty seconds. The vote is 5 yes.

B. Roy nominates L. Fox as Chairman, J. Cardinal seconds. The vote is 5 yes

M. Doherty nominates J. Cardinale as V. Chairman, L. Fox seconds. The vote is 5 yes.

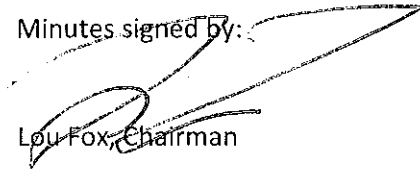
B. McGrath moves to adjourn, J. Cardinale seconds. The vote is 5 yes. 8:26pm.

Minutes respectfully submitted:

Margaret Sharra, LUA

Minutes approved by the board on:

Minutes signed by:



Lou Fox, Chairman