GILFORD ZONING BOARD OF ADJUSTMENT

MINUTES

October 25, 2022

CONFERENCE ROOM A

7:00 PM

The Gilford Zoning Board of Adjustment met on Tuesday, October 25, 2022, at 7:00 PM. The public, applicants, and board members were present in person.

William Knightly chaired the meeting and welcomed everyone. He led the Pledge of Allegiance.

Present were Chairman Bill Knightly; Vice-Chairman Larry Routhier; Members Adrianna Antonopoulos, Andrew Howe, and Scott Davis; and Alternate Members Kevin Hayes and Richard Grenier.

Also present was Sandra Hart, Technical Assistant, and Attorney Walter Mitchell of Mitchell Municipal Group.

**1. Applications**

# 1.1. Cutler Family Real Properties, LLC / Application #2022000320

Applicant is seeking a variance from Article 4, Section 4.2.9, Dormitory, to allow a dormitory use in a 2,000-square-foot detached accessory building to house up to ten (10) seasonal employees from May through September. The dormitory use is not a permitted use in the SFR Zone. The property is located at 158 Weirs Road on Tax Map & Lot #223-612.100 in the Single Family Residential (SFR) Zone. *Tabled from the September 27, 2022 meeting*.

L. Routhier moved to remove application #2022000320, Cutler Family Real Properties, LLC, off the table. Second by A. Howe. The motion passed by unanimous vote.

Property owner, Ron Allen, was present. John Bisson, attorney with Cronin, Bisson & Zalinsky,

P.C., was also present and stated that he understood that there was an encouragement to go to the Gilford Planning Board for approval. He reported the planning board approved the site plan last week and said that the appropriate use to describe the use of this building was a Dormitory, and this is why they were back before the Zoning Board of Adjustment. He stated the next element of the variance request was the hardship element.

J. Bisson reviewed the application and said this was formerly a dance studio. It is in a separate structure with two stories. The structure is close to a Resort Commercial zone and a Commercial zone. Cutler Family Real Properties, LLC, purchased the property with the intent of using it for the J-1 visa employees. Seasonal employees typically do not have vehicles or a place to stay, so the property would be used for the employees.

1. Bisson reviewed the five criteria, and the spirit of the ordinance and the public interest were discussed. J. Bisson stated the two criteria were intertwined. The dormitory provision allows for this kind of use, so this would be consistent with using this for seasonal use. The property is a few feet into the residential zone, but it is close to the Resort Commercial zone. Substantial justice is the balance between the applicant not having the variance and what impact it would have on the community if it was granted. The property was a dance studio in the past, and the question was, “What else could this be used for?”. The only other use would be for storage. Therefore it seemed using this for a dormitory would be more appropriate. The property was approved for a dance studio and was approved in the past for a variance to allow for the dance studio use, so there is no indication that the property values would be impacted by the granting of this variance. Hardship was the other issue and if there was a special condition on this property that would render this use a reasonable use. The structure has been used as a dance studio and maintained. The applicant came and obtained a building permit to add bathrooms to the structure, and $30,000 was spent on bathrooms, but in the inspection process, the issue of this being used as a dormitory came up. The use of this large structure for a dormitory is an appropriate use. All five conditions of the grant of the variance are established.

The floor was opened for the members of the board.

1. Hayes asked about what would happen when employees were not working. J. Bisson said there will be meals at the large house and there is a caretaker there, so there will be a place for the workers to get meals on their days off. The van will take the workers to work as well as offsite on their days off.

No members of the public spoke for or against the application. B. Knightly closed the public hearing.

The board discussed the application. A. Howe asked to hear from W. Mitchell and asked if the building being there would create a special condition. W. Mitchell asked for clarification of the board members as to who were alternates, and stated that once the hearing closes the alternates should not be participating in the discussion. B. Knightly clarified there were two alternates, K. Hayes and R. Grenier. W. Mitchell talked about the special condition of the property that distinguishes it from the other properties in the area, which has to be established. He spoke about the general public purpose, which is the dormitory not being allowed in this residential zone, which the ordinance would generally impose. There was discussion about the possible uses for the second building that would be appropriate within the zone.

A. Antonopoulos asked about the structure and noted it did not look like commercial space. She stated she did not see where it constituted a unique building. There was a discussion about the history of the application and businesses in town that also have a similar dormitory for the J-1 visa employees. The property had a variance to be a dance studio, but it has not been used for as a dance studio for a year, so the use has been extinguished. The special condition of this property is that this building on the property creates a special condition. L. Routhier suggested that this approval is tied to the owner’s business, with limits for when the dormitory would be used as temporary sleep space for employees. The dormitory would need to be limited to be sold separately or to a business owner.

A. Howe moved to accept application #2022000320 for a variance for a dormitory use in a detached accessory building, accepting the applicant’s testimony for granting the variance that the variance would not be contrary to the public interest, that substantial justice would be done by the variance, values of surrounding properties would not be diminished, and the unnecessary hardship would be met by the accessory building creating the special condition of the property. This variance will be subject to the accessory building only being used between May 1 and

September 30 of any year, that the use of the dormitory use is tied to a local business, and that

the number of occupants is limited to ten (10) occupants. Second by L. Routhier. The motion passed, and a roll call vote was called:

S. Davis – Yes

A. Howe - Yes

L. Routhier – Yes

1. Antonopoulos - No
2. Knightly – Yes

# 1.2 Robert Luntz / Application #2022000326

Applicant is seeking (1) a variance from Article 5, Section 5.1.3(a) to allow construction of a brise soleil (louvers projecting horizontally from the house to overhang the driveway) to have a front setback of 6 feet 10 inches where the standard minimum front setback required is 35 feet and where the New Hampshire Housing Appeals Board allowed a minimum front setback of 12 feet; and (2) a variance from Article 7, Section 7.1.1.2, to allow parking within 15 feet of the front property line where a minimum setback of 15 feet is required. The property is located at 98 Belknap Point Road on Tax Map & Lot #242-215.000 in the Single Family Residential Zone and the Island and Shore Frontage District. *Tabled from the September 27, 2022 meeting*.

L. Routhier moved to remove application #2022000326, Robert Luntz, off the table. Second by

1. Hayes. The motion passed by unanimous vote.

It was noted that the applicant had again requested to be tabled. There was no discussion.

1. Routhier moved to table application #2022000326, Robert Luntz, to November 29, 2022. Second by K. Hayes. The motion passed by unanimous vote.

# 1.3 Thomas & Donna Akerley, Application #2022000613

Applicants are seeking a variance from Article 5, Section 5.1.4, Side Setback, and Table 2, Dimensional Regulations, to build a seven hundred twenty (720) sq. ft., two (2) car garage attached to existing entryway. The garage will be fourteen (14) feet nine (9) inches from the side property line where a minimum of twentyfive (25) feet is required. The property is located at 15 Northview Road, Tax Map & Lot # 240-118.200 in the Limited Residential (LR) Zone.

Thomas and Donna Akerley were present and spoke about the application. The criteria of the application were reviewed. The addition would make the property neater and more aesthetically pleasing. The spirit of the ordinance would be followed, and there would still be more than fifty (50) feet between the structures, and it would preserve the rural feel of the neighborhood. The structure would allow the owners to store vehicles. The property's value would be increased, and therefore the value of the neighborhood would be increased. Literal enforcement would create a hardship due to the steep slope of the affected sides of the property, and there is no other place to place the garage due to the property's slope.

There was a discussion about the map and interpreting the lot line, and the placement of the buildings on the property, noting that the garage was in the setback area. During the discussion it was decided that the applicant should amend the application to add a note that there was insufficient room in the home for additional storage. Therefore, the dimensions of the garage would need to be larger than needed for two cars.

Thomas Lustenberger, an abutter, spoke in favor of the application.

With not further comments, the public portion of the meeting was closed.

S. Davis moved to approve the variance as requested for a two-car garage, 24 feet by 30 feet, not to be any closer to the side property line than 16.3 feet in the front, 14.9 feet in the rear of the garage from the side property line. He felt the request was reasonable and met the criteria of the ordinance. Second by A. Howe, who mentioned that a garage was decided by the NH Supreme Court to be a reasonable use of the property. The motion passed unanimously and there was a roll call vote:

S. Davis – Yes

L. Routhier – Yes

1. Antonopoulos – Yes
2. Knightly – Yes

A. Howe – Yes

# Other Business

There was a discussion about the quality of the drawings submitted to the board and the possibility of setting specific standards for applications.

# Minutes

A. Hayes moved to approve the meeting minutes of August 23, 2022, as presented. Second by L. Routhier. The motion passed with S. Davis abstaining.

# Adjournment

A. Hayes moved to adjourn. Second by A. Howe. The motion passed unanimously.

The meeting adjourned at 8:15 P.M.

Respectfully Submitted,

Krista Argir~~o~~polis

Recording Secretary