

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

**Town Offices upstairs meeting room
6 Pinnacle Hill Road, New Hampton, NH 03256**

January 4, 2023

MEMBERS PRESENT Regular members: Mr. Tierney, Mrs. Belanger, Mr. Livernois, Mr. Newman and Mrs. Arsenault (via Zoom)
Alternate members: Ms. Gattermann & Mr. Heckman

OTHERS PRESENT Land Use Administrator Mrs. Vose (via Zoom)

CALL TO ORDER Mr. Tierney called the meeting to order at 7:00 PM.

PUBLIC HEARING
(cont.) *Devin Humphries & Adam Difilippe, 837 Dana Hill Road, Tax Map R-17, Lot 30C for a Special Exception - Article IV, Section A (3&5), of the New Hampton Zoning Ordinance.*

Mr. Tierney reminded the Board this application was to create an ADU in the basement of the existing home. Mr. Tierney confirmed an approval for Construction was given by NHDES for a suitable septic system for the exiting bedroom and proposed ADU. Mr. Tierney provided the Board with copies of the floor plan and advised that the calculation of living area is 618 sq. ft., which is under the 800 sq. ft. limitation.

Ms. Humphries was present.

The Board confirmed the following requirements as part of the continuation of the application.

- Only one ADU shall be permitted, either in a single-family dwelling or an accessory building.
- The ADU must provide independent living facilities for one or more persons containing the four elements of sleeping, eating, cooking, and sanitation.
- The ADU shall have an independent means of ingress and egress.
- The ADU shall be attached to or within the principal dwelling unit or accessory building.
- Either the ADU or principal dwelling unit is the owner's principal residence and legal domicile.
- An ADU in the principal dwelling shall not exceed 800 square feet in habitable floor area.
- The ADU shall have no more than two bedrooms.
- An ADU shall be provided a minimum of 2 off-street parking spaces, in addition to primary dwelling unit parking requirements.
- An ADU shall make provision for adequate water supply and sewage disposal service.

Mr. Tierney appointed Ms. Gattermann to vote in place of Mrs. Arsenault as she was not physically present.

Mr. Livernois made a motion, seconded by Mrs. Belanger that the application met the requirements of an ADU.

The board reviewed the Special Exception requirements:

The specific site is an appropriate location for such use: The board agreed.

There is adequate area for safe and sanitary sewage disposal: The Board agreed based on the NHDES Approval for Construction.

The use will not adversely affect the adjacent area: Board members agreed this was true.

There will be no nuisance or hazard created: The board agreed.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use: The Board agreed.

The use will not impair the aesthetic values exhibited by the surrounding neighborhood: The Board agreed this was met.

The building, parking/or driveway area will not exceed the maximum percentage of lot coverage in the applicable zoning district: Ms. Humphries advised they had over 5 acres and the Board agreed this criterion was met.

Relative to the Agritourism criteria the board agreed this did not apply.

Relative to the Agritourism criteria the board agreed this did not apply.

Mrs. Belanger made a motion, seconded by Mr. Newman to approve the Special Exception for the ADU. Vote was unanimous.

PUBLIC HEARING

Sherry Burke & Gina Lauder, 101 Campground Road, Tax Map U-9, Lot 7B for a Special Exception – Article VI, Section A.(3), and for a Change in a Non-conforming Use by Special Exception – Article VI, Section A.(1)i-xii of the New Hampton Zoning Ordinance.

Mr. Tierney advised that the applicants, Sherry Burke & Gina Lauder, have requested a Public Hearing in accordance with RSA 676:7, for the following:

1. Special Exception request under Article IV, Section A(3) of the New Hampton Zoning Ordinance. The applicants' proposal is to operate a short-term rental, under the definition of a Bed & Breakfast/Tourist Home, which is a permitted use by Special Exception.
2. A request under Article VI, Section A.1. i-xii, for a Change in a Non-conforming Use by Special Exception.

The property is located at 101 Campground Road, Tax Map U-9, Lot #7B, in the General Residential, Agricultural & Rural District.

Mr. Tierney reviewed the series of events that took place since several of the applications being heard tonight, were submitted for hearings to have been scheduled for 12/7/22. Mr. Tierney had advised the members at the meeting of 12/7 that he had visited the sites to review parking for the various cottages. When he noticed the approximate date of the cottages, he came to the Town Office to review the history of the condominiums. He determined that these cottages, which had been part of Twin Tamarack Campground were approved to become condominiums in 1984 and were subsequently sold as individual condos. In March of 1986 the Town adopted its first Zoning Ordinance. Based on this information it was discovered that these condominiums were non-conforming so changing the use to short-term rentals requires a Change in a Non-Conforming Use by Special Exception which has different criteria for the ZBA to consider. All 3 applicants at that time, were advised to submit this additional application, with the Town waiving the new application fees, with abutter's being notified of new hearings scheduled for 1/4/23 at the Town's expense. In the interim another condominium owner in the neighborhood submitted both required applications with fees.

Ms. Burke was present to represent the first application being heard tonight. Ms. Burke provided a floor plan of her condo. When asked how many bedrooms were in the dwelling she said technically 3, as the former owners used a connecting room from one bedroom to another through a closet, but it was big enough for bunk beds, making it the 3rd. There is attic space upstairs that has beds but may not be considered bedrooms. Ms. Burke said she shares ownership with another family and they use the condo part-time, but wanted to occasionally rent the condo if they're not using it. Relative to parking, there is a long driveway in front of the house, that could fit 6-7 vehicles and there is space for 2 vehicles in the garage.

Mr. Livernois asked how many people they were looking to rent to and Ms. Burke reviewed what her preferences would be for applicant type and said six or less people. Relative to parking Mr. Tierney said the Board must look at parking for all the units, as if all occupants are present at one time.

Mr. Tierney advised they would review criteria for the change in the non-conforming use. He said as the condos are presently used, they are considered pre-existing, non-conforming but with a change in use the Board must determine whether this new use is equally conforming, or more conforming, to the requirements in the ordinance. Mr. Livernois asked what the present non-conformity was and Mr. Tierney said lot size, lack of frontage, setback distances, parking and possibly the septic system. Mr. Tierney advised that is a change in use as it is going from a residential use to a commercial use.

To grant the Special Exception the ZBA must find each criterion is met: The new non-conforming use will be equally or more conforming with the purposes of the ordinance and the intent of the use restrictions applicable in the particular zoning district. There was discussion on there being the need for two different Special Exceptions and that the ZBA must determine if using the property for short-term rentals is affected more by the non-conformity of the property. The Board agreed that it was more sensible to go through the criteria for a Special Exception to create the Bed & Breakfast/Tourist Home first.

Mr. Tierney confirmed with board members that they had all driven by the properties who have submitted applications for tonight's hearing.

Mr. Heckman said he has concern with the fact the land is owned by the association but the buildings are owned by individuals.

Mr. Tierney reviewed the definition of Bed & Breakfast/Tourist home which allows for transient accommodations for sleeping or living purposes for not more than 6 persons for a fee.

The board began reviewing the Bed & Breakfast/Tourist Home Special Exception requirements:

- i. **The specific site is an appropriate location for such use:** The Board agreed this criteria was met based on it being in an area of seasonal use and it was previously part of the campground abutting it.

- ii. **There is adequate area for safe and sanitary sewage disposal:** The Board reviewed the common septic system requirements. It was noted it is pumped up to go across the street. Mr. Tierney asked the other applicants that were present how many bedrooms they each had, with the following responses: Mr. Proulx (2), Mr. Tarr (2), and Ms. Woolfson for Mr. Foran (1). The plan appears to show that it was designed to support 19 bedrooms and based on property cards on record there are 21 bedrooms using the system. Mr. Tierney explained that many of the cottages have not been allowed interior inspections by the assessing firm so it is unknown in many cases, how many bedrooms there actually are. Mr. Proulx explained that it is stated in the condo documents that there can be no increase to bedrooms in the cottages. Mr. Tierney said it would require further investigation on whether or not the system is suitable and for this reason none of the applications before the Board tonight can be approved. It was noted that the Burke/Lauder home has one more bedroom than is allowed. Mr. Tierney said when the Planning Board considered these cottages being made into condo units (in the 80's), they were very adamant that the safety of the septic system be maintained. Mr. Tierney advised those present which cottages have more bedrooms, according to the Town, than what was allowed per the septic design.

Mr. Tierney advised the Board could not approve any of the short-term rentals uses at this time, based on the information relative to the septic system. Ms. Burke asked if they can determine that the system can handle up to 22 bedrooms can the applications be approved. Mr. Proulx asked if the bedroom counts are incorrectly listed and can be inspected to show they meet the limitations of bedrooms, can they be approved. Mr. Tierney asked Mrs. Vose if it would be the Town or the condo association that would have to contact NHDES. Mrs. Vose advised it would be the association. She pointed out that the septic design also lists, and shows on the plan - a connection to a trailer in the abutting campground, so that adds an unknown to the bedroom count. Relative to any other criteria that could be a problem for the applicants present the Board reviewed additional criteria.

- iii. **The use will not adversely affect the adjacent area.** The Board agreed this would not affect the area. Mr. Proulx said the condo rules state they can rent their condo units when they are not using them. They also have other noise and nuisance rules.
- iv. **There will be no nuisance or hazard created.** Ms. Burke explains she does not live in the area. Mr. Tierney asked how she would prevent problems with a crowd that is larger or noisier than what she agreed to. Ms. Burke said she would carefully screen her renters, she has cameras on site, and the association neighbors are in close contact with each other. The Board said it didn't appear that any nuisance or hazard would be created.
- v. **Adequate and appropriate facilities will be provided for the proper operation of the proposed use.** Mr. Tierney said this appears to be true.
- vi. **The use will not impair the aesthetic values exhibited by the surrounding neighborhood.** The Board agreed this criterion

- was met.
- vii. **The development of any lot, ...**” The Board confirmed there would be no change to lot development.
 - viii. **Relative to Agritourism** this criterion did not apply.

The Board closed the meeting and went into deliberations. The Board agreed that based on current evidence and the septic design on file, that the criteria relative to adequate area for safe and sanitary sewage disposal is not met. For this reason, Mr. Livernois made a motion, seconded by Mr. Newman, to deny without prejudice the application for Sherry Burke & Gina Lauder, for property at 101 Campground Road. Vote was unanimous.

Ms. Burke asked how this application would apply to any proposed regulation changes in the ordinance. Mr. Tierney said that there are no proposed changes to zoning, for 2023, that would affect a re-application of this use, in the near future.

Relative to the other applications for hearings, being Proulx, Tarr/Heinen, and Foran, Mr. Tierney advised those are somewhat different that the Burke/Lauder application in that parking may be an issue, and they have the same problem with the septic plan. Mr. Tierney said the remaining applicants can choose to have their applications withdrawn. Mr. Proulx asked if the Board was in receipt of their revised parking plan and Mr. Tierney said they were. Mr. Proulx, Ms. Woolfson, and Mr. Tarr asked to have their applications withdrawn. Mr. Tierney advised that Ms. Woolfson on behalf of Mr. Foran has withdrawn his application. Mr. Proulx has withdrawn his application. Mr. Tarr has withdrawn his application.

PUBLIC HEARING

*Kenneth & Jennifer Proulx,
100 Campground Road, Tax
Map U-9, Lot 8A5 for a
Special Exception – Article
VI, Section A.(3), and for a
Change in a Non-conforming
Use by Special Exception –
Article VI, Section A.(1)i-xii
of the New Hampton Zoning
Ordinance.*

Mr. Proulx requested withdrawal of his application.

PUBLIC HEARING

*Ken Tarr, 96 Campground
Road, Tax Map U-9, Lot 8A4
for a Special Exception –
Article VI, Section A.(3), and
for a Change in a Non-
conforming Use by Special
Exception – Article VI,
Section A.(1)i-xii of the New
Hampton Zoning Ordinance.*

Mr. Tarr requested withdrawal of his application.

PUBLIC HEARING

*Dennis Foran, 98
Campground Road, Tax Map
U-9, Lot 8A6 for a Special
Exception – Article VI,
Section A.(3), and for a
Change in a Non-conforming
Use by Special Exception –
Article VI, Section A.(1)i-xii
of the New Hampton Zoning
Ordinance.*

Ms. Woolfson, on behalf of Mr. Foran, requested withdrawal of his application.

DISCUSSION

Mr. Livernois asked how many parking spaces were required for a Bed & Breakfast/Tourist Home. Mr. Tierney advised it was off-street parking at one (1) space per/bedroom and two (2) for the owner.

MINUTES

No minutes were reviewed.

ADJOURNMENT

Mrs. Belanger made a motion, seconded by Mr. Newman to adjourn at 8:12 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose, Land Use Administrator