



City of Laconia
Zoning Board of Adjustment
TUESDAY, January 22, 2019 - 7:00 PM
City Hall Conference Room 200A

1/22/2019 - Minutes

1. ROLL CALL

K. Clark conducted a roll call with the following members present: S. Bogert; M. Foote; R. Maheu; S. Perley; M. DellaVecchia
Members Absent with notification: O. Gibbs

2. RECORDING SECRETARY

K. Clark, Zoning Technician

3. CALL TO ORDER

Meeting was called to order by Chair S. Bogert at 7:01 PM.

S. Bogert addressed the audience. He requested that the meeting be a civil meeting, that any questions are directed to the Board (not applicant or audience members) and that anyone who wishes to speak come to the podium and state their name for the record.

S. Bogert also informed the audience that the agent for 111 Church St. applications has requested that the applications be continued to the February meeting so that if anyone in the audience was there for those applications they did not sit through the whole meeting to find out they are continued.

4. STAFF IN ATTENDANCE

Rob Mora, Assistant Planner

5. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

5.I. December 10, 2018 ZBA Minutes (PDF)

S. Perley made a motion to accept the minutes of the December 10, 2018 meeting as presented.

R. Maheu seconded the motion.

All in favor (5-0)

5.II. December 17, 2018 ZBA Minutes (PDF)

R. Maheu made a motion to accept the minutes of the December 17, 2018 meeting as presented.

M. Foote seconded the motion.

All in favor. (5-0)

6. EXTENSIONS

Chris Duprey outlined the three extension requests to the Board. He noted that there are no changes.

6.I. Akwa Waterfront LLC Variance Extension Request - 63-99 Fletcher Lane (PDF)

S. Perley made a motion to grant the area Variance Extension Request for 63-99 Fletcher Lane until July 31, 2019.

R. Maheu seconded the motion.

All in favor. (5-0)

6.II. Akwa Waterfront LLC Special Exception Extension Request - 63-99 Fletcher Lane (PDF)
S. Perley made a motion to grant the Special Exception Extension Request for 63-99 Fletcher Lane until July 31, 2019.
R. Maheu seconded the motion.
All in favor. (5-0)

6.III. Akwa Vista LLC Special Exception Extension Request - 664 Scenic Rd (PDF)
S. Perley made a motion to grant the Special Exception Extension Request for 664 Scenic Road until July 31, 2019.
M. Foote seconded the motion.
All in favor. (5-0)

7. CONTINUED PUBLIC HEARINGS, CONSIDERATION AND POSSIBLE VOTE Note: The Purpose Of This Agenda Section Is For The Board To Continue The Public Hearing For The Applicant And The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

7.I. ZO 2018-0027 1073 Union Ave Special Exception (PDF)

M. Persson, agent/attorney for the owner Jonathan Bedell, outlined the request for Special Exception. The applicant is requesting to convert one of the buildings, which formerly housed a beauty shop and retail space into a rooming house having six rooms. The main house is currently a three unit multifamily dwelling.

M. Persson noted that the application was continued so that the Board could request the call data from the Laconia Police Department. (Data provided by Laconia Police Department was entered into the record.) He stated that the proposed use does not create an excessive use. He reiterated that the request is in compliance with the regulations and the application meets the conditions for a Special Exception.

M. Persson stated that if all conditions are met that the ZBA must grant the Special Exception. He noted that the two letters, including the petition-like letter provided do not provide rebuttal evidence. He asked that the ZBA not consider the letters.

An extensive discussion ensued regarding the police department data provided to the Board. S. Bogert stated that at the December 17th meeting, Mr. Bedell (the owner) indicated that the issues had been brought under control at his other rooming/boarding house located at 736 Union Ave. He read from the report that between 2016 and 2018 there were 107 calls to the address. S. Bogert also read other addresses, that are not owned by Mr. Bedell, and their call amounts during the same time period, including, 23 Messer St (56 calls); 24 McGrath St (38 calls). M. Persson informed the Board that 736 Union and 1073 Union are two different locations, that 1073 Union Ave is only a 6 room unit. He asked that the Board compare it more closely to 35 Messer St (4 calls) which is a 6 room unit. M. Persson stated that ownership is not relevant.

The Board members asked questions, including if there is an on site supervisor, what is the average stay? Mr. Bedell stated he has an on-site manager and that some tenants stay several years.

S. Bogert opened the hearing to the public.

The neighbor on Union Avenue (Steve Degiso) addressed the Board. He stated that he does not see any oversight at the property next door. He stated that there have been a lot of problems. He can't run a business, his barbershop, because people from the boarding house park in front of his shop blocking his customers, adding people would make it worse.

James Newell, 736 Union Ave, addressed the Board. He stated he has been living there for two and a half years and is now the building manager. He stated that the place is cleaned up, no one uses

needles; no weapons are allowed. He noted that the tenants rent parking spaces from Richard Allen.

Pamela Langlitz owner of Trustworthy Hardware, which is located across the street from 1073 Union Ave, address the Board. She stated she is opposed to having a boarding house across the street. They already have issues with parking, people park in their lot and cross the street to the apartments. It poses a safety issue. She also commented that rooming/boarding house tenants come and go with no vested interest in Laconia.

Helen Boisvert (1057 Union Ave) addressed the Board. She stated that this is not a benefit to Laconia, the people do not respect the area, the tenants (at 736 Union) hang out all day. She informed the Board that she grew up in Laconia and stated that if this is allowed that it would diminish the value of the properties around it, and it would put a strain on services.

Bruce LaBranche (38 St. Catherine St) addressed the Board and stated that he bought into a single family neighborhood, that the building would be better used as multifamily unit (instead of rooming/boarding house).

Bob Tyler (1063 Union Ave) addressed the Board. He stated he is not against Mr. Bedell but that he has concerns. There is a fence between his property and Mr. Bedell's property (1073 Union) and that he has had multiple issues with trash being thrown over the fence, tenants struggle to get into the driveway in the winter, he has had individuals on his property. He did note that initially some improvements were made but the tarp on the roof is disintegrating. Mr. Tyler also stated that a boarding/rooming house is not the best use for the property.

Steven Smith (44 St. Catherine St.) briefly addressed the Board. He stated that he had spoken to the neighbors and had collected signatures. They feel that bringing a boarding/rooming house into the community is not in the character of the neighborhood.

Chair S. Bogert noted that there was no other member of the public who wished to speak.

M. Bedell's agent, M. Persson, addressed the Board with closing statements. He stated that while they are sympathetic with the people who spoke, if the community does not want rooming/boarding houses in the community they need to address City Council, that current ordinance allows for it and that if the criteria are met for the Special Exception that the Board must grant the exception. He again stated that the abutters have not presented evidence and have not met the burden of proof.

The public hearing was closed and the Board discussed the application. They noted that the majority of the individuals who addressed the Board spoke about criteria "g" and it being detrimental to the character of the neighborhood. S. Perley commented that it could be detrimental to the neighborhood and that could create hazards to the public. M. DellaVecchia echoed her comments.

The Board briefly discussed the need for workforce housing in Belknap County. R. Maheu commented that there is a need but this site is not appropriate, that is is out of character of the neighborhood.

S. Bogert made a motion to deny special exception application ZO 2018-0027 1073 Union Ave from Article V 235-26 and Attachment 2.3 – Table 1, Table of Permitted Uses, to create a Boarding/Rooming/Lodging House.

The denial is based upon the following criteria:

- (a) The use requested is specifically authorized in this chapter.
 - (b) The requested use will create undue traffic congestion or unduly impair pedestrian safety.
 - (c) The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets.
 - (d) The requested use will create excessive demand for municipal police, fire protection, schools or solid waste disposal services.
 - (e) Any special provisions for the use as set forth in this chapter are fulfilled.
- There are no special provisions set forth in the chapter.

(f) The requested use will create hazards to the health, safety, or general welfare of the public, and be detrimental to the use of or out of character with the adjacent neighborhood.

The use is out of character for the neighborhood.

(g) The proposed location is not appropriate for the requested use.

(h) The requested use is not consistent with the spirit and intent of this chapter and the Master Plan

S. Perley seconded the motion.

All in favor. (5-0)

8. PUBLIC HEARINGS, POSSIBLE CONSIDERATION AND VOTE Note: The Purpose Of This Agenda Section Is For The Board To Have A Presentation From The Applicant And Open A Public Hearing For The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

8.1. ZO 2018-0030SE 658 Union Ave Special Exception (PDF)

R. Maheu informed the Board that at one point he owned 658 Union Ave but it was several years ago. The Board recognized this and that he can make unbiased decision.

Steve Smith, agent for the applicant, addressed the Board and outlined the project for them. Laconia Area Community Land Trust Inc owns the building and intends to relocate their offices to Court St. They propose to convert the building to a five bedroom lodging facility. He noted that the structure would not undergo major changes, they would be adding a small porch for ADA access; there is a parking area with ten spaces in the rear, it would have a common kitchen, there is a management office on site. He presented a letter from the Chief of Police in support of the project.

Carmen Lorenz and Daisy Pierce of Horizons Counseling Center and Navigating Recovery outlined the program. They stated that they provide services to women in recovery. The program would service up to eight women in the five bedroom facility. They noted that the women have to complete a treatment program before they could qualify to live there. There are no children that would live there, no overnight visitors. They can stay for up to two years. Carmen Lorenz and Daisy Pierce stated that the women pay rent but they have a reserve fund as they may not have a job yet when they come.

The Board expressed concerns if they grant the Special Exception and the program disbands that it goes with the property. Carmen Lorenz and Daisy Pierce answered that the organizations involved are working on signed documentation of the partnership and that they are looking at funding from housing fund. If they receive the funding it is a thirty year commitment.

S. Bogert opened the application to public comment. No public comment.

There were no additional questions or comments from the Board.

S. Bogert noted that the Board could condition the motion that if use changes they have to come back to the ZBA.

S. Perley made a motion to approve application ZO 2018-0030 SE 658 Union Ave for a Special Exception from Article V Section 235-26 and Attachment 2.3 Table 1 to create a Boarding/Rooming/Lodging House.

(a) The use requested is specifically authorized in this chapter.

(b) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.

(c) The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets.

(d) The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.

(e) Any special provisions for the use as set forth in this chapter are fulfilled.

There are no special provisions set forth in the chapter.

- (f) The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood.
- (g) The proposed location is appropriate for the requested use.
- (h) The requested use is consistent with the spirit and intent of this chapter and the Master Plan

Condition of Approval:

If use changes from a rehabilitation/recovery facility they must return to the ZBA.

R. Maheu seconded the motion.
All in favor. (5-0)

8.II. ZO 2018-0031VAR 16 Leighton Ave Variance (PDF)

Andrew Ray, owner/applicant and Art Abelman, agent addressed the Board. They requested that both applications be heard together.

Art Abelman explained that the lot has an old dwelling and a newer, nice garage. The applicant is proposing to convert the upstairs of the garage into an Accessory Dwelling Unit, and reside in it while extensive renovations are done to the main house. The applicant, A. Ray, explained after a question from the Board that after the renovations are complete and they move back into the main house, that it would be for in-laws who are reaching retirement age. He stated that they have no need for rental income.

S. Perley noted that the drawing submitted shows and 1150 sf ADU, this is larger than what is allowed. A. Abelman noted that this is an error, the actual ADU is proposed to be approximately 650 sq ft. S. Perley also noted that there is no municipal water/sewer service. She noted she did not see issue but wanted to have correct plan when making a decision.

M. Foote asked about the size of the septic system. A. Ray explained it is currently a 2-bedroom system but they will be resubmitting previously approved plans to the State for a 4-bedroom system (3 in main house, 1 in ADU).

S. Perley made a motion to continue application ZO2018-0031 VAR to the February 19, 2019 Zoning Board of Adjustment meeting.

The Zoning Board has requested the following information:

- Updated plan for Accessory Dwelling Unit

S. Bogert seconded the motion.
All in favor. (5-0)

8.III. ZO 2018-0032SE 16 Leighton Ave Special Exception (PDF)

S. Perley made a motion to continue application ZO2018-0032 SE to the February 19, 2019 Zoning Board of Adjustment meeting.

The Zoning Board has requested the following information:

- Updated plan for Accessory Dwelling Unit

S. Bogert seconded the motion.
All in favor (5-0)

8.IV. ZO 2018-0033VAR 145 Union Ave Variance (PDF)

Mark Daniels addressed the Board to outline his application. He informed the Board that he purchased the property at 145 Union (lot 59) and the lot next door (58). He stated he would like to convert the 2500 sq ft attic space to two additional units.

S. Bogert informed him that the plan he presented shows the parking on both lots. He has to be able to show them separately as, at any time, he could sell one or the other. He suggested continuing the application until the February meeting to allow the applicant time to reassess the parking.

S. Bogert made a motion to continue application ZO 2018-0033 VAR to the February 19, 2019 meeting to allow the applicant time to reassess the parking.

M. Foote seconded the motion.

A member of the public asked if they could speak as they came to the meeting for the application. S. Bogert withdrew his motion. He opened the meeting to public comment.

Jim McLeod (141 Union Ave) addressed the board. He stated that there are issues with the parking already. The entrance is eleven feet wide; if there are seven cars in the lot it is already jammed. If they add more units it will be worse. There are kids who play in driveway, there is no room for emergency vehicles. It is not a good plan.

Linda Dutile (15 High St) addressed the Board. She stated the parking at 145 Union Ave is chaos, that there is no rhyme or reason to it. She also noted that the trash is put out and the cans/bins are still there three days later.

Mark Daniels readdressed the Board. He recognized that there were trash/recycling issues but that he has gotten new containers to help alleviate the problem. He is working to set up a parking plan as he wants to work with the community.

S. Bogert made a motion to continue application ZO 2018-0033 VAR 145 Union Ave to the February 19, 2019 Zoning Board of Adjustment meeting.

S. Perley seconded the motion.

The Zoning Board has requested the following information:

- Updated parking plan showing parking on subject lot

All in favor. (5-0)

8.V. ZO 2018-0034SE 77 Opechee St Special Exception (PDF)

Applicant Carlos Guzman and his agent, James Lombardi, addressed the Board to outline the application. James Lombardi stated that Carlos Guzman rents out his home when it is not in use by his family. He noted that the short term rental issue is fairly new. They reserve the right to challenge the authority of the Board; the authority to give permission; and the authority of enforcement. J. Lombardi also stated that if they are not granted the Special Exception that they will look at other options.

C. Guzman outlined how he rented his house to the Board. He stated that he uses VRBO and requires that the head of household who is renting the property be at least 30 years old. He informed the Board that it is a seasonal residence for his family and that he has made it clear to his renters that it is a residential neighborhood and that they need to respect the neighbors. He stated that his neighbors have his number and email if there are issues. C. Guzman stated he knew of one complaint about noise and parking but was not aware of additional complaints.

J. Lombardi noted that the underlying use does not change; there is no excessive demand on services; he recognized that they could be undermined at "f" (detrimental to neighborhood/out of character) but that it will not create a hazard and is appropriate location.

When asked how often it was rented C Guzman informed the Board he rents it for eight weeks in the summer, and sporadic weeks during the fall and winter. He also stated his rentals are Saturday to Saturday rentals. He acknowledged he had a bad rental in the past when he did weekend rental; that is why the weekly rentals.

S. Bogert opened the meeting to public comment.

Lindsay Allen (68 Opechee St) addressed the Board. She stated that this is a business in a residential neighborhood, that there have been parking issues on Opechee St; it is close to the middle school. She referred to the letter that she submitted to the ZBA and that she is opposed to the application.

John Trimper (73 Opechee St) addressed the Board. He noted that he is 10-12 feet away from the applicants house. He has never filed a formal complaint but did call the applicant in June 2017 regarding jet skis on lake; in July 2017 and in August 2017 regarding a loud party. He stated that the applicant cannot screen out all bad tenants. J. Trimper said it would be significantly out of character with the neighborhood. He can still use the property as his home if he is denied the Special Exception.

Wayne Cousineau (83 Opechee St) addressed the Board. He informed the Board that he is side by side with Mr. Guzman's property. He acknowledged that there were issues the first year but noted since he went with VRBO that the tenants have been different, most are families. W. Cousineau said that he tries to interact with the renters, if there is someone there he tries to get to know them. He did question that if it is granted and house is sold, does it (the use) continue. S. Bogert responded that it continues in perpetuity.

Rick Page (69 Opechee St) addressed the Board. He recognized that Mr. Guzman tries to bring in good tenants but if it continues in perpetuity that it could be a problem. R. Page also noted that it is out of character with the neighborhood, you lose the feeling of the neighborhood.

Norma Sorgman (110 Belknap St) addressed the Board. She expressed concern that if the Special Exception is granted that others in the neighborhood can go for a Special Exception then the neighborhood turns into the Weirs, it changes the type of neighborhood.

Scott Knowles, a realtor with ReMax Bayside, who did note that the applicant (C. Guzman) is his client stated that short term rentals help value of neighborhood as it helps with affordability, they bring people to Laconia and with not many hotels it give visitors options.

Edwin Bones, addressed the board. He stated he agreed with S. Knowles, that people are looking to buy home to retire to in 4-5 years but want to buy in now while prices are lower. They want to rent the properties until they make the final move. He asked that the Board approve Mr. Guzman's request.

There was no additional public comment.

James Lombardi gave closing comments. He noted that they are disappointed that this was the first they were hearing of complaints. They also recognized that traffic problems are inherent to the neighborhood, J. Lombardi stated that since C. Guzman has been using VRBO things have improved. J. Lombardi noted that the Special Exception runs with the land but can have conditions.

C. Guzman thanked the residents for coming out and voicing their concern. He stated that he had been called on two instances with his renters but during summer of 2018 had no complaints. He noted that he does not want to minimize complaints but it is a home, he tells the renters to be courteous of the neighbors/neighborhood. C. Guzman said that they could approve the request with the contingency that if it sells that they have to go back to the ZBA.

The Board discussed the application.

M. Foote commented that they need to recognize that the community moves on, neighborhoods change, the flavor of the neighborhood changes. He stated that, in regard to short term rentals, he is still trying to figure it all out.

R. Maheu stated that they are here because of a complaint, that there is a reason he is here. He noted that when the Master Plan was created the concept (of AirBnB; VRBO etc) did not exist. He stated that the future of Laconia is not in retired people and transient populations, Laconia needs young people to come in and live here. R. Maheu stated that there is no guidance from anyone, they have to figure out this issue on their own.

S. Bogert noted that the State does not have to provide guidance, Laconia has Zoning, it is not the

States purview, it is up to each town.

S. Perley commented that it is a difficult decision. In a residential neighborhood it is different than if a larger property with no abutters nearby. She also commented that they have to stay consistent in their decisions.

M. Dellavecchia commented that short term rentals bring in money but they do not stay. He stated that it does not meet the criteria because it changes the character of the neighborhood, and that it will run in perpetuity.

M. Foote recognized that short term rentals are not going away but that their impact is different in different neighborhoods. S. Bogert noted that they have to look at each application on its own merits.

S. Perley made a motion to deny application ZO 2018-0034 SE 77 Opechee St (Map/Block/Lot 405-171-10) for a Special Exception from Article V Section 235-26 and Attachment 2.3 Table 1 to create a Boarding/Rooming/Lodging House.

(i) The use requested is specifically authorized in this chapter.

(j) The requested use will create undue traffic congestion or unduly impair pedestrian safety.

(k) The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets.

(l) The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.

(m) Any special provisions for the use as set forth in this chapter are fulfilled.

There are no special provisions set forth in the chapter.

(n) The requested use will not create hazards to the health, safety, or general welfare of the public, and be detrimental to the use but will be out of character with the adjacent neighborhood.

(o) The proposed location is not appropriate for the requested use.

The neighborhood is very dense, this is not an appropriate location for the use.

(p) The requested use is not consistent with the spirit and intent of this chapter and the Master Plan

M. Foote seconded the motion.

All in favor. (5-0)

8.VI. ZO 2018-0035SE 111 Chuch St Special Exception (PDF)

S. Bogert stated that at the applicant's agent's request, the hearing for Application ZO 2018-0035 SE be continued to the February 19, 2019 meeting.

8.VII. ZO 2018-0036VAR 111 Church St Variance (PDF)

S. Bogert stated that at the applicant's agent's request, the hearing for Application ZO 2018-0036 VAR be continued to the February 19, 2019 meeting.

9. OTHER BUSINESS

It was noted that the Election of Officers will be put on the February agenda.

The Board discussed moving the start time of the meeting to 6:30.

M. Foote made a motion to move the start time of the ZBA meetings to 6:30

S. Perley seconded the motion

All in favor (5-0)

10. ADJOURNMENT

At 10:12 PM S. Bogert made a motion to adjourn the meeting.

M. Foote seconded the motion.

All in favor.

Minutes Respectfully Submitted by:

Karen Clark, Zoning Technician

This meeting facility is ADA accessible. Any person with a disability who wishes to attend this public meeting and needs additional accommodations, please contact the department at (603) 527-1264 at least 72 hours in advance so necessary arrangements can be made.