

Zoning Board of Adjustment minutes
November 18, 2020
Town Hall
7 pm

Present: Board members: Chair Jan Leclerc, Vice-Chair Myra Mansouri, Clerk Tom Murray, Ernie Vose, Pauline Barnes. Alternates: Don Sellarole, Judy Trow, Dave Edkins.

Recording: Marilou Blaine. **These minutes are unapproved and will be reviewed at the December 2020 meeting for corrections, additions and/or omissions.**

Meeting Opened: Ms. Leclerc called the meeting to order at 7 pm.

Roll Call: A full board was present so an alternate was not needed to fill in.

Minutes: Mr. Murray made a motion to accept the minutes as presented. Ms. Mansouri seconded the motion and the motion carried unanimously.

New Business:

Cindy Westover: Bed and Breakfast. Ms. Westover was at the meeting to inquire about a bed and breakfast at The Tavern at Hooper Golf Club on Prospect Hill Road. She has a client who is interested in opening one there. The closing on the property is Jan 15.

The couple are going to live in one of the apartments and are going to update the floor plan. They plan down the road to add a bar and weekend meals. The couple wanted to know if there were any restrictions. The Zoning Ordinance for Bed and Breakfast establishments in Article 4, Section L states:

“L. Bed and Breakfast Establishments

So called “Bed and Breakfast” establishments for the accommodation of paying, overnight guests, may be maintained as home occupations in all zoning districts provided that the number of rooms for rent in any one establishment shall not number more than four and further provided that breakfast shall be the only meal provided and that only to bona fide overnight guests. The conversion of a single-family residence or other building to a “bed and breakfast” shall require Site Plan approval by the Planning Board. Off-street parking for one car per rented room plus space for owner parking shall be provided.”

There were several questions and comments. Since it was a bed and breakfast years ago could it be grandfathered or has too much time elapsed? People have been living there recently. Does that qualify for being grandfathered. What about rooms and meals tax? They will need a liquor license. Ms. Trow said that the site plan will require answers about other things like lighting. Approval from the fire department would also be needed.

Ms. Westover left with a site plan application and planned to attend the December Planning Board meeting.

Possible request for signage in the commercial district - 48 Meadow Access Lane. Ms. Shannon Miller, who emailed the secretary for information, never followed up on a request to attend last night’s meeting for signage at this address.

Old Business:

Temporary signage. Feather flags. Ms. Barnes and Ms. Mansouri met twice to write two ordinances that will go on the 2021 March warrant for the townspeople to vote on after approval by the Planning Board at a Public Hearing.

The objective was twofold, Ms. Barnes said. The first was to respond to a Select Board letter and there was also the consideration of the US Supreme Court's decision on signage with guidance on that decision from the New Hampshire Municipal Association. That decision recommended the shorter and less detailed verbiage the better.

The replacement ordinance deals with feather flags and temporary signage and was written in response to an April 2020 letter to the ZBA from the Select Board suggesting the Board "prepare an amendment to the sign ordinances in commercial zones to prohibit feather flags, as well as define temporary signs." It would be Article IV Section D3 – Limitations, second paragraph.

"Inflatable signs; wind-activated signs like feather flags; oscillating, rotating, flashing, neon or other tubular gas signs; or signs with blinking, changing or moving illumination are not permitted. These prohibitions do not apply to signs used for public safety purposes by a government entity."

It replaces "Oscillating, rotating, flashing, neon or other tubular gas signs are not permitted except when used for public safety purposed by a government entity."

The second ordinance deals with temporary signs. It will be number 9 in the signage ordinance in Article IV. D. The current number 9 will become number 10. The new ordinance reads:

"9. Temporary Signs

A temporary sign is any sign not permanently attached to the ground, a wall, or a building that is intended to be displayed for a short and limited period of time.

Examples of temporary signs include announcement signs; real estate signs; community or civic event signs; political campaign signs pursuant to RSA 664; garage or yard sale signs or signs for other special events that occur for a limited period of time.

All temporary signs shall be removed within ten (10) days following the event or activity being promoted.

The rest of the board was pleased with the work done, keeping in mind the Supreme Court's decision about content in signs. Mr. Vose made a motion that these two ordinances be presented to the Planning Board next month. Ms. Mansouri seconded the motion and the motion carried.

Short-term rental meeting: Chair Leclerc attended the Planning Board meeting in November to discuss an article for placement on the warrant in March 2021.

The main comments were: "why do we need that? What's the difference between renting for two, or three months vs. for one person renting for three years? Ms. Leclerc told the board that if her neighbors were going to make their residence into a short-term rental, she would like to know that there could possibly be new neighbors living next door every weekend, maybe going to a wedding or parking on my lawn vs one neighbor for three years. She also said that because a site plan review is

required for an owner-occupied bed and breakfast it made sense to have a site plan review for short-term rentals where no owner might be there. In that case neighbors would know who was living next door and would have some input.

The Planning Board wasn't sure how they felt about short-term rentals but agreed to have a hearing, so next December 8 there will be a Public Hearing on short-term rentals. The short-term rental ordinance was attached to the bed and breakfast ordinance with a few changes. It reads:

"General Provisions Article IV, Section L. Bed-and-Breakfast and Short-Term Rental Establishments. So-called bed-and-breakfast and short-term rental establishments for the accommodation of paying, overnight guests may be maintained in all districts provided that the number of rooms for rent in any one establishment shall not number more than four and that breakfast may be the only meal provided, and only to bona fide overnight guests. The conversion of a single-family residence or other building to a bed-and-breakfast or short-term rental establishment shall require Site Plan approval by the Planning Board."

There was a long discussion on whether or not the short-term rental ordinance should be attached to the current bed and breakfast ordinance or if there should be a separate ordinance and whether or not the short-term ordinance should have regulations attached to the ordinance.

The main argument for doing it now was spurred by the suggestion of town counsel, Jeremy Hockensmith, to get something on the books now. Short-term rentals are increasing in the state and, according to Mr. Murray's check on the Internet, there are already at least eight (8) in Walpole. Ms. Barnes, who attended a workshop at the NHMA virtual conference in November said the presenters recommended getting an ordinance on the books as soon as possible and noted there are lodging organizations trying to get legislation to favor short-term rentals in all zoning districts and restrict any regulations.

Ms. Mansouri said after reading some of the information that was sent for this meeting and seeing the Hockensmith letter, she personally thought the ZBA needed a separate ordinance for short-term rentals and that ordinance should be thought out very thoroughly. "I think we should try for next year," she said.

The NHMA conference addressed some of the items that were brought up at the Planning Board meeting and directly refutes them, Ms. Barnes said. A short-term term rental is not a residential use, it's a commercial use. A bed and breakfast is a residential use. The NH superior Court agrees with this statement.

Ms. Leclerc said the reason she thought the ZBA should amend what we have now is that Walpole favors less regulations than more regulation. Also this would get something on the books about short-term rentals where there would be some oversight. Ms. Trow thought we should go forward with it. It's going to go for a vote, she said and if people don't want it then we can maybe work on something else, she said.

Ms. Mansouri said maybe it should be presented differently The reason we are doing it is to protect the public. Ms. Leclerc responded, "I don't feel it was slapped together." Ms Leclerc said because the Zoning Board has talked about this topic quite extensively. It's at least a good start and if the town feels the ordinance needs more, the Board could enhance it.

Mr. Murray said many short-term rental places already exist without the town's knowledge. Mr. Murray googled Walpole Airbnb and found eight (8) places. One of the biggest was advertised as eight-person

occupancy, he said. People buy houses with no intention of living in them, a board member said.

Ms. Barnes said that those with short-term rental businesses are trying to push through legislation that would exempt towns from having any control. A senate bill was presented to the legislature last term but was defeated.

A site plan review is a normal process dealing with any potential problems such as parking, lighting, egress, another Board member said.

Mr. Edkins presented three scenarios - one was having grandma stay for three months; a second was renting to a campaign worker for three months, which is what he did this summer; and a third was renting out your house when you are going on vacation. A board member said these are not short-term rentals. First of all, grandma is a house guest. The second and third are one-time rentals and not a year-round commercial situation. Mr. Edkins thought there was no need to regulate them and that, in general, there were too many regulations.

Short-term rental is pretty broad, Mr. Sellarole said. It could be up to 30 days or less. Is it vague on purpose?

Ms. Mansouri said again that she thought the ordinance should include that a bed and breakfast is owner-occupied and a short-term rental does not have to be owner-occupied. That's why there should be two separate ordinances.

Mr. Murray mentioned a short-term rental on School Street, Mr. Edkins said. "What difference does it make?" he asked. Ms. Mansouri replied "neighbors." Most people want to know who their neighbors are.

Ms. Barnes said you're making the case for what was addressed at the conference. Short-term rentals have to be taken seriously. They degrade the value of property in a neighborhood. There is an economic impact on a town with a lot of short-term rentals because local families run into a problem of finding housing to rent. Having a lot of strangers coming and going in the house next to or near you could be disconcerting.

I have a hard time with that, Mr. Sellarole said. "I wouldn't want my neighbor to have turnover every couple of weeks." "That's the reason for the ordinance," Ms. Barnes said.

Someone asked does a short-term rental pay more in property taxes because of the "revenue stream?" No one on the board seemed to know.

In the end the discussion was moot because a public hearing is already scheduled for December, Ms. Leclerc said. The board has to go ahead with what she already gave to the Planning Board. She will go ahead and see what happens.

Signage – Prospect Hill: The final correspondence between Ms. Leclerc and Mr. Jones was passed around. Mr. Jones continued to be unhappy that the ZBA couldn't hear an appeal because he has no "standing" in the matter. The correspondence will be filed.

December meeting: Ms. Barnes asked if the next meeting could be held by Zoom because of the increase in COVID-19 cases in the region and in the state and the warnings from the state epidemiologist Dr. Chan about meetings and gatherings at this time. Discussion followed about who could be a host. The chair or the secretary can't do it because they are actively doing other things. No

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one stepped forward. Ms. Trow suggested that since the Board didn't have anything on the agenda for next month that the Board cancel the December meeting.

Adjournment: Mr. Vose made a motion to adjourn. Mr. Murray seconded the motion and the motion carried.

Respectfully submitted,
Marilou Blaine
ZBA Secretary

cc: WPB, ZBA, Town Offices, Walpolean.

Posted: Town Offices, bulletin board outside Post Office, www.walpolenh.us

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