

ZONING BOARD OF ADJUSTMENT
June 22nd, 2016

Members Present: Hunt Dowse, Jon Grosjean, Linda Renna, Alison Rossiter, Laurie Bryan, Tom Shevenell, Select Board liaison, and Linda Coughlan, Recording Secretary

Others Attending: Suzanne Shevenell, Ann Peirce, Karen McCormack, Barry Brooks, Karen McWhorter, Joe and Elaine Cummings, Jarvis and Marcia Coffin

7:00 P.M. – Sarah Laeng-Gilliatt Hearing

Alison called the hearing to order and introduced the Board. She read the hearing notice which stated the hearing was a request for Special Exceptions to Hancock Zoning Article 15.6.4 and Article 15.6.1 Accessory Apartment and a Variance to Article 15.6.1.1. Alison noted that fees had been paid and the notice had been published and posted. She said the voting members for the hearing would be herself, Hunt Dowse, Linda Renna, Jon Grosjean and Laurie Bryan who is an alternate, but would be a full voting member to complete a quorum.

Alison explained the procedures that would be followed for the hearing beginning with testimony from the applicant, followed by any board comments or questions and then the hearing would be opened to the public for anyone who wished to speak in favor of or in opposition of the application. After the public portion of the hearing is closed, the Board would move into their deliberative portion.

Alison explained the difference between a special exception and a variance with the special exception being a specific, permitted use that is allowed when clearly defined criteria and conditions in the ordinance have been met. The variance is a waiver or relaxation of particular requirements of an ordinance when strict enforcement would cause undue hardship because of circumstances unique to the property. Alison said the board would be dealing with both tonight.

Alison invited Sarah Laeng-Gilliatt to come to the table and to begin her testimony. There was discussion by the Board on whether to hear the three applications all at once. It was the consensus of the board that they begin with hearing the Special Exception case for the Bed and Breakfast.

Applicant's Testimony:

Sarah began by saying she has submitted the two different applications for projects that would at first glance be mutually exclusive. She said as has been the case with many farmers, she is looking for additional income to aid her in maintaining her home and cheese business. She said her plan would be that she and her son would move into the in-law apartment downstairs and rent out the other part of the downstairs area.

Sarah said her plan for a B&B was to have 3 guests at a time at the most, mostly on weekend nights. She would like to offer a goat cheese meal as the one meal allowed under the criteria. She said she had not wanted to compete with the Inn and so had discussed this with Jarvis and Marcia Coffin. They had said they would be willing to serve the B&B guests breakfast.

There was discussion by the Board on whether to hear all three applications at once or to take each one separately. Linda Renna said she thought all three applications should be heard at once. Hunt Dowse said at what point special exceptions accumulate so that they affect the density capability of

the lot. He added there is nothing in the ordinance that clarifies this unless it's addressed in 15.5 General Conditions.

Sarah said since it does seem to be confusing, she could just apply for the accessory apartment if necessary.

The Board decided to review each of the applications separately beginning with the Special Exception for the B&B.

The Board reviewed the testimony as written in the application in response to each of the criteria under Article 15.6.4.

Criteria 1) The proposed Bed and Breakfast shall be operated by a person who is ordinarily a resident within the Bed and Breakfast.

Yes, Sarah Laeng-Gilliatt, co-owner & resident at 37 Main Street will operate the B&B.

Criteria 2) The Bed and Breakfast facility shall have not more than eight (8) guest rooms.

Yes, the top capacity is 3 rooms.

Criteria 3) The Bed and Breakfast facility shall offer short term lodging to paying guests together with a morning meal or other light refreshments for residential guests the price of which shall be included in the cost of lodging, and no other hotel or restaurant services.

If possible, I would like to be able to offer a goat meat or goat cheese meal per day, or a cheese tasting as an agritourism component of Main Street Cheese, LLC. Health and Human Services approves this if it is only 1 meal a day. The Inn will provide breakfast.

Hunt asked what time of day does she plan on serving a meal. Sarah said she DES has said they could serve one meal a day as long as it's only one meal.

The Board moved on to review the applicant's responses to 15.5 Special Exception – General Conditions.

15.5 Special Exception – General Conditions

1. The proposed use is similar to one or more of the uses already authorized in the District:

Of course there is the Inn. There are also a couple of air B&B's.

2. The specific site is an appropriate location for the proposed use:

Our beautiful Main Street is an ideal place to welcome people to our town and it is set up to accommodate people.

3. The proposed use would not adversely affect property values of the neighboring properties:

I believe this is to be true. Some have expressed that there aren't enough diverse places for people to stay so my hope is that this will be an asset to local people as well as businesses.

4. The proposed use and the associated plans for parking, access, and egress would not create a nuisance or serious hazard to pedestrian or vehicular traffic or excessive traffic congestion or create excessive wear and tear on public streets:

At the very most, I would offer 3 rooms, but usually 1 or 2. We have abundant parking on the property to accommodate this.

5. The proposed use, following the installation of visual and noise screening measures by natural or structural means etc.

This is so.

6. Adequate and appropriate facilities will be provided for the proper operation of the use including facilities for potable water and disposal of waste:

DES requires an engineer to redesign and allocate water use. In speaking with DES and the engineer, no changes are anticipated. It is purely a “paper” requirement.

Hunt asked if she could provide something in writing to this effect. Sarah said she would. She said the septic system was done by Paul Corcoran has capacity for 8 bedrooms.

7. The proposed use is consistent with the purposes and intent of the Zoning Ordinance and the Hancock Master Plan.

I believe the proposed use is consistent with the Hancock’ Zoning Ordinance and Master Plan.

8. The proposed use falls within and meets all of the conditions of a Special Exception hereinafter listed.

I believe that a Bed and Breakfast at 37 Main Street meets all of the conditions of a special exception.

Alison asked the Board if they had any comments or questions relative to the testimony as provided.

Laurie Bryan asked Sarah if she had to have an inspection by the fire department. Sarah said she had been in contact with a Henniker Bed and Breakfast owner who had advised her that she would need to have a fire inspection. Sarah said she would contact Nevan Cassidy for the inspection.

Linda Renna asked about parking since there was a shared driveway on the property. Sarah said there should be adequate parking for a B&B and an accessory apartment.

Hunt asked Sarah how many parking spaces she thought were there. Sarah said she thought there were 7 or 8.

Linda said she would like to see a diagram of the parking area and have a site visit. She asked Sarah if the MacNeeley’s, the neighbors who shared the driveway, were in attendance and if they had any objections. Sarah said they were not here but she had been in contact with them and they had no objections.

There being no further comments from the Board, Alison said she would open the hearing to the public. She asked for those who wished to speak in favor of the applications, to speak first.

Jarvis Coffin said they had talked with Sarah concerning her plans and had no objection. They had extended a commercial invitation to Sarah, as owners of the Inn, to offer breakfast to her B&B guests. He said they didn’t find that it would be disruptive and were happy to provide that service to Sarah, who was an extremely hard worker.

Ann Peirce asked what the total number of people that could potentially be in the house with a B&B and the accessory apartment. It was determined it could be as many as 16 people including Sarah

and her son. Ann asked how she would handle publicity for the B&B. Sarah said she would use the internet; there would not be a sign. She said it would be similar to an Air B&B of which there are a couple that exist in Hancock.

Ann said she would like it clearly spelled out as to what she would be doing. It seemed to be complicated and she didn't want there to be any wiggle room as there had seemed to be with her goats. Ann asked if Health & Human services would be the dept. in charge of her serving meals. Sarah said her goat cheese business is under the purview of DES and she had been in contact with them regarding her plan of serving a meal which they were OK with.

Joe Cummings asked when the Board met. Hunt said they meet as needed on the second and fourth Wednesday's of the month. He said when an application is submitted they meet as soon as possible. Joe said there had been a mediation meeting scheduled for tonight which Sarah has cancelled due to the scheduling of this meeting. Hunt said the Board had no knowledge of this.

Barry Brooks commented that he thought Sarah might be in violation of her home-based business approval by keeping the goats at another location. Alison said the Board approved the application for the home-based business for the cheese shop since Sarah met all of the required criteria. She added that the Board has no standing on the goat matter; there is nothing in the ordinance that covers it. Alison said if anyone thought there was a violation that matter should be brought to the Select Board since they are the enforcers of the Zoning Ordinance.

Mary Covington said she was concerned with the congestion from the additional cars.

There being no further comments or questions, the public portion of the meeting was closed.

The Board moved into the discussion phase of the hearing.

Board comments:

Hunt said there is not a lot of guidance regarding density. The safeguards in the ordinance are there to lessen congestion in the street, prevent overcrowding of land and promote health and general welfare. He said they need to understand the larger picture and may not be able to make a decision on the applications tonight.

Linda Renna said she can't picture how this would all be set up. She said she would like to see an accurate drawing with all the dimensions of where the B&B and the accessory apartment would be located.

Hunt suggested that the Sarah contact Dario Carrara, the Building Inspector, to do an inspection of the house. The Board would also like to see parking plans for employees as well as for parking for the B&B guests and people living in the proposed accessory apartment

Linda said she was bothered that there is an accessory use in addition to the primary dwelling.

Hunt said they might consider getting legal counsel.

Linda questioned whether the proposed uses would affect property values. Hunt said that falls to the abutters to prove.

Ann Peirce said she feels approving these requests will impact the town and it will chip away at what's makes up Main Street in Hancock. She said the Board is here to keep Hancock the lovely town that it is.

Hunt said Special Exceptions are uses that have been voted on and approved at town meeting. The Board has to approve them if all of the requirements are met. He said they grant variances if all of the criteria for the requested variance have met criteria are met. Hunt said 15.6.4 has already been approved by the town but they are allowed to put conditions on approvals if they choose.

Sarah said in the spirit of the ordinance, she was very open to strict conditions.

There being no further comments or questions, the Board moved on to review 15.6.1.1.

A variance is requested from Article 15 6.1.1 of the Hancock Zoning Ordinance to permit a second rental, co-owner of the property, hopes to rent the front portion of the house and move into the lower, back in-law apartment.

1) Granting the variance would not be contrary to the public interest because:

37 Main Street is a very large house, difficult for single families to afford at this time. These large houses were built long ago in a very different economic climate. It would serve the public interest to update what is commonly allowed.

2) Granting the variance would not be contrary to the public interest because:

The infrastructure exists for more people – water, septic, parking, etc. Also the residential aspect of the neighborhood would be furthered and respected.

2) Granting the variance would do substantial justice because:

Policies would meet people's needs. This would be helpful for the continuation of Main Street Cheese – an asset to the community that strengthens food security and provides jobs as well as enjoyment to many.

3) If the variance were granted, the values of the surrounding properties would not be diminished because:

It would show responsiveness to the economic and ecological demands of the times – making Hancock an especially desirable place to live.

4) Unnecessary hardship:

Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of the provision to the property because:

of the large size of the property. Financial hardship.

ii. The proposed use is a reasonable one because:

The property has multiple bedrooms. There would be used. This seems fitting and reasonable.

B). Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist, and if, owing to special conditions of the property that

distinguish it from other properties if the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

It would be challenging to remain in the house and continue the business due to financial hardship.

There were no Board comments or questions, so Alison opened the hearing to the public.

Jarvis said he wants Sarah to be successful and is personally in favor of the proposed B&B but was not in favor of both. He said Sarah works harder than anyone at making her business successful, but he does worry about the density and parking if both of the applications were approved.

Suzanne Shevenell said she is concerned that this could be considered an apartment house. She mentioned that Sarah had stated in her testimony that she was co-owner of the property. She asked who the other owner was and Sarah said it was her husband Stefan. Suzanne asked where Stefan was and Sarah said he was in Switzerland. Sarah said she could provide a legally notarized statement from Stefan stating that he had no objections to her plans.

There being no further comments or questions from the public, that portion was closed and the Board moved in deliberation.

Alison began by saying that she feels the Board needs more information in order to further consider the applications.

Jon Grosjean mentioned that he had been to a recent OEP meeting that had recognized the problem with the large, older homes on Main Streets in NH. They said people are having difficult times with the maintenance of these old homes and towns should consider alternate uses for these homes so they don't fall into disrepair.

The Board moved on to review the criteria for the variance.

Criteria 1) There shall be no more than one Accessory Apartment on each Lot.
This will be the 2nd (See attached variance request).

Criteria 2) There shall be no Accessory Dwelling on the Lot.
There is not an accessory Dwelling on the lot.

Criteria 3) The principal Dwelling on the Lot shall be a single family dwelling ordinarily occupied by the Owner of the Lot.
The principal Dwelling is a single family dwelling. Here is proposed that it won't be occupied by the owner.

Criteria 4) The Accessory Apartment shall be constructed within the same structure as the principal Dwelling on the Lot.
The accessory apartment is part of the same existing structure.

Criteria 5) The lot area accommodating the principal Dwelling and the Accessory Apartment

shall not be less than the minimum lot size for the pertinent District.

1,230 acres – our property. Minimum lot size is 40,000 square feet so we area OK on the acreage.

Criteria 6) Each Accessory Apartment shall have no more than one bedroom or sleeping area and no more than 768 SF of Living Area.

It has only one bedroom and it is not more than 768 SF (I will have a pull-out couch in the main space).

The consensus of the Board was they would need further information before they could make any decision on any of the applications. They determined that they would need drawings of the existing 1st and 2nd floor with footage details that include the in-law apartment, and then the proposed the layout of the B&B, and the accessory apartment. They asked Sarah to contact the Building Inspector to make a visit to check the layout of the building. The Board would like to do a site visit to check parking availability. Sarah said she would provide the Board with their requests which will include a document from Stefan stating that he had no objections to her plans.

Hunt moved to continue the hearing to July 13th at 6:00 P.M. for a site visit and then resume the public hearing at 7:00. Laurie seconded the motion and the vote was unanimous to continue the hearing to July 13th.

The Board decided to meet first in the meeting room at 6:00 P.M. to review any documents that Sarah will have provided before moving on to the site visit.

Other Business:

The Board has a short business meeting and adjourned at 9:00 P.M.

Respectfully submitted,

Linda Coughlan, Recording Secretary