

**TOWN OF EPPING, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT MEETING
Epping Town Hall
MINUTES October 18, 2023**

PRESENT: Brian Reed, Kevin Martin, Cassie Hojaboom John Scully; Alternate Max Miller; Planner Casey Wolfe; Secretary Phyllis McDonough.

CALL TO ORDER: Chairman Reed called the meeting to order at 6:00p.

Martin moved Hojaboom seconded the motion to appoint Miller to sit in for Horne who could not make the meeting.

I. CONVENE: 6:00 P.M.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. HEARING OF CASES

LOVELY LOVES CLEVER LION, LLC – Chairman Reed read notice of a request for a Special Exception from Article 2, Section 1.5.2 to permit a dual use on a single lot. Applicant proposes a restaurant and commercial/retail building on the same lot. The parcel is located at Fogg Road & Calef Highway, Map 023, Lot 040-002 in the Highway Commercial Zone.

Barry Gier from Jones & Beach Engineering came before the board with the proposal for a Special Exception. To construct a restaurant with a drive thru 17,600 square foot retail building, with parking and will be serviced by onsite sewer and water.

Gier addressed the Special Exception Criteria and applicant's comments. The responses for the seven criteria are attached with the file.

Chairman Reed opened the public hearing. As there were no public comments the Chairman closed the public hearing.

The Board deliberated on the Special Exception request before taking a vote:

1. "That the use is so designed, located and proposed to be operated so that the public health, safety, welfare and convenience will be protected. **Miller won't be any more congested than it is already.**
2. That the use will be compatible with adjoining development and the proposed character of the zone where it is to be located. **Hojaboom noted it's all commercial along that area.**
3. That adequate off-street parking and loading is provided. Ingress and egress is so designed as to cause minimum interference with traffic on abutting streets. **Miller stated his only concern would be the exiting onto Fogg Road.**

4. That the use conforms with all applicable regulations governing the zone where located, except as may otherwise be determined for large-scale developments. **Martin stated this is allowed on this site.**
5. That the applicant for a Special Exception agrees as a condition of the Special Exception to obtain Planning Board approval of the site plan (if required for the development in question), prior to applying for a building permit. **Chairman Reed stated this is clear as the application was sent to the ZBA by the PB.**
6. That if the application for a Special Exception is for the expansion of a Non-Conforming use, the granting of such exception will not adversely affect abutting or nearby property values, and that the Non-Conforming Use is not hazardous by its nature. **Chairman Reed stated this doesn't look like this has anything hazardous. Hojaboom added everything closely around is commercial.**
7. For any Dual Use related special exception, an added use must be a Permitted Use in the zone.” **Hojaboom stated both uses are permitted.**

Hojaboom moved Martin seconded the motion to approve the Special Exception from Article 2, Section 1.5.2 to permit a dual use on a single lot. The motion carried unanimously.

POLKA DOT HOUSING, LLC – Chairman Reed read notice of a request for a Variance under Article 6 Section 6.10.3.b Maximum Density of 1 unit per 3,440 square feet where 1 unit per 10,000 square feet is required, and Article 6 Section 6.10.3.f to permit 2 parking spaces per unit where 2.5 parking spaces per unit are required. The parcel is located at 242 Main Street, Map 022, Lot 060 in the High-Density Residential Zone.

Attorney Baum and Paul Gatchell came before the Board with the proposal for a Variance. Attorney Baum noted this site falls in the Rural Residential and High-Density Residential Zone. Attorney Baum explained the lot is currently developed with seven units in front and twelve units in the rear.

Gatchell offered a picture to the Board of a paved area on site. He explained this is a development of an existing vacant paved area. He stated this is not used for parking, it's where the duplex would go.

Attorney Baum explained they are before the board for relief even after the duplex, the lot complies with the open space and lot coverage requirements and maintains green space requirements.

Attorney Baum explained the applicant is asking for two spaces per unit where 2.5 spaces are required, and a second request to reduce density to result in a slight reduction of 980 square feet which still fits with the overall layout of the lot, and consistent on what was previously approved.

Martin asked if the two spaces are made for all of the other apartments. Gatchell stated the two spaces will be consistent with the whole property.

Hojaboom asked if it was previously mentioned that there would be parking below. Gatchell explained it was discussed but not needed.

Martin directed his question to the planner that the applicant had already been approved for two spaces and it needs to be requested again if the applicant wants to build on this lot. Wolfe responded yes, because they are expanding the use and adding units.

Attorney addressed the Variance criteria and applicant's comments. The responses for the variance criteria are attached with the file.

Martin acknowledged this is a duplex with parking underneath? Attorney Baum stated the design is not final. He explained there was discussion for parking under at last, there in line parking that is available and underground parking is not necessary.

Chairman Reed opened the public hearing.

Abutter Grace Lavoie stated she does not see how anyone could entertain that a variance for one project makes it a variance for another project. She stated the 2.5 spaces for parking is in case there is company. Lavoie spoke of the other variances Gatchell received and stated she didn't realize variances could be "piggybacked". Lavoie explained she is against the request before the Board and stated she doesn't believe there are enough spaces for the seven apartments. She asked the Board to rethink the request.

Chairman Reed closed the public hearing.

Chairman Reed read letters from Tess Burdin 246 Main Street and Kevin & Tammy Rogers 241 Main Street, all in favor of the request by Gatchell.

The Board deliberated on the Variance request before taking a vote:

1. **Public Interest** – Scully responded he feels overcrowding on this site is an issue. Hojaboom stated with many multi family structures in the area it doesn't alter anything but overcrowding is a concern.
2. **Spirit of the Ordinance is observed** – Miller stated the spirit of the ordinance is not observed as this site is already an overcrowded area.
3. **Substantial Justice** – Hojaboom stated additional housing is needed and therefore is a positive request.
4. **Diminishes Property** – Martin and Miller both agreed this shouldn't affect other property values.
5. **Hardship** – Miller does not see a hardship board has already granted other variances that have been requested.

Martin moved Miller seconded the motion to approve the Variance Article 6 Section 6.10.3.b Maximum Density of 1 unit per 3,440 square feet where 1 unit per 10,000 square feet is required. The motion failed 2-3; Hojaboom and Martin voting to approve. Chairman Reed, Miller and Scully voting to deny the request.

Martin moved Miller seconded the motion to approve the Variance Article 6 Section 6.10.3.f to permit 2 parking spaces per unit where 2.5 parking spaces per unit are required. The motion failed 2-3; Hojaboom and Martin voting to approve. Chairman Reed, Miller and Scully voting to deny the request.

MINUTES OF SEPTEMBER 20, 2023 FOR APPROVAL & SIGNATURE – Hojaboom moved Martin seconded the motion to approve and sign the minutes. The motion to approve carried 3-0-1 Scully abstained. The minutes were duly signed.

APPROVE, SIGN AND SEAL NON-PUBLIC MINUTES OF AUGUST 16, 2023 – Hojaboom moved Martin seconded the motion to approve and sign the non-public minutes. The motion to approved carried. The minutes were duly signed.

ADJOURNMENT – Martin moved Scully seconded the motion to adjourn at 6:45 pm. The motion carried unanimously.

Respectfully submitted,

Phyllis McDonough,
Zoning Board of Adjustment Secretary

Brian Reed

Kevin Martin

Cassandra Hojaboom

John Scully

Max Miller