



Town of Hopkinton

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HOPKINTON ZONING BOARD OF ADJUSTMENT

MINUTES

MAY 1, 2018

Members present: Chairman Daniel Rinden, Jessica Scheinman, Toni Gray, Seth Greenblott, and Jonathan Eck. Staff present: Planning Director Karen Robertson.

- I. **Call to Order.** Chairman Rinden called the meeting to order at 5:37 PM in the Hopkinton Town Hall.

Chairman Rinden announced that the application of Summit Holdings, LLC (#2018-06) will be reviewed at a later date (Thursday, May 10, 2018).

II. **Applications.**

Peter Grenier (#2018-05) Variance for multi-family dwelling units in the M-1 (Industrial) district. The property is owned by River House Properties, LLC, located at 1966 Maple Street, shown on Tax Map 210 as Lot 18. The application was submitted in accordance with Zoning Ordinance Table of Uses 3.6.A.3.

Land Surveyor Michael Hammer of Meridian Land Services and Architect David Jaquith presented on behalf of the Applicant. Mr. Hammer presented plans of the project that included photographs of the existing site, elevation drawings of the proposed changes, and a site plan of the property. The structure is the only multi-family mill housing structure that is left in the area. While the property is zoned industrial, single-family and two-family dwellings are permitted by Special Exception. The Applicant wishes to convert the structure into five (5) condominium or rental units, which is not an allowed use in the district.

The Applicant's response to the criteria for a Variance as outlined in Section XV of the Zoning Ordinance was as follows:

- 1) **The proposed use would not diminish surrounding property values because:** "The adjoining parcels are undeveloped, industrial or rental residential. The proposed multi-family use and redevelopment of the lot will improve the character of this portion of Maple Street through the renovation of the existing building, constructed in 1885, and the associated site improvements."
- 2) **Granting the Variance would not be contrary to the public interest because:** "No public or private rights will be adversely affected by allowing the requested relief as the building already exists and can be used as a commercial use without any site improvements. The proposed use will also go toward meeting the reported rental housing deficit in the Town of Hopkinton. Granting the requested Variance will allow the property to be developed in a way that is consistent with renewal of mill sites."

Subject to review and approval.

Mr. Hammer suggested that the proposed use will improve the character of the area as it will be a gate way to the neighborhood.

- 3) By granting the Variance substantial justice would be done because:** “Substantial justice is done when the loss to the applicant in denying the Variance would exceed any gain to the general public by strictly enforcing the Ordinance. Granting the requested Variance will allow the redevelopment of the parcel consistent with the natural historic use of the building. Denial of the Variance will not result in appreciable gain to the general public but will cause substantial loss to the applicant by preventing the best use of the property.”

Mr. Hammer stated that no public or private rights will be adversely affected by the project as the structure is existing. While an alternative would be to use the building for offices, Mr. Hammer believed that the five (5) residential units would have less of an impact on traffic because the residents would be coming and going throughout the day.

- 4) The spirit and intent of the Ordinance will not be broken by granting the Variance because:** “The building exists, and the proposed use is consistent with the historical use of the building and use of buildings of similar character. Other residential uses are provided for in this zone.”

Mr. Hammer noted that the development in the neighborhood would be similar to the downtown where there is mixed residential and commercial uses. Mixed use is a popular way to redevelop old mill sites.

- 5) Literal enforcement of the Ordinance results in unnecessary hardship.**

- (a) For purposes of this subparagraph, “unnecessary hardship” means that, owning to special conditions of the property that distinguish it from other properties in the area.**

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.** “Historically, this parcel land many surrounding parcels were multi-family mill housing. The purpose of the Ordinance is largely to guide new development in the stated goals of the Town’s Master Plan. The character of this property is singular in this area and is more akin to the Village district where development and historical uses are similar and multi-family uses allowed.”

- (ii) The proposed use is a reasonable use.** “Single and two-family residential development is provided for in the zone and the proposed redevelopment does not mark a significant increase over those uses. The proposed development would not injure any public or private rights.”

Architect David Jaquith, 81 Railroad Avenue, Rowley, Massachusetts, reviewed photographs and elevation drawings of the project. He noted minor changes to the structure that included a new front entry deck, dormers on the front of the building, reorganization of the windows that had once been moved, and balconies on the rear of the building. There will be two units on the first floor, two units on the second floor and one unit on the third floor. Every unit will

be different from one another because of the configuration of the building. The building will be a walk-up with the third-floor entry on the second floor. The smallest unit will have 780 SF and the largest approximately 1300 SF.

Mr. Eck inquired about the total number of bedrooms for all five units. Peter Grenier of Summit Holdings stated that there will be a total of 11-bedrooms. Mr. Eck inquired about the size of the lot, whether it is .87 acres. Mr. Hammer estimated 1-acre and wasn't sure where the .87 acres was originated. The property needs a more precise survey; however, since the property abuts the road, covered bridge and river, Mr. Hammer did not expect a major change in the acreage.

Chairman Rinden asked about the status of a vacant parcel on the opposite side of the covered bridge. Mr. Hammer explained that the parcel is owned by the Applicant and will be used for the leach field.

Chairman Rinden questioned when the building was last occupied. While those present were unsure, Ms. Robertson estimated five or more years ago the building was used as an office. While working with the owner to obtain permits, the building became vacant.

Surveyor Michael Hammer noted that the site plan presented is conceptual and that the plans are subject to Planning Board and NH Shoreland Protection review.

Chairman Rinden inquired about the green space and parking. In response, Mr. Hammer stated that there may be an opportunity for more green space from what is shown on the plan as there will not be an increase in impervious surface.

Mr. Greenblott requested further explanation in addressing the hardship criteria. Mr. Hammer suggested that the hardship could be characterized by the fact that there is not a lot of value in the area. All commercial and residential development has been demolished. While the property can be used for a single family or two-family use, they would most likely have to replace the existing structure due to its configuration and to make the property more marketable. Mr. Hammer suggested that the hardship would then be financial as they would need to demolish "something that is striking" to adhere to the strictest terms of the Ordinance. He further suggested that the property is unique, and that increasing the number of units from two to five would not significantly change the characteristics of the structure. Lastly, Mr. Hammer believed that there would be no appreciable gains by denying the permit.

Mr. Jaquith stated that the industry in the area is gone (papermill and energy plant), leaving the Applicant's building alone without any use. The residential use is a better use of the property as the commercial/industrial uses no longer exist. He suggested that the lack of commercial/industrial uses is a hardship.

Chairman Rinden recalled a time that the building was a multi-family dwelling. Mrs. Robertson recalled the same, stating that the building was occupied by employees of the papermill.

Mr. Eck asked whether having 5-units is too many units for the building. Mr. Jaquith replied no and explained that based on the layout of the building and the Building and Life Safety Code requirements, the building was designed for 5-units.

Chairman Rinden asked if the units will be apartments or condos. Mr. Jaquith stated that the units were designed for condo sales. Additionally, there will be storage space in the basement and a better heating and cooling system with a few other amenities.

Mr. Greenblott liked the idea of the residential units; however, he was unsure of the special condition to the property that lends its self as a hardship. He wasn't certain of the fact that a residential property within industrial district, that is no longer used for industrial purposes, is a special condition that would qualify as a hardship. Mr. Greenblott questioned whether the nature of an area can create an unnecessary hardship.

Ms. Scheinman suggested that given the location and nature of the property it would be difficult to use the building in a way other than as a residential multi-unit building. In the past, it has been difficult to rent out the building for commercial purposes.

Ms. Scheinman was satisfied that the criteria for unnecessary hardship had been addressed given the nature of the parcel, use of the building in the past, and the context of the parcel to the land around it. Mr. Eck and Mrs. Gray concurred. Mrs. Gray then suggested that the building will service a purpose that is needed, rentals or small condos.

Mr. Greenblott suggested that the criteria for Variance has been met, especially when considering the subset of the hardship criteria, that it is a reasonable use.

At this time, Board members reviewed the responses to the criteria for Variance to determine whether the Applicant had satisfied all requirements.

- 1) There are no structures in the vicinity; therefore, no property values will be affected.
- 2) By not granting the Variance it would not be contrary to the public's interest.

When considering the size of the lot, approximately 1-acre, Mr. Eck was not concerned about the use of the property for five residential unit. Ms. Scheinman agreed

- 3) Ms. Scheinman agreed with the Applicant's written explanation that the public or private rights will not be adversely affected, the use of building will be consistent with its past use and that it will be in a productive way. The earlier use, business offices, was not a productive use.
- 4) The property is zoned industrial; however, industrial uses in the area haven't existed for several years. In fact, the commercial/industrial uses have closed, and the buildings were removed.

Mr. Greenblott questioned how the Board would vote if there was a proposal for residential multi-units to be constructed across the street, on property of the former papermill. In response, members noted that applications are reviewed on a case-by-cases basis and that the Board is not evaluating the property across the street. Whether or not to grant a Variance is based on whether an applicant is successful in addressing the Variance criteria.

Ms. Scheinman noted that the specific facts of this parcel persuade her that a Variance is appropriate; whereas, it might not be appropriate for the lot across the street.

Chairman Rinden opened and closed the public hearing portion of the meeting as there were no members of audience, besides the Applicant and representatives present.

Toni Gray, seconded by Jessica Scheinman, moved to **APPROVE** the application for Variance (#2018-05) as presented. Motion carried unanimously in the affirmative (Eck, Gray, Scheinman, Greenblott and Rinden). The Applicant successfully addressed all criteria to be granted a Variance as outlined in Section XV of the Zoning Ordinance.

Reasons for approval as follows:

1) Property Values:

- There was no evidence that surrounding property values would diminish because of the conversion to five residential units, rather than two units.
- The building was once used as multi-residential units by employees of the papermill.
- The abutting parcels are undeveloped as the earlier residential and commercial/industrial structures have been demolished.

2) Public Interest:

- There was no evidence that the public's interest would be negatively affected because of the conversion to five residential units.
- Residential uses are a permitted use in the industrial district.
- The building has been vacant for several years and the abutting residential and commercial/industrial structures have been demolished.
- The use will improve the character of an area that is not developed.
- Certified notice was provided to the abutters and public notice of the proceedings was published in the Concord Monitor. Subsequently, there was no member of the public present at the meeting.

3) Substantial Justice:

- The public would realize no appreciable gain from denial of the Variance.
- Allowing the redevelopment (5-residential units) of the property in a manner that is consistent with the historical use of the building will give options for housing.
- The earlier use, business offices, was not a productive use.

4) Spirit and Intent:

- The spirit and intent of the Ordinance will not be broken by granting the Variance as the building is existing, constructed in 1885, and was historically used as a multi-family use.
- While the property is zoned for industrial uses, single-family and two-family residential uses are permitted.
- The nature and character of the surrounding properties will not change as the abutting properties are vacant, since the earlier residential and commercial/industrial development had been demolished several years ago.
- Requiring the Applicant to utilize the building as a single-family or two-family residential use is not necessary in order to give full effect to the purpose of the Zoning Ordinance.
- The earlier use, business offices, was not a productive use.

5) Unnecessary Hardship:

- Literal enforcement of the Ordinance will result in an unnecessary hardship.
- Given the nature of the parcel, use of the building in the past, and the context of the parcel to the land around it, the proposed use is reasonable.
- The property is in an industrial district where earlier residential and commercial/industrial development had been demolished.
- Single-family and two-family residential uses are permitted.

III. Review of Minutes and Notice of Decisions.

Jonathan Eck, seconded by Toni Gray, moved to **APPROVE** the Minutes of March 6, 2018 as amended.

- Page 2, 2nd paragraph – Replace the second sentence so that it reads: “Mr. Wuellenweber noted that the structure will contain three apartments and three offices on the first floor and five apartments on the second floor.”

With five members voting, four voted in favor (Eck, Gray, Greenblott and Rinden) and one voted in abstention (Scheinman).

Toni Gray, seconded by Jessica Scheinman, moved to **APPROVE** the Minutes of April 3, 2018 as presented. Motion carried in the affirmative.

IV. Other business.

Alternate Vacancies – Board members will reach out to residents interested in joining the Board and provide their contact information to the Town Administrator.

- V. Adjournment.** Toni Gray, seconded by Jessica Scheinman, moved to **ADJOURN** the meeting at 6:35 PM. Motion carried in the affirmative.

Karen Robertson
Planning Director