



**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

**April 18, 2016, 7 PM**

**Conference Room 200A**

**I. CALL TO ORDER**

Steve Bogert called the meeting to order at 7:00 pm.

**II. ROLL CALL:**

Kalena Graham called the roll with the following member present: Gail Ober, Suzanne Perley, Vice Chair/Secretary; Orry Gibbs, Mike Foote and Zoning Chair, Steve Bogert

Staff: Brandee Loughlin, Interim Planning Director

Recording this meeting: Kalena Graham

Chair Bogert stated there were five (5) members present and a quorum was established. G. Ober was seated in absence of R. Maheu.

Chair Bogert noted that one application, 301 Weirs Blvd, Ship Ahoy, will only have 4 members as one has to recuse herself. Attorney Dyer stated that he would like to go forward with the four members for that application.

**III. MINUTES**

The minutes from the ZBA meeting of March 21, 2016 were reviewed.

*M. Foote made the motion to accept the minutes as written, seconded by O. Gibbs. All voted in favor, 5-0.*

**IV. Continued Public Hearing**

**1. Appl# ZO2016-0004: Variance**

134 North Street, MSL # 329-168-49

Melhem Hachem

*RS Zone*

The applicant is requesting a variance from 235-35 (B), side setbacks, in order to erect a garage which would infringe approximately 2' into the side setback, in a zone where the setback is 10'.

Applicant: Melhem Hachem explained the reason for the variance request. He would like to add a garage to his property but would be 2 feet into the setback because of the bulk head location. The bulkhead is 4 t by 5 ft. The location of the bulkhead is a hardship and will end up being inside the garage if the variance is granted. G. Ober drove by the location and asked if work had started and was told yes but he did stop. He is new to the area and was unsure of the rules. He started digging the hole but didn't finish. *Roland Maheu came in at 7:05 pm.* M. Foote asked if the garage will be attached and was told yes.

No one from the public spoke for or against the application.



**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

**April 18, 2016, 7 PM**

**Conference Room 200A**

R. Maheu will be voting on the next application as G. Ober was appointed for this application.

Chair Bogert added no rooms, including bathrooms, will be allowed in the garage. It will strictly be a garage and storage area.

**Chair Bogert closed the public hearing.**

G. Ober noted that there is a vegetated buffer from the neighboring property. The neighbor also sent a letter and she is in favor of the application.

*S. Perley made the motion to approve the application to construct an attached garage with the 2 ft infringement into the side setback. This won't be contrary to public interest and the spirit of the ordinance is observed. The proposal has no effect on public or private rights of others and is consistent with the spirit of the ordinance. The proposal does not threaten the public health, safety or welfare of the neighborhood. Granting the variance would do substantial justice as the use is allowed is a residential neighborhood. The benefit to the applicant far outweighs any negative impacts to the general public. The use is consistent with the character of the neighborhood. Value of surrounding properties will not be diminished. There is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property. The hardship is the location of the bulkhead on the side of the house which doesn't allow to location of the garage to be anywhere else. Chair Bogert added to the motion that no other alterations to the garage to be made and it only be a garage. G. Ober seconded the motion with the addition that no other alterations will be made to the garage. **All voted in favor, 5-0.***

Chair Bogert stated that R. Maheu will be a voting member and because O. Gibbs recused herself and G. Ober was appointed as a voting member.

**2. Appl# ZO2016-0005: Waiver**

301 Weirs Blvd, MSL # 241-248-12

Ship Ahoy Association

CR Zone

The applicant is requesting a waiver of the previously imposed conditions, which was set on July 23, 1980 by the ZBA.

Applicant: Rod Dyer of Wescott Law, was present representing Ship Ahoy Condominium Association. Also present was Tom Landry, the president of the association. Attorney Dyer explained the history. This was converted in the early 1980s. Local approval was a mixture of approvals with some applications going to Planning Board and some going to the Zoning Board. After 1991 that changed to be only Planning Board approval because they have the subdivision jurisdiction. The issue is the



## ZONING BOARD OF ADJUSTMENT

### MINUTES

April 18, 2016, 7 PM

Conference Room 200A

conditions that were imposed on this property 36 yrs ago are not relevant today. He is asking for the 1980 irrelevant conditions be waived. There are ten (10) conditions that are irrelevant:

1. That the units shall not be used or occupied as permanent full-time residences; it being understood that the units are intended to be used and occupied solely as seasonal, recreational dwellings.
2. That the present existing structures shall not be enlarged or further expanded.
3. That no other permanent structures, buildings or units are to be constructed, erected or placed upon the property.
4. That Units 10 and 11 as shown on the Applicant's plan are to be combined into one unit.
5. That all units shall comply with all existing codes and regulations of the City of Laconia prior to transfer. An inspection is to be made for compliance with said codes and regulations by the City Building Official.
6. That there shall be no commercial use for the property whatsoever.
7. That there shall be no internal modification of the units which would increase the number of presently existing bedrooms. A survey of existing bedrooms to be provided to the City Building Official by the applicant.
8. That all previously imposed conditions upon the property by the City Zoning Board, the City Planning Board or other City departments shall be complied with in full.
9. That the property and units shall not be sold or otherwise transferred other than pursuant to the proposal submitted to the Zoning Board of Adjustment.
10. That these conditions shall be appropriately referenced in all condominium documents and all deeds of transfer so that prospective purchasers shall have adequate notice thereof.

Att. Dyer stated that item #2 is contrary to the community because the Planning Board has approved expansions of units vertically, subject to approval. He feels if that condition stays in place then the particular project would be discrimination because it is not relevant or imposed on others. For item #3, the declaration of conditions would prohibit further units to be put in because the land not built, is the common area and would need 100% approval from the association. The Planning Board would also look at that. He is confident that no additional units would fit. Item #7 was due to the septic system requirements back then. The site is now on City sewer. Att. Dyer asked for those conditions to be waived due to the fact that anything that was to change on the site would require a Planning Board application for an amendment. There have been no issues with the project and he spoke with the prior Planning Director Shanna Saunders and was told to come to the original approval board to have the conditions waived.

Tom Landry added that the condominium docs state most of the items listed and any changes will need to go by city standards. Since the original 1980 approval the site has been put on city sewer and water.

Chair Bogert asked about item #1, if the intent was to have full year-round residents. T. Landry said that has been allowed for unit #1 and #2. Some units have upgraded since then to be year-round. He was told it was seasonal because of the well and septic. Five units could be considered year-round and have been used year-round. Att. Dyer clarified. When the application was approved 2 units were allowed as



**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

**April 18, 2016, 7 PM**

**Conference Room 200A**

year-round residences. Typically the owner would live year-round on the property and the surrounding cottages would be a seasonal recreational basis, not primary residences. So only units #1 and #2 will remain as year-round residences. T. Landry stated some of the owners would like that waived as well. Chair Bogert is concerned about the units being rented out and subletted. T. Landry stated that per the declaration, no rentals are allowed without association approval. Att. Dyer reiterated that only the two units are allowed to be year-round residence. If the other units wanted to go from seasonal to primary residential, they would require Planning Board approval. M. Foote asked about the green space coverage and Att. Dyer stated that would be a planning board issue as well. Most of the land is green space and there is no room for the unit owners to expand. The only practical expansion would be to go vertical.

No one from the public spoke for or against the application.

Chair Bogert closed the public hearing.

S. Perley would like the written statement provided included into the formal record as to why for future reference. After clarification there were no issues on any of the items from the board. R. Maheu noted that 36 yrs ago condos were new and a lot of experimentation was done. Since then, the condo conversion has evolved and he sees no reason why Ship Ahoy can't be the same as the rest.

*Chair Bogert made the motion to approve the waiver of the previous imposed conditions from July 29, 1980, numbered 1-10 including the document Ship Ahoy written statement received at the Planning office Feb 18, 2016, pages 1, 2, & 3 included in the motion for explanation. S. Perley seconded. **All voted in favor, 5-0.***

***Note\* copied and pasted from original document; original document in file.\****

**SHIP AHOY ASSOCIATION**  
**WRITTEN STATEMENT**

In the early 1980's, there were a number of conversions of cottage colonies to condominiums. The community at the time was concerned that the conversion would result in a number of units becoming sub-standard residences. This did not occur and most of the conversions have resulted in significant upgrades.

Ship Ahoy was one of the earliest conversions with some conditions imposed which are not relevant today. The purpose of this Application is to permit the Ship Ahoy Association to have the same rights and be subject to the same conditions as other more recent conversion condominiums approved by the City.



ZONING BOARD OF ADJUSTMENT

MINUTES

April 18, 2016, 7 PM

Conference Room 200A

As a result, Ship Ahoy Association would request that the conditions imposed by the ZBA on July 23, 1980, be waived and/or amended. A number of the conditions should be waived or amended on the basis that the condominium conversion was completed 35 years ago, and any new physical or use changes would require appropriate applications and approvals.

The reasons for waiver and/or amendment of the specific conditions imposed by the ZBA on July 23, 1980, are as follows:

1. That the units shall not be used or occupied as permanent full-time residences; it being understood that the units are intended to be used and occupied solely as seasonal, recreational dwellings. **Other conversion condominiums are permitted to be occupied yearround and Ship Ahoy association seeks similar treatment.**
2. That the present existing structures shall not be enlarged or further expanded. **Structures in other conversion condominiums have been permitted to be enlarged or further expanded, provided they meet current zoning and building code standards.**
3. That no other permanent structures, buildings or units are to be constructed, erected or placed upon the property. **The Association requests modification of this condition as follows: "No more units may be added to the condominium, but extension of decks, porches and patios and construction of accessory structures may be allowed if they comply with then current land use and zoning provisions.**
4. That Units 10 and 11 as shown on the Applicant's plan are to be combined into one unit. **This never happened and these two separate units are owned by separate individuals.**
5. That all units shall comply with all existing codes and regulations of the City of Laconia prior to transfer. An inspection is to be made for compliance with said codes and regulations by the City Building Official. **This condition is no longer relevant as inspections for code compliance would have occurred 35 years ago.**
6. That there shall be no commercial use for the property whatsoever. **The Declaration of Condominium prohibits commercial use for the property, but rentals are permitted as is the case in all other conversion condominiums.**
7. That there shall be no internal modification of the units which would increase the number of presently existing bedrooms. A survey of existing bedrooms to be provided to the City Building Official by the applicant. **This condition was imposed when most conversion condominiums were on septic systems. The units at Ship Ahoy**



**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

April 18, 2016, 7 PM

Conference Room 200A

**are tied into the municipal sewage system, and thus the restriction upon bedrooms is no longer relevant.**

8. That all previously imposed conditions upon the property by the City Zoning Board, the City Planning Board or other City departments shall be complied with in full. **This condition is no longer relevant as the condominium has been in existence for more than 35 years. Any physical changes would require applications and approvals under current standards.**
9. That the property and units shall not be sold or otherwise transferred other than pursuant to the proposal submitted to the Zoning Board of Adjustment. **Once again, this condition is no longer relevant since the condominium has been in existence for over 35 years.**
10. That these conditions shall be appropriately referenced in all condominium documents and all deeds of transfer so that prospective purchasers shall have adequate notice thereof. **The Declaration of Condominium is the governing instrument and all condominium deeds make reference to the Declaration.**

Waiver and/or amendment of the above conditions will permit improvements at Ship Ahoy and give the unit owners the same flexibility permitted owners in other condominiums. The waiver of these conditions will permit vertical expansion of units where appropriate. For example, the owner of Unit 9 has received permission of the Association to add a second story to his unit, but the above conditions must be waived or amended in order for this to happen. The protection for the City is that all modifications must adhere to current zoning and building code standards.

Chair Bogert stated that O. Gibbs was a voting member and G. Ober not in her absence.

**3. Appl# ZO2016-0006: Variance**

24 Allen Avenue, MSL # 139-46-87

Flanagan

*SFR Zone*

The applicant is requesting a variance from 235-35 (B), side setback, in order to construct a roof dormer in order to provide an increase in the stairway height. The expansion will be up and will not encroach any further into the existing setback, which is approximately 2'.

Applicant: Carl Johnson and Mike Pelezar, Project Manager of Advance Land Surveying and in charge of the project was present representing the Flanagans, the property owners. C. Johnson stated the Flanagans originally came to them to take off an existing covered porch on the front of the existing dwelling which required a shoreland permit form DES. The applicant received the state permit when the city building permit was applied for, they were unaware the dormer was non-conforming. They found that any expansion of a non-conforming structure, even within the limits of the existing



**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

**April 18, 2016, 7 PM**

**Conference Room 200A**

encroachment would require a variance. C. Johnson explained that the existing stairway was not to code for the height, it was too short, construction of the dormer will provide correct height. It will also allow for expansion to the upstairs bathroom to add 3x3 shower stall. The dormer is in the footprint of the existing structure. The entire structure is approximately in the side setback by two feet. In this area houses are very close together on small lots. He passed out some pics of the abutting property to show that. Given the nature of the neighborhood, he feels the variance criteria is met. The windows will be frosted for privacy and to allow for light but not scenery. M. Pelezar stated the code enforcement officer said that height should be added for head room.

No one from the public spoke for or against the application.

Chair Bogert closed the public hearing.

*O. Gibbs made the motion to approve the application for a variance to build a dormer to increase the stairway height. The variance will not be contrary to the public interest as all construction will be done within the limits of the horizontal and vertical encroachments. The use of the property will remain unchanged. The spirit of the ordinance will be observed as the zoning ordinance does allow for reasonable expansions of existing non-conforming structures if it can be demonstrated to the Board that there will be no impact to the abutting parcels or to the general welfare of the public and that strict enforcement of the ordinance would result in an unnecessary hardship to the owner. Substantial justice would be done in that this variance would allow an existing stairway to be brought into code as well as allowing a small expansion of an upstairs bathroom for the installation of a shower stall. Both requests represent a reasonable expansion of an existing non-conforming structure without impact to abutters. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the existing structures in this area are almost on the property line and have existed in that state well prior to zoning. The side setback of the structure will remain unchanged. All of the construction will occur within the limits of the existing encroachment. The window on the proposed dormer will be frosted such that no one will be able to see in or out of the window but light will be able to enter the structure. The side setbacks in the zone are intended to keep adequate space between structures. Since the structure exists in its current state and there will be no change to the existing side setback, there is no fair and substantial relationship between the general public portion of the ordinance and the specific application proposed. The unnecessary hardship is age of that particular part of town. The fact that all the lots are very small and the buildings so close together. This will keep the ceiling height low, in the event of an emergency, ducking would not be safe. This allows the ceiling to be high enough to meet the city code and egress and ingress would be made easier. The increase in safety far outweighs the non-conformance of the structure. S. Perley seconded. **All voted in favor, 5-0.***

**V. Public Hearing**

**1. Appl# ZO2016-0007: Variance**

50 Fenton Ave, MSL # 433-77-22

Q. Brouillard



**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

**April 18, 2016, 7 PM**

**Conference Room 200A**

*RG Zone*

The applicant is requesting a Variance from 235-28, Uses Not Permitted, Table 1, Table of Permitted Uses, ,in order to erect a small greenhouse on the property. The greenhouse would comply with setback requirements and would be moved periodically to take advantage of the sun and to allow for crop rotation.

Applicant: Quinn Brouillard, owner of property explained the application. He has had several health issues and would like to grow his own food. He currently grows it indoors but it takes up space. Q. Brouillard went off subject and brought up the fact that he would like chickens as well. Chair Bogert suggested the subject be confined to what is on the application: a greenhouse. Q. Brouillard stated that all the neighbors consent to his greenhouse. There was confusion with the board on why this application needed approval. B. Loughlin stated the reason for the request is for the use of the temporary structure of a 4 x 10 ft greenhouse. Q. Brouillard stated that he would probably take the structure down in the winter. S. Perley thinks that when the table was put together it was for a commercial use, rather than personal use. These are areas being looked at to revise in the ordinance.

No one from the public spoke for or against the application.

Chair Bogert closed the public hearing.

The need for ordinance changes are well known and will be worked on. The process was halted due to the Master Plan rewrite. Chair Bogert said conditions can be put into the approval to allow the use for now.

*S. Perley made the motion to approve the variance for the use of a temporary structure to be used a greenhouse. Granting the variance will not be contrary to public interest. The spirit of the ordinance is observed. The 4 x 10 ft greenhouse is a temporary structure and will not be permanently affixed to the land and used only for the purpose of growing food for the applicant's use and no roadside stand. Substantial justice is done because there is no harm to abutters or general public in growing vegetables. The value of surrounding properties will not be diminished. There is no fair and substantial relationship between the general public and purposed of the ordinance because growing vegetables for the applicant's use should be allowed and there is no benefit to deny the application. M. Foote seconded. Conditions added would be to keep the temporary structure out of the setbacks and approval is for the 4x10ft size. Chair Bogert added a side note that part of the application the picture of the chicken coop in no way infers any acceptance of a chicken coop or anything related to chickens. This is strictly approval for a 4 x 10 temporary greenhouse. B. Loughlin noted that a roadside stand is approved by right. **All voted in favor, 6-0.***

**2. Appl# ZO2016-0008: Special Exception**

92 Pine St, MSL # 443-184-75

Brian Berry

*RG Zone*



**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

**April 18, 2016, 7 PM**

**Conference Room 200A**

The applicant is requesting a Special Exception from 235-26, Use Permitted by Special Exception, Table I, Table of Permitted Uses, in order to establish an upholstery shop. The building previously housed a neighborhood market so this use is less intensive.

Applicant: Brian Berry, the applicant explained the application. He resides in Gilford and has owned an upholstery shop for 15 yrs. He would like to relocate closer to his residence. He has a quiet operation and one person that helps during the busy season. Irwin Marine is his biggest client. The only traffic is the UPS truck. Most of the work is for boats but he does work on a few cars. He goes to the site and picks up the item to be upholstered. B. Loughlin stated that the use is going under artist/craftsman studio. G. Ober asked if there would be a problem to limit the amount cars for overnight parking and was told no because there are marked parking spaces. The concern is stockpiling of cars or boats. B. Berry stated that the cars would only be there a day or so. He eventually would like to put a good looking fence around the property to keep it clean and neat.

No one from the public spoke for or against the application.

Chair Bogert closed the public hearing.

S. Perley agreed that the use would be a better than what was there. G. Ober would like to limit the amount of cars and boats, so it won't look disorganized.

*S. Perley made the motion to approve the special exception for an upholstery shop. The use requested is specifically authorized in the chapter and categorized as Artist/Craftsman studio. The requested use will not create undo traffic congestion or unduly impair pedestrian safety. The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will it add any significant increase in stormwater runoff onto adjacent property or streets. This is a low impact business and a majority of the business will be done inside. There are no special provisions for the use as set forth in the chapter to fulfil. The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal service. The requested use will not create hazards to the health, safety, or general welfare of the public and will not be detrimental to the use of or out of character with the adjacent neighborhood. The proposed location is appropriate for the requested use and the requested use is consistent with the spirit of and intent of this chapter and the Master Plan. M. Foote seconded. **All voted in favor, 5-0.***

**VI. OTHER BUSINESS:**

G. Ober would like to have the Zoning Task Force (ZTF) take a look at greenhouses and differentiate between commercial and residential uses in the ordinance.

S. Bogert noted that some changes would be trickling out and explained a few procedural changes that would be implemented in the coming months. S. Perley would like an updated member list. G. Ober asked if there had been advertising for the open positions on the board and was told yes.



**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

**April 18, 2016, 7 PM  
Conference Room 200A**

**VII. ADJOURNMENT:**

*M. Foote made the motion to adjourn. R. Maheu seconded. **All voted in favor, 5-0**, and the meeting adjourned at 8:46 pm.*

**Respectfully Submitted:**

Kalena Graham  
Recording Secretary

DRAFT