

Zoning Board of Adjustment
August 15, 2019 6:30 PM
Board of Selectmen's Room/Municipal Building
15 Sunapee Street/Newport, NH

PRESENT: Melissa Saccento Chairman; Beth Cassorla, Jeffrey Kessler, BOS Representative; Tim Beard, Alternate

ABSENT MEMBERS: Virginia Irwin, Alternate; David Lain, Vice Chairman; Ben Nelson, Scott McCoy, Alternate

VIDEOGRAPHER: Nancy Meyer, NCTV

STAFF PRESENT: Liz Emerson, Zoning Administrator

COMMUNITY MEMBERS PRESENT: Chad Howe, abutter

CALL TO ORDER: Chairman Saccento called the meeting of the ZBA to order at 6:30 p.m. and introduced the sitting Board members. Mr. Beard was appointed to sit for Mr. Ben Nelson.

ADMINISTRATION:

Ms. Emerson stated that officers needed to be voted for or reinstated at the August meeting for August 2019-June 2020. Mr. David Lain (absent) was resigning from the Board. Mr. Ben Nelson (absent) had agreed to take the Vice Chair position if the Board voted for him. Ms. Emerson called for a motion for the position of Chairman of the ZBA.

On a motion by Mrs. Cassorla, seconded by Mr. Kessler, *the Board voted to elect Ms. Melissa Saccento as Chairman of the Zoning Board of Adjustment. The motion passed 3-0-1 (Saccento abstained).*

On a motion by Mr. Kessler, seconded by Mrs. Cassorla; *the Board voted to elect Mr. Ben Nelson Vice Chairman of the ZBA. The motion passed 4-0-0.*

Chairman Saccento took over the meeting.

MINUTES: July 25, 2019

July 25, 2019

On a motion by Mrs. Cassorla, seconded by Mr. Kessler; *the Board voted to approve the minutes of the July 25, 2019 meeting as presented. The motion passed 4-0-0.*

Chairman Saccento handed out worksheets to the sitting Board members for Case #1079.

Case #1079: 169 Sunapee Street, LLC (Owner) and Ronald K. DeCola (Agent) request a Variance to the terms of Article II, Section 211.3 of the Zoning Ordinance to permit the redevelopment of the existing Newport Mills building into 70 (+/-) workforce housing rental apartments. The property is identified as Map 112 Lot 032 and is located at 169 Sunapee Street in the Single Family (R-1), General Residential (R-2) and Industrial (I) Zoning Districts.

Chairman Saccento opened Case #1079.

Chairman Saccento acknowledged Ms. Emerson. Ms. Emerson read her Administrative Review into the record.

- 1) The original variance for the property was approved in 2017.
- 2) The Planning Board just approved this new case, with construction starting within 54 months of the original date.
- 3) The only change from the original variance request is changing market rate apartments to workforce housing rental apartments.
- 4) The Planning and Zoning Department has no issues with the application.

Chairman Saccento addressed Mr. DeCola and asked him to present his case. Mr. DeCola stated that at the August 15, 2019 meeting he was asking the Board to reaffirm the initial decision made March 23, 2017. The arguments are exactly the same.

Addressing the Board he stated that the LLC most recently had a mixed use concept; they would not be pursuing that because they had not received the tax credits necessary. They have recently partnered with New England Family Housing, Kevin Laccase Principal.

Mr. Laccase will be pursuing (contingent on financing for his company) workforce housing in the Newport Mill building. It will only be rentals. The area with the self-storage that has already been approved by the ZBA and the two hydro plants will remain as was approved in 2017.

Reiterating, Mr. DeCola stated they would like to go back to the original approval that the Board gave in 2017.

Mr. Kevin Laccase, New England Family Housing, addressed the Board and stated that he was a developer. His company constructed both market rate housing and workforce housing projects.

- ❖ His company was constructing one in Claremont, NH in the Goddard Block.
- ❖ His company completed one in Bristol, NH.

The program they use is the Low Income Housing Tax Credit (LIHTC) program through NH Finance Authority. It is essentially a workforce housing project that will be going in. It is contingent on a tax credit program completely different from the one Mr. DeCola was pursuing. The program is a Federal Program administered through the State of New Hampshire. The Mill will contain the following:

- It will be a mixed income building.
- There will be 68 apartments.
- 25% will be “market rate” apartment units.
- The other apartments will be income tiered.

The construction in the building (floorplans, etc.) will be basically what Mr. DeCola had originally planned. There will not be anything commercial in the building.

Chairman Saccento thanked Mr. Laccase. She addressed the Board members and asked if they had questions.

Mr. Kessler stated the Newport Zoning Ordinance does not define market rate housing or workforce housing rate. Mr. Laccase was asked why the ZBA should be hearing about or talking about this type of housing. The ZBA approved apartments (in 2017) and it is not up to the Zoning Board of Adjustment to determine what the rates will be.

Mr. Laccase concurred with Mr. Kessler. Mr. Laccase stated that legal counsel for his company saw the wording (market and workforce housing rate) and advised for clarification that it be in the ZBA minutes that the Board has been notified that it is for workforce housing. It was semantics from an attorney's perspective.

Mrs. Cassorla asked what the difference was between a market rate and a workforce housing rate. Mr. Laccase read aloud a prepared definition of workforce housing. "Workforce housing is for individuals who work but don't earn enough for a market rate unit plus food, transportation and living expenses. They make too much money to qualify for public assistance."

The building units would be divided in this manner:

17 units would be market rate

34 units = would be 60% area median income (AMI)

10 units = would be 50% AMI

7 units = would be 30% AMI

Mr. Laccase was asked if someone who received SSI would be eligible for a rental unit. He stated a qualified applicant could not be denied depending on their source of income (job or disability). His company could not discriminate against any applicants.

Mr. Laccase was asked what the AMI was in Sullivan County. He told the Board that the AMI fluctuates with the economy.

Mr. Laccase was asked if the rent was adjusted according to the income of the individual. He told the Board it was, and gave examples.

Mr. Laccase was asked if the number of units to percentages was set in stone (ex. 10 units at 50% AMI); no additional units could be rented at the 50% AMI price. Mr. Laccase said yes. Continuing, he stated the number of units had to be consistent, but not their location in the building.

For clarification, Mr. Laccase was asked if market rate and workforce rate units were mixed throughout the building. He stated yes. There will not be a "rich" floor or a "poor" floor.

Chairman Saccento addressed the abutter present and asked if he had any questions. Mr. Chad Howe stated that Mr. Laccase had explained a lot, especially workforce and market value. He asked Mr. Laccase:

Who dictates the number of units? The grant? Mr. Laccase agreed with Mr. Howe, stating there will be a formula given to them because the budget to rent a property the size and stature of the Newport Mill exceeds what it would cost to support it. He explained to Mr. Howe the financial burdens (to the company) to build apartment units in the Mill.

For clarification, Mr. DeCola told Mr. Howe it was not a grant, the program was tax equity.

Mr. Laccase told Mr. Howe that in the underwriting he would find out exactly how many units there would be in the Mill.

Mr. Howe asked for the size of the units. Mr. Laccase said they ranged from 750 sq. ft. up to 1,752 sq. ft.

Mr. Howe asked if the company had to requalify every year. Mr. Laccase said yes.

Mr. Howe asked how long the program would continue at the Mill. Mr. Laccase said the affordability part: 99 years. The tax credit investor is obligated for fifteen years but the compliance is for ninety nine years.

Mr. Kessler asked what happened after fifteen years; did the company find new tax investors? Mr. Laccase stated the tax credit investor recoups his investment after fifteen years. Typically, it is refinanced at that time (sold, refinanced or refinanced and renovated).

Mr. Kessler asked what the requirements were in this program for maintenance of the building. Mr. Laccase stated there was very high scrutiny. He explained there were credentials for the management and listed the items that were monitored: annual inspections of the condition of the property, annual financial audits and interviewing applicants.

Currently a third party (Alliance Property Management) was handling the management of the other properties he owns.

Mr. Kessler asked if the property is not kept up, what penalties are involved. Is there anything that would force the property owner (Mr. Laccase) to improve the condition of the property? He was told yes. Continuing, Mr. Kessler asked if it had been done before. Mr. Laccase stated there has never been a workforce housing project in NH that has been foreclosed on. Mr. Kessler asked how many there were. He was told thousands of units. The program was through New Hampshire Finance Authority. Mr. Laccase estimated the program had been in existence approximately twenty years.

Mr. Laccase assured Mr. Kessler that after fifteen years the company had to continue to comply with the original standards. It was still monitored by the New Hampshire Finance Authority (NHFA). The first fifteen years the property is monitored by NHFA and the tax credit investors. After that, it is monitored by the NHFA.

There was a discussion between Mr. Kessler and Mr. Laccase about the number and type of units after the first fifteen years. Mr. Laccase stated that there was a Memorandum of Understanding (MOU) between the NHFA and the company and investors; it becomes part of the deed.

Mr. Kessler asked Mr. Laccase if the apartment units his company has put in other communities impacted other landlords and local apartments in the area. Mr. Laccase said that is always a concern.

Their company has found that if the old apartments were subpar than the tenants would “upgrade” to the new apartment buildings. If local landlords want to compete they will have to upgrade the standards of their units. He gave some examples.

Mr. Chad Howe asked for the projected total cost of the project. He was told:
\$13,800,000 for construction
\$19,000,000 Total costs (including engineering and soft costs)

There was a general discussion on the Mill Project, economics and housing in Newport.

Chairman Saccento closed the meeting to the public. On a motion by Mrs. Cassorla, seconded by Mr. Beard; ***the Board voted to go into Deliberations for Case #1079. The motion passed 4-0-0.***

Variance Statement of Reasons and Discussion

Chairman Saccento asked for motions on each of the five questions (prongs).

On a motion by Mr. Kessler, seconded by Mrs. Cassorla; that:
Granting the variance would not be contrary to the public interest because this was already approved under a different title two years ago. The motion passed 4-0-0.

On a motion by Mrs. Cassorla, seconded by Mr. Beard; that:
The spirit of the ordinance would be observed because it would allow a new housing development into Newport and it is already surrounded by residential housing. The motion passed 4-0-0.

On a motion by Mr. Kessler, seconded by Mrs. Cassorla; that:
Granting the variance would do substantial justice because it would allow repurposing of a historical building. Chairman Saccento called for a vote. The motion passed 4-0-0.

On a motion by Mrs. Cassorla, seconded by Chairman Saccento; that:
For the following reasons, the values of the surrounding properties would not be diminished: because if anything it would enhance the surrounding properties by having another housing development in an already residential area. Chairman Saccento called for a vote. The motion passed 4-0-0.

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:

On a motion by Mr. Kessler, seconded by Mrs. Cassorla that: ***there is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is currently zoned three ways; Industrial zone is not a viable alternative for the current owner and residential use which is the zoning for another part of the parcel is a more viable use for the applicant at this time.*** Chairman Saccento called for a vote.
The motion passed 4-0-0.

AND:

On a motion by Mrs. Cassorla, seconded by Chairman Saccento that: ***The proposed use is a reasonable one because: it allows quality workforce housing for those in Newport and the surrounding area.*** Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

Chairman Saccento called for a motion to memorialize the decision of the ZBA to grant the Variance. On a motion by Mrs. Cassorla, seconded by Mr. Kessler; ***the Board voted to grant the Variance for Case #1079 :169 Sunapee Street, LLC (Owner) and Ronald K. DeCola to put in workforce housing rental***

apartments with construction starting within forty eight (48) months from the original variance date (Case #1044; on March 23, 2017). Chairman Saccento called for a vote. *The motion passed 4-0-0.*

Mr. DeCola thanked the Board members for their time.

Mr. Laccase thanked the Board members for granting the variance.

Chairman Saccento signed the two Notices of Decision for Case #1079.

On a motion by Mrs. Cassorla, seconded by Mr. Kessler; *the Board voted to adjourn at 7:13 pm. The motion passed 4-0-0.*

Respectfully submitted,

Maura Stetson
Scribe

Approved on: September XX, 2019