

**TOWN OF FARMINGTON
ZONING BOARD OF ADJUSTMENT MEETING
Thursday, August 1, 2013
356 Main Street, Farmington, NH**

Members Present: Elmer W. "Butch" Barron III, John David Aylard, Joanne Shomphe

Members Absent: Joe Pitre

Town Staff Present: Director of Planning and Community Development Kathy Menici,
Department Secretary Bette Anne Gallagher

Public Present: B. Stuart Pease II, Jim Horgan

At 7:11 pm Chairman Barron called the meeting to order.

BUSINESS BEFORE THE BOARD:

- **Review and approve Meeting Minutes of May 2, 2013.**

John David Aylard motioned to approve the minutes of May 2, 2013 as written; 2nd Joanne Shomphe. Motion carried with all in favor.

- **Any other business to come before the Board.**

None

NEW CASES:

Application for Special Exception From Table of Permitted Uses By: B. Stuart Pease II (Tax Map U06 Lot 021): To allow a residential use in an existing commercial structure. Parcel is located at 407 Main Street in the Village Center Zoning District.

Chairman Barron asked if the members knew which building they would be talking about and said that this is a change of use to increase the size and change from a retail store front to a residential apartment. He said that the Zoning Ordinance does not provide for a first floor residential unit in the mixed use are of the Village Center District and therefore a special exception is requested.

The Chairman said the use is permitted by special exception and read the letters from CEO Dennis Roseberry and from the applicant Stuart Pease. He then asked Mr. Pease if he would like to speak.

Mr. Pease said the requested change is a win-win situation for himself, the Town and his mother and would occupy what is now an empty store front. He said that to accomplish this rebuild the front would be brought up to code, be more energy efficient, and there would no longer be an empty space. He added that the improvements would be about \$40,000 so the increased value would benefit the Town. He said as an example the electric service is currently only 60 amps. Mr. Pease explained that his mother is 85, he is 62 and he will run the flower shop as long as possible. He said a store requires less frontage now than in the past and with these changes it will become more like an in home business.

Mr. Pease said there was a question about parking availability but there is a 36 foot by 42 foot paved parking area in back and he included with his application is a reduced copy of the survey done by Randy Tetreault depicting the area. Planner Menici clarified that there is only one residential unit on the second floor.

Chairman Barron noted that there were no abutters present for the hearing. He then read the standards for a special exception and said the Board can subject special exception approvals to appropriate conditions.

The Chairman said one condition that might apply would be off-street parking. However, Planner Menici said this would be a residential not a business use and there were different requirements for each of those. She said that given the information Mr. Pease had provided about the paved area in back she believed the Planning Board could work with that.

Chairman Barron questioned why the applicant would need to go before the Planning Board. Planner Menici said anytime a special exception is granted the Planning Board also needs to review it. The Chairman felt this was redundant. Joanne Shomphe said it really wasn't because the ZBA deals with whether it should be not how it is accomplished. The Planner added that once the ZBA makes their decision there is still site plan review because this is commercial and not residential zoning.

Mr. Pease asked what the Planning Board was going to review but the Chairman said this was not the forum to get into that. The Planner said that this is a commercial property that the applicant is asking to convert to residential use and there are requirements for residential uses in the Village Center District that the ZBA does not have the authority to deal with and that parking would be the biggest issue.

Mr. Pease said that it was his understanding, unless the law has changed, that one and one-half spaces were required for a two bedroom apartment, one space for a one bedroom apartment and no spaces for a business. The Planner said the ZBA did not have the authority to deal with site plan issues.

Chairman Barron asked again why site plan was required since it had once been used as residential making it mixed use already. The Planner said it goes back to the Zoning Ordinances which do not allow residential use on the first floor except by special exception and this is a change of use from business to residential.

Mr. Pease said the building next door to his has two residential units on the second floor and one on the first floor behind the commercial unit. Joanne Shomphe said the first floor unit is not on Main Street but is behind the commercial unit. Mr. Pease said that when the abutter wanted to add that apartment he attended the Planning Board hearing. The Planner offered to research the specifics for him, but the Chairman said that digging into the prior approval was not part of this process.

Chairman Barron said the requirement for Planning Board review appears to be a surprise to Mr. Pease and asked if he had seen the memo provided to the Board. The Planner said it was mailed to the applicant at the same time it was mailed to the Board members on July 26th. Mr. Pease said he did not receive it until July 30th.

Chairman Barron said people should know up front everything with which they must deal because time is expensive for people. Although the Planner said the Board and the applicant get the information at the same time, the Chairman thought the applicant should know first so he/she is aware of all the choices. Planner Menici said she must take the time to provide a thorough review of the application so that incorrect information is not given due to a quick review.

The Chairman pointed out that because of schedules for the Boards the process can take a long time and in this case the application was submitted on July 11th and it would be September 17th before the applicant could be put on the Planning Board's agenda. He recognized that the fees can be hard on an applicant if hearings are scheduled for both Boards before the ZBA renders their decision. However, the Chairman's opinion was that a way to tighten up the process should be found.

Planner Menici said that Mr. Pease might be concerned about the Planning Board not granting him approval, but if the ZBA grants the special exception, the Planning Board cannot deny the site plan review application. Chairman Barron said Mr. Pease could not proceed with any work. The Planner said he could within the building.

Chairman Barron said the Planning Board review was just a formality for parking. The Planner said she felt the information provided by Mr. Pease tonight regarding the 36 foot by 42 foot paved area should be sufficient. The Chairman said that the ZBA had no jurisdiction over the parking standard but he was surprised that the special exception was not enough given the prior history of a residential use in this building. The Planner said there were a lot of changes to the regulations since 1989 and the Chairman agreed.

Chairman Barron said they should move on and asked if there was any further discussion from the Board.

Elmer W. Barron, III motioned to grant the Special Exception to allow a residential use in an existing commercial structure; 2nd John David Aylard. Motion carried with all in favor.

At 7:40 pm John David Aylard motioned to adjourn; 2nd Joanne Shomphe. Motion carried with all in favor.

Respectfully submitted,
Bette Anne Gallagher, Department Secretary

Elmer W. "Butch" Barron III, Chairman
Zoning Board of Adjustment

Date