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5 **Stratham Zoning Board of Adjustment**
6 **Meeting Minutes**
7 **December 11, 2012**
8 **Municipal Center, Selectmen's Meeting Room**
9 **10 Bunker Hill Avenue**
10 **Time: 7:00 PM**
11

12
13 **Members Present:** **Arol Charbonneau, Chairman**
14 **Jeffrey Karam, Secretary**
15 **Bruce Barker, Full Time Member**
16 **Chris Brett, Alternate**
17 **Gary Dolan, Alternate**
18

19 **Members Absent:** **Mike Smith, Alternate**
20 **Dave Short, Alternate**
21 **Kirk Scamman, Full Time Member**
22

23 **Staff Present:** **Terry Barnes, Building Inspector**
24 **Lincoln Daley, Town Planner**
25

26
27 **1. Call to Order/Roll Call.**
28

29 The Chairman took roll call. Although 5 members were present, Mr. Dolan had to recuse
30 himself as he is the applicant's brother in law. Mr. Dolan reserved the right to participate as
31 a member of the public. As there were only 4 members present, Mr. Charbonneau offered
32 the applicant the opportunity to come back when there was a full board. The applicant
33 wished to continue.
34

35 Mr Karam made a motion to accept Mr. Dolan's offer to recuse him. Motion seconded by
36 Mr. Brett. Motion carried unanimously.
37

38 **2. Approval of Minutes**

39 a. October 9, 2012
40

41 Mr. Karam made a motion to approve the minutes from October 9th, 2012. Motion seconded
42 by Mr. Brett. Motion passed unanimously.
43

44 **3. Public Hearing(s).**
45

- 1 a. Case #577 – Jeffrey Carlisle, 4 Chestnut Way, Tax Map 14, Lot 87 within the
2 Residential/Agricultural Zoning District. The Applicant is requesting a Variance from
3 Section 5.4.3 of Stratham Zoning Ordinance to allow an accessory apartment within a
4 cluster development.
5

6 Mr. Karam read out the application followed by the Chairman explaining the procedure
7 for the meeting.
8

9 The applicant's lawyer, Mr. Peter Saari started by describing the applicant's property and
10 the barn. The applicant would like to use part of the barn as an accessory apartment. He
11 explained that they meet all but one of the criteria listed for a special exception hence the
12 request for a variance. Mr. Saari said the property is part of a cluster subdivision which
13 is listed as not allowed under the special exception criteria. If the Board allows the
14 variance, the applicant will then move on to request a special exception as is usually the
15 norm for an accessory apartment.
16

17 Mr. Saari referred to the plans showing what will be done for the apartment. He
18 continued that it meets the size requirements and they won't be making any great changes
19 apart from a couple of windows. He mentioned it wouldn't change the character of
20 neighborhood or cause any safety issues. He felt denying the variance would not serve
21 any public purpose, but it would harm the applicant. He explained that the applicant and
22 his wife spend a lot of time camping around the country and are reluctant to leave the
23 property empty when they are away for extended periods of time so they would like
24 somebody in their house if at all possible to keep it occupied. Mr. Saari referred to letters
25 received from other people in the subdivision who were all very supportive of the
26 accessory apartment application. He said there was no detriment to the neighborhood and
27 in fact, the neighborhood would be safer if somebody was occupying the house.
28

29 The Chairman asked Mr. Saari how he would deal with the issue of hardship as written in
30 the regulations. Mr. Saari said the history and size of the property is such that you want
31 to keep the property as it's always been, it's unique in that you can't use the barn for
32 anything else. He said the barn could be torn down but that wouldn't do any good for the
33 neighborhood.
34

35 Mr. Barker said his understanding of the variance is to give the applicant the same rights
36 in use that the neighborhood has, but as this is a cluster subdivision, this seems to Mr.
37 Barker that they are giving the applicant a privilege. Mr. Saari said to remember that the
38 barn was there long before the other houses were built. The Chairman commented that
39 this is an unusual subdivision. Mr. Barker said he still saw no hardship created with this
40 property. Mrs. Carlisle, co owner of the property said that the whole tract of land was
41 part of the original home so when it was initially established, there was no cluster
42 community around there; it was only when it was further developed around the house that
43 the cluster community existed. Mr. Carlisle spoke next saying the original tract of land
44 was 48 acres and their property now sits on 2.2 acres. The property could have been sold
45 as an individual lot, but for convenience sake was put as part of the cluster development.

1 Mr. Carlisle stressed that absolutely nobody would be conceivably harmed or even aware
2 of the existence of the apartment.

3
4 Mr. Daley explained the background to the cluster subdivision and said one hardship the
5 Board might want to consider is how restrictive this subdivision is. The Chairman asked
6 if accessory apartments were allowed in the covenants. He was told that there were
7 allowed. Mr. Barker said he still didn't see a hardship. Mr. Saari continued to argue that
8 it would have no impact on neighbors and if you drove by the house, you would not know
9 it is part of a cluster subdivision.

10
11 Mr. Daley suggested the Board examine and discuss Section 17.8.3.v.1 of the Ordinance
12 and if it doesn't meet the criteria for an unnecessary hardship, then the Board should go
13 to v.2 and if it doesn't meet that, the Board should go to v.3.

14
15 Mr. Tom Ferrin, abutter 8 Chestnut Way said his property faces the barn and the barn is
16 one of the reasons they bought their property because it is a beautiful, historic building.
17 He said the reason all of the abutters are in favor of the apartment is because it doesn't
18 affect the barn whatsoever. He stressed there is no opposition to this project from
19 anybody. Mr. Karam then read letters that had been received from abutters in support of
20 the applicant's apartment.

21
22 Mr. Brett made a motion to close the open discussion and proceed to a vote. Mr. Karam
23 seconded the motion. Motion carried unanimously.

24
25 The Chairman proceeded to Section 17.8.3 Variances. The Board discussed whether or
26 not the applicant met the criteria there in.

27
28 The Board agreed that the variance will not be contrary to the public interest (section
29 17.8.3.b.i.), but Mr. Barker didn't feel that the spirit of the Ordinance was being observed
30 (section 17.8.3.b.ii). The Board was comfortable that substantial justice is done and that
31 the values of surrounding properties are not diminished. There was much discussion
32 around Section 17.8.3.v.1. and 2. Mr. Barker still didn't feel an unnecessary hardship
33 exists. Mr. Daley explained that this isn't a typical cluster division and in any other
34 setting, the applicant wouldn't be affected. The property meets the requirements of a
35 single house lot. Mr. Daley felt also that the proposed use was a reasonable one. Mr.
36 Barnes pointed out a house that has an apartment already and although that property isn't
37 part of the cluster, it is the closest house to the applicant's house.

38
39 Mr. Dolan asked Mr. Daley if they allowed this variance, wouldn't it cause problems
40 going forward for any more requests of this nature. Mr. Daley replied it wouldn't
41 because each case has to be judged individually and not all cluster subdivisions are the
42 same.

43
44 Mr. Brett and Karam felt the applicant met the two criteria. Mr. Barker did not.
45

1 Mr. Brett made a motion to extend a variance to the Carlisles, Tax Map 14 Lot 87 in the
2 R/A zoning district, a variance from Section 5.4.3 of the Stratham Zoning Ordinance to
3 all an accessory apartment within a cluster development. Mr. Karam seconded the
4 motion. The motion passed 3 to 1. Mr. Barker was not in favor.
5

- 6 b. Case #578 – Jeffrey Carlisle, 4 Chestnut Way, Tax Map 14, Lot 87 within the
7 Residential/Agricultural Zoning District. The Applicant is requesting a Special
8 Exception from Section 5.4.3 of Stratham Zoning Ordinance to allow an accessory
9 apartment.
10

11 The Chairman asked the attorney if there was anything else to add for the special
12 exception. Mr. Saari said that there wasn't.
13

14 Mr. Daley suggested starting by making sure the applicant fulfilled the criteria
15 concerning allowed square footage. The finished area of the property is 3,622 square feet
16 and the size of the in-law apartment is 958 square feet. Mr. Carlisle explained that the
17 barn is 750 square feet and just that amount will be used for the apartment. He showed
18 the Board on his plan. Mrs. Carlisle explained they would be using a third of the barn
19 only. After much discussion the Board agreed the apartment fell within the allowed size.
20

21 Mr. Barnes said he visited the location when the application came into the office and he
22 was more than satisfied with the layout.
23

24 Mr. Brett moved to close the public session and to move to the private discussion. Mr.
25 Charbonneau seconded the motion. Motion carried unanimously.
26

27 The Board went through the criteria for an accessory apartment in the Zoning Ordinance
28 Section 5.4.3.
29

30 The Board agreed that the applicant met all the criteria. The applicant was made aware
31 that he needed to provide evidence of adequate septic and potable water to the Building
32 Inspector. The applicant had not provided a quarter inch sketch so it was agreed to add
33 that as a condition.
34

35 The Board then went through the criteria for a Special Exception as set forth in Section
36 17.8.2 of the Ordinance.
37

38 The Board agreed the applicant met the criteria.
39

40 Mr. Karam made a motion to allow the Special Exception for Case # 578 with the
41 conditions that the owner shall provide to the Building Inspector's satisfaction a
42 statement of suitable water for the accessory apartment and the owner shall provide a
43 quarter inch scale plan of the accessory apartment. Mr. Charbonneau seconded the
44 motion. Motion passed unanimously.
45

1 The Chairman explained that the motion was passed but there is a 30 day appeals period
2 so if the applicant chooses to start work on the apartment, he does so at his own risk.
3

4 Mr. Charbonneau made a motion to close cases # 577 and # 578. Motion was seconded
5 by Mr. Karam. Motion carried unanimously.
6

7 **4. Public Meeting(s).**

8 **a. Zoning and Land Use Amendments – Update**
9

10 Mr. Daley updated the Board on planned amendments to the Zoning Ordinance for the
11 Town Meeting in March 2013. He started addressing signage. He explained that quite a
12 few business owners and residents had voiced their issues with signage in Town.
13 Amendments made include design standards, and additional flexibility concerning the
14 size and number of signs allowed on a property will be offered if the standards are
15 adhered to. The Planning Board had looked at the use of LED signs but until technology
16 improves, they will not be allowed in Town.
17

18 Mr. Daley then shared the updates the Planning Board is hoping to push through for Open
19 Space Cluster Subdivision Regulations. He explained that there had been a couple of
20 applications that had made the Board realize that the density bonuses that are awarded to
21 encourage these kinds of developments are a little too generous. They examined if the
22 Town is really accomplishing what they set out to do by encouraging open space cluster
23 subdivisions. The Board decided it did to a degree, but that overall the density bonuses
24 were too liberal so the Board looked at each one and made some changes involving the
25 reduction of the overall density bonus to 50%, added buffers, and 35% of open space
26 must be part of the development.
27

28 Mr. Daley then shared with the Zoning Board the request to rezone one property on
29 Emery Lane. It is currently zoned as R/A (Residential/Agricultural) and they would like
30 it to be rezoned to the PRE zone (Professional/Residential) to increase the development
31 opportunity for that property. The property's location is somewhat challenging due to its
32 orientation and proximity to Route 108. The setback from the Route 108 is 100 feet
33 which is about in the middle of the lot itself. The new owner feels a better use would be
34 as an office. Initially the property owner did reach out to the church to see if they would
35 like to buy the property and use it as a parking lot, but the church could not afford it. The
36 Planning Board supports the idea, but the Heritage Commission does not. Mr. Daley said
37 if the rezoning is granted that the property owner will be before the Zoning Board for
38 variances.
39

40 Lastly Mr. Daley shared that the Planning Board had looked at expanding the Town
41 Center district further south along the Route 108, but ultimately the Board felt it wouldn't
42 serve the purpose of creating a town center. An off shoot of that conversation led to an
43 examination of the PRE Zone. Multiple property owners in the PRE zone, have
44 expressed a desire to have some kind of retail component as part of the allowed uses. The
45 Board discussed this and decided it could be allowed but it has to be within an existing
46 structure and/or new structure of 2000 square feet or less. The Board asked about
47 specific properties.

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Mr. Daley said that looking towards the future; the Planning Board is hoping to make the Gateway district mandatory. He added that discussions are still continuing about sharing water and sewer with Exeter and on December 17th both Boards of Selectmen from Exeter and Stratham will be meeting independently to review the study that was done by both towns to see if it is worthwhile for both towns to work together. If they agree it is worthwhile the negotiating process will start.

5. Miscellaneous.

There were no miscellaneous items to report.

6. Adjournment

Mr. Karam made a motion to adjourn the meeting at 9:10 PM. Motion seconded by Mr. Brett. Motion carried unanimously.