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5 **Stratham Zoning Board of Appeals**  
6 **Meeting Minutes**  
7 **April 21, 2015**  
8 **Municipal Center, Selectmen's Meeting Room**  
9 10 Bunker Hill Avenue  
10 Time: 7:00 PM  
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13 **Members Present:** Arol Charbonneau, Chairman  
14 Bruno Federico, Selectmen's Representative  
15 Chris Brett, Member  
16 Garrett Dolan, Member  
17 Jim Elliot, Member  
18 Chris Cavarretta, Member  
19 Deidre Lawrence, Alternate  
20

21 **Members Absent:** Phil Caparso, Alternate  
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23 **Staff Present:** Audrey Cline, Code Enforcement Officer  
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27 **1. Call to Order/Roll Call.**

28 The Chairman took roll call.

29 **2. Review/Approval of Meeting Minutes.**

30 March 24, 2015

31 Mr. Elliot made a motion to approve the meeting minutes as amended from March 24,  
32 2015. Motion seconded by Mr. Charbonneau. Motion carried unanimously.

33 **3. Public Hearing(s).**

- 34 a. **Case #616: Lindt & Sprungli (USA) Inc., 1 Fine Chocolate Place, for the property**  
35 **located at 3 Portsmouth Avenue, Stratham, NH, Tax Map 4, Lot 3.** A variance  
36 request from the Zoning Ordinance, Section 7.9(b)(iv)2 to exceed the maximum sign  
37 face of 130 sf and exceed the maximum height above grade of 30 ft. (continued from  
38 March 24, 2015)

39 Mr. Dolan moved to approve application for Lindt & Sprungli (USA) Inc., Fine  
40 Chocolate Place, for the property located at 3 Portsmouth Avenue, Stratham, NH, Tax  
41 Map 4, Lot 3 for a continued hearing. Mr. Federico seconded the motion, which passed  
42 unanimously. Jeff Spear, Representative of Lindt, gave a brief overview of the sign,

1 which is currently at 25 ft and Lindt would like to exceed the maximum height of 30 ft  
2 to 45 ft. Lindt put a mock-up of the sign so that everyone could see what it was going  
3 to look like. Peter Marsh indicated it was his company that put the sign up to conduct  
4 the height test and explained how the test was completed. He then handed the pictures  
5 out to the Board. Terry McGregor, Lindt, spoke that Lindt is not trying to go the full  
6 size of 55 to 60 ft to receive full visibility driving 101 East and West but to keep it  
7 “New England style”. Mr. Spear indicated they had conducted a large, thorough review  
8 at Lindt. He continued they relied heavily on signage to attract tourists and that he  
9 believed that it met the criteria for a variance. Peter Gray, resident, stated that he saw  
10 the test sign and believed that Lindt should put the sign even higher than they were  
11 requesting.

12 Mr. Dolan moved to close the public hearing. Mr. Elliott seconded the motion, which  
13 passed unanimously.

14 The Board discussed the various requirements of Section 17.8.3 Variances:

- 15  
16 i. The variance will not be contrary to the public interest:  
17 Mr. Dolan stated he does not see that the variance will be contrary to the public  
18 interest. Mr. Charbonneau agreed the purpose of a sign is advertising or  
19 communication and it’s in an area of commercial use and limitations to the site  
20 because of its location. Mr. Elliott agreed stating the comments regarding what  
21 the ordinance is trying to emphasize is to improve pedestrian and traffic safety  
22 which is imperative; with the sign at this height it would be significantly  
23 improved.
- 24 ii. The spirit of the ordinance is observed:  
25 Mr. Dolan agrees the spirit of the ordinance is observed their particular  
26 circumstances dictate that they have a requirement for better visibility by going to  
27 a higher minimum height for their sign and they are doing everything they can to  
28 mitigate the impact of that height. Mr. Charbonneau and Mr. Elliott agree with  
29 Mr. Dolan’s comments.
- 30 iii. Substantial justice is done  
31 Mr. Federico explains that it is an unusual lot, at a corner of an off-ramp and the  
32 intersection of two highways and you cannot see the sign currently coming up  
33 108. Mr. Federico believes you will be able to see the 45 ft. sign coming down  
34 108, but will probably still not be able to see it coming up 108 from the south;  
35 going 101W won’t see it but traveling 101 East it will be visible so with the sign  
36 at 45 ft. Mr. Federico believes it gives them justice. Mr. Dolan agrees that  
37 substantial justice will be done to the ordinance, as well as the applicant in  
38 granting the variance. Mr. Elliott agrees the location is predominantly in  
39 commercial use and it will enhance the site’s presence and continued use and is  
40 reasonable to grant this variance.
- 41 iv. The values of surrounding properties are not diminished:  
42 Mr. Charbonneau agrees properties are not diminished as it is a commercial use in  
43 a commercial district, which will have no impact one way or another on property  
44 values. Mr. Dolan agrees there will be no adverse impact on the property values,  
45 the design and characteristics of the proposed sign is better and more aesthetically

1 pleasing than the existing 25 ft sign. Mr. Elliot believes it will enhance business  
2 and bring more people to that area.

3 v. Literal enforcement of the provisions of the ordinance would result in an  
4 unnecessary hardship:

5 I. For purposes of this subparagraph, “unnecessary hardship” means that,  
6 owing to special conditions of the property that distinguish it from other  
7 properties in the area:

8  
9 a) No fair and substantial relationship exists between the general public  
10 purposes of the ordinance provision and the specific application of  
11 that provision to the property

12 b) Proposed use is a reasonable one.

13  
14 Mr. Dolan states there are special conditions on that property that distinguish  
15 it from other properties in the area, that fact that they are already utilizing a  
16 location that was in existence creates an issue of visibility that they are having  
17 to overcome and believes the proposed use is a reasonable one. All board  
18 members agreed.

19 Mr. Dolan moved to approve the variance request from Lindt & Sprungli to exceed the  
20 maximum height above grade of 30 ft. with a restriction of 45 ft being the maximum.  
21 Mr. Elliott seconded the motion, which passed unanimously.

22 b. **Case #621: Renee Plummer, 1 Harbour Place 5B, Portsmouth, NH for the**  
23 **property located at 134 Bunker Hill Avenue, Stratham, NH Tax Map 6, Lot 78**  
24 **within the Residential/Agricultural Zoning District.** Application for a Special  
25 Exception to allow for the construction of an Accessory Apartment per Section 5.4  
26 Accessory Apartments.

27 Mr. Cavarretta moved to accept the application for a public hearing from Renee  
28 Plummer, 1 Harbour Place 5B, Portsmouth, NH for the property located at 134 Bunker  
29 Hill Avenue, Stratham, NH Tax Map 7, Lot 78 within the Residential/Agricultural  
30 Zoning District for an application for a Special Exception to allow for the construction  
31 of an Accessory Apartment per Section 5.4 Accessory Apartments. Mr. Elliott  
32 seconded the motion, which passed unanimously.

33 Shawn Burke, Applicant, stated they were looking for a special exception for an  
34 accessory apartment in a house they are building for his mother to live in. He  
35 continued that he had reviewed all of the criteria and believed that they met it and that  
36 all of the neighbors were in agreement with the plan. Mr. Burke noted the apartment  
37 would have its own entry and would be 685 sf. He indicated they had applied for a  
38 building permit which was currently in review. Mr. Federico stated that he did not see  
39 any problems with the application. Mr. Charbonneau asked if the apartment was  
40 required to have two egresses. Ms. Cline responded that she would look into that issue.  
41 Kathleen Breslin, resident, asked to see the plan. The Board provided the plan and  
42 explained it to her.

43 Mr. Dolan moved to close the public hearing. Mr. Cavaretta seconded the motion,  
44 which passed unanimously.

1 The Board discussed the criteria of Special Exception, Section 5.4, Accessory  
2 Apartment:

3 a. One (1) accessory apartment within a detached single-family dwelling or garage  
4 which may be separate from or attached to the main dwelling and is clearly a  
5 subordinate part thereof will be permitted by special exception. The Zoning Board  
6 of Adjustment will grant a special exception provided that all of the following  
7 conditions are met:

8  
9 a. The dwelling to which an accessory apartment is to be added must be owner-  
10 occupied;

11  
12 All board members agreed that it meets the owner-occupied criteria.

13  
14  
15 b. The property and proposed use must conform to the dimensional requirements  
16 of Table 4.2 (including the requirements for lot coverage, building  
17 footprint and open space requirements)

18  
19 Ms. Cline confirmed she approved that part of the building permit.

20  
21  
22 c. The single-family dwelling shall not be a mobile home, condominium, or  
23 located within a cluster development:

24  
25 Mr. Dolan confirms that it appears to be a single family dwelling. Mr.  
26 Charbonneau states it is not in a cluster.

27  
28 d. The accessory apartment shall be designed so that the appearance of the  
29 building remains that of a one family dwelling. Any new entrance that may be  
30 required shall be located on the side or in the rear of the building. Units  
31 within a garage should be constructed to maintain the look of a residential  
32 garage, such that entry doors should remain and any decks are constructed to  
33 the rear of the structure:

34  
35 All board members agreed the entrance is located on the side of the building.

36  
37 e. The size of the accessory apartment shall be between 400 sf and 1000 sf, and  
38 shall not exceed 1/3 of the living area of the existing dwelling:

39  
40 Mr. Burke confirms 685 sf, which is about 20%, as Mr. Charbonneau states  
41 the total square footage of the building is roughly 3300-3400.

42  
43 f. In no case shall there be more than Three (3) people residing within an  
44 accessory apartment:

45  
46 Mr. Burke states there will never be more than 1 person residing in the  
47 accessory apartment.  
48

1 g. Adequate off-street paved or gravel parking shall be provided and shown on  
2 the sketch plan. The appearance of the parking design shall be that of a  
3 single-family dwelling.

4  
5  
6 h. The structure and lot shall not be converted to a condominium or any other  
7 form of legal ownership distinct from the ownership of the existing single-  
8 family dwelling:

9  
10 1) Prior to granting a special exception by the ZBA, the owner shall  
11 provide, as part of the ZBA case file, the following:

12  
13 2) Evidence to the Building Inspector or their agent that septic facilities are  
14 adequate for both units according to the standards of Stratham and the  
15 N.H. Water Supply and Pollution Control Division. If deemed  
16 necessary by said Inspector, such evidence shall be in the form of  
17 certification by a State of NH licensed septic system designer. Also the  
18 owner shall provide evidence that there is adequate potable water  
19 according to the standards of the State of New Hampshire. The  
20 Building Inspector then shall indicate his approval in writing to the ZBA.

21  
22 Mr. Charbonneau states there is an approved Septic Plan for 4-bedroom plus  
23 1 apartment, Mrs. Burke confirms 5-1/2 bedroom septic. Ms. Cline states the  
24 State of NH does not have any standards for water. The building department  
25 receives a water test but it is just for advisement.

26  
27 3) A floor plan of one quarter inch (1/4") to the foot scale showing the  
28 proposed changes to the building.

29  
30 Mr. Dolan and Ms. Cline states the drawing looks to be 1/8 of a foot, but the  
31 full scale drawing are 1/4 inch.

32  
33 4) A sketch plan (drawn to scale) of the lot, with existing and proposed  
34 structures and parking.

35  
36 Ms. Cline and Mr. Charbonneau state it was submitted.

37  
38 i. The accessory apartment shall be subject to the standards and conditions for  
39 a special exception as set forth in Article 17.8.2 of this Ordinance.

40  
41 Mr. Charbonneau, Mr. Dolan, Mr. Federico, Mr. Elliott, Mr. Cavaretta agree that  
42 Standard 1 is met.

43  
44 1) No hazard to the public or adjacent property on account of potential fire,  
45 explosion, or release of toxic materials.

46 Mr. Dolan states he does not see any hazard based on those criteria presented by  
47 this granting of this Special Exception. The remaining board members agreed.

1 2) No detriment to property values in the vicinity or change in the essential  
2 characteristics of a residential neighborhood on account of the location or  
3 scale of building and other structures, parking areas, access ways, odor,  
4 smoke, gas, dust or other pollutants, noise, glare, heat, vibration or unsightly  
5 outdoor storage of equipment, vehicles or other materials.

6 Mr. Dolan sees no detriment at all with it being an accessory apartment.  
7 Remaining board members agreed.

8 3) No creation of a traffic safety hazard or substantial increase in the level of  
9 traffic congestion in the vicinity.

10 Board members agreed with 1 person occupying the space there should be no  
11 increase in traffic or safety hazard or traffic load. All board members agreed.

12 4) No excessive demand on municipal services including but not limited to  
13 water, sewer, waste disposal, police and fire protection and schools

14 Board members agreed there will be no impact with 1 person occupying the  
15 space.

16 5) No significant increase of storm water run-off onto adjacent property or  
17 street.

18 Board members agree there is no impact.

19 Mr. Charbonneau requests any conditions warranted regarding this special  
20 exception approval. Mr. Dolan would like it noted that the total SF not exceed  
21 685 indicated on the plan. Ms. Cline states the generally zoning allows for the  
22 apartment to be up to 1,000 SF. Mr. Dolan requests it be noted in the special  
23 exception that the approval is for 685 SF with no future expansion.

24 Mr. Dolan moved to grant the Special Exception to allow for the construction of an  
25 Accessory Apartment per Section 5.4 Accessory Apartments. Mr. Elliot seconded the  
26 motion, which passed unanimously.

27 Mr. Cavarretta moved to close the public hearing. Mr. Elliot seconded the motion, which  
28 passed unanimously.

29 **4. Miscellaneous.**

30 **5. Adjournment.**

31 The Board adjourned at 8:15 P.M.

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