

TOWN OF ESSEX ZONING BOARD OF ADJUSTMENT
DRAFT WORKSHOP MINUTES
MAY 5, 2022

Note: This meeting was held in-person and virtually on Microsoft Teams.

ZONING BOARD OF ADJUSTMENT (ZBA) MEMBERS PRESENT:

In Person: Nick Martin, Chair, Michael Plageman; Tom Yandow, Clerk; Hubert Norton.

OTHERS PRESENT:

Sharon Kelley, Zoning Administrator; Marie Froeschl; Chris & Rhonda Dilello; Esad & Fatima Boskailo; Nate Dolan and Kimberly Dolan.

Chairman Martin called the hearing to order at 6:02 p.m; took roll call of the Board Members present; and called for a motion to add changes to the Agenda.

Board Member Norton MOVED and Vice Chair Plageman SECONDED a MOTION to add, as Agenda Item 3, a line item to discuss the PC work groups. The MOTION passed 4-0.

AGENDA ITEM 1: UNSPECIFIED USE: Esad & Fatima Boskailo: Proposal to operate an AirBnB located at 22 Old Stage Road in the Low Density Residential (R1). Tax Map 10, Parcel 51.

Board Member Norton MOVED and Board Member Yandow SECONDED a MOTION to open the Fact Finding/Public Hearing. The MOTION passed 4-0.

Sharon Kelley stated that she did not have more to add than what was reported in the Staff Report that was provided to the ZBA, applicants and placed on the website. She stated that she approved an accessory apartment for this location in 2017 and has not received any complaints.

Esad Boskailo spoke on this application and made the following points:

- He placed a sign above each entry door and on the mailbox, marking unit 22A and 22B;
- He reported that there is no land line on the premises, however he has put emergency signage denoting the address on a sign in the living room and kitchen.
- He has no animals on the premises and will not allow pets on the property;
- He does not allow smoking inside the unit;
- The house and rental unit has a carbon monoxide/smoke detectors and fire extinguishers;
- Separate parking spaces will accommodate the renters;
- He will not rent during time that he has house visitors, when he goes on vacation or away for work however, this may change when he retires; and
- He reported that he has not rented out the accessory apartment yet due to Covid.

Board Member Norton asked if he advertises through the Airbnb site and if he informed the Fire Marshall with the emergency contact information. Esad replied, "yes."

Vice Chair Plageman asked if the landowner had a list of what people can and cannot do on the premises. Esad stated that he has a friend in Burlington that operates Airbnb's, as such he has provided a book relating to rules for noise, emergency numbers and the like for his unit.

Board Member Norton noted that a telephone landline was not provided and asked how the landowners would rank the cell phone service. Esad stated that he uses his cell and computer for

the internet and has good service.

Chairman Martin asked for public comments. No one from the public provided comments.

Vice Chair Plageman MOVED and Board Member Yandow SECONDED a MOTION to close the Fact Finding/Public Hearing. The MOTION passed 4-0.

Vice Chair Plageman MOVED and Board Member Yandow SECONDED a MOTION to approve the Airbnb application, subject to the following Findings and Conditions.

FINDINGS:

- 1) The landowners are Esad & Fatima Boskailo. The parcel under review is located at 22 Old Stage Road in the Town of Essex, Chittenden County, State of Vermont. This is an approximate 1.76-acre lot with 100 ft. +/- of frontage. The lot is serviced by town water and a private septic system. The parcel is located in the Low Density Residential (R1) Zoning District.
- 2) The proposal is to utilize the existing accessory apartment as a short-term rental for guests via Airbnb.
- 3) The applicant provided an ortho plan and pictures depicting the site.
- 4) Pursuant to state statute a 'Notice of Hearing' was provided to the applicant for posting on the property.
- 5) The abutting property owners were notified of this meeting by certified mail.
- 6) The applicants were mailed a copy of this Staff Report prior to the meeting.
- 7) The Planning Commission was informed of this application.
- 8) Esad & Fatima Boskailo were in attendance for the hearing and provided the following narrative with the application:

My name is Esad Boskailo, and my wife is Fatima Boskailo. We reside in a single-family home with an approved attached accessory apartment to also be used as an Airbnb for short term rentals.

Entry to the single-family home is marked as 22A Old Stage Road, and the accessory apartment is marked as 22B Old Stage Road. Markings are located above each entry door.

In front of the home, there is designated parking spot for the accessory apartment which the approval would be available to the Airbnb guest.

The accessory apartment does not have a landline; however, a clear sign has been

installed in the apartment with the address, in case of an emergency, the apartment location is easily visible to the guests. Phone numbers to local emergency services are also available to guests.

The accessory apartment does not have wired security/alarm to any third-party companies, however, upon receiving the approval for the Airbnb use of the apartment, my contact information will be shared with the Essex Police and Fire Station in case of an emergency in the apartment, I can be easily reached.

There won't be any animals allowed in the Airbnb apartment, and there are no animals on the property whatsoever.

The main use of the Airbnb will be short term rental, it will also be used for family/visitors/guest at no charge. The apartment will also be reserved for personal use, cleaning and family. The utility use and traffic around the home to be same as the use for the accessory apartment.

I would greatly appreciate your support in this change request and welcome any questions you might have.

Esad Boskailo reinforced his comments during the hearing by stating the following points:

- He placed a sign above each entry door and on the mailbox, marking unit 22A and 22B;
- He reported that there is no land line on the premises, however he has put emergency signage denoting the address on a sign in the living room and kitchen. He also has a book providing rules for noise, emergency numbers and other things to do in the area;
- He has no animals on the premises and will not allow pets on the property;
- He does not allow smoking inside the unit;
- The house and rental unit has a carbon monoxide and fire extinguishers;
- Separate parking spaces will accommodate the renters;
- He will not rent during time that he has house visitors, when he goes on vacation or away for work however, this may change when he retires; and
- He reported that he has not rented out the accessory apartment yet due to Covid.

9) The Zoning Administrator administratively approved Zoning Permit #2017-94, issued on 7/17/2017, for the construction of an accessory apartment; and reported that no complaints have been submitted as a result of the apartment.

10) No public comments were provided.

11) The Recreation Director and Public Work Department take no concerns with the application.

12) In an email dated 4/7/22, the Fire Chief stated,

The fire department would request that the residence be labeled with the street number out at the road, and then each living area (main residence and apartment) would need labels

on their entry points to delineate them in an emergency. And as always, they would need to have appropriate smoke/CO detectors as well as fire extinguishers in each unit.

13) The Police Chief requested the following:

- *Maintain working smoke detectors in the residence;*
- *Maintain fire extinguishers in the residence;*
- *Ensure that the address number is clearly displayed on the outside in contrasting colors and the physical street address documented on the inside of the unit so that they can call 911 from their own cell phone;*
- *The landowners must notify the Short Term renters that they are required to follow all applicable state laws, local ordinances, rules and regulations. For example; Noise regulations, Winter Parking Ban, Burning regulations, firearms regulations, Animal regulations (all dogs must have tags and current rabies vaccinations, dogs on leash off owner's property, etc.);*
- *Provide the Police Chief with emergency contact names and phone numbers of the landowners so if there are problems with renters we know who to contact about the property. (Fires, medical emergencies, etc.); and*
- *Notify the State of Vermont Dept. of Fire & Safety of the rental unit.*

14) Pursuant to Section 5.7 of the Zoning Regulations, the Zoning Board finds the following:

- a. There will be no adverse effect on the capacity of the existing or planned community facilities;
- b. There will be no adverse effect on the character of the area/neighborhood affected;
- c. There will be no adverse effect on traffic on roads and highways in the vicinity;
- d. The proposed use will be in compliance with the bylaws now in effect;
- e. The proposed use will not adversely affect utilization of renewable energy resources;
- f. The proposed use is in conformance with the Town Plan;
- g. The proposed use does not require site plan review; and
- h. The proposed use is in conformance with community character.

CONDITIONS:

- 1) Prior to commencement of operation of the Short-Term Rental, the landowner shall provide evidence that the E911 address is located by the driveway and on the building.
- 2) The landowners shall adhere to all state and local laws, rules & regulations and ordinances regarding residential units.
- 3) The landowners shall secure and provide any/all State licensing or permits to the Zoning Administrator prior to commencement of the Short Term Rental.
- 4) The landowners shall adhere to the Fire Chief and Police Chief Findings.
- 5) All conditions from previous approvals shall remain in effect except as modified herein.
- 6) By acceptance of the conditions of this approval without appeal, the applicant confirms

and agrees for himself and all assigns and successors in interest that the conditions of this approval shall run with the land and the land uses herein permitted; and will be binding upon and enforceable against the applicant and all assigns and successors in interest.

The MOTION passed 4-0.

AGENDA ITEM 2: CONDITIONAL USE: Chris West d/b/a West Property Management & Development, LLC: Proposal to operate a religious institution located at 10 Old Stage Road in the Mixed Use-Planned Unit Development (MXD-PUD) zone Medium Density Residential (R2) subzone and Business Design Control Overlay (B-DC). Tax Map 10, Parcel 4.

Board Member Norton MOVED and Board Member Yandow SECONDED a MOTION to open the Fact-Finding/Public Hearing. The MOTION passed 4-0.

Sharon Kelley noted that the applicant was not in attendance. Kelley referred to Finding 19 of the Staff Report which listed her concerns. Kelley stated that it was unclear to her if Mr. West planned to use the premises as a church with a parsonage, or keep the classification of a single-family home, noting that his narrative stated that he would like to operate an Airbnb. Kelley reported that Mr. West did suggest to her that he may take the Airbnb off the table “for now.” The question remains whether or not this will be operated as a commercial or residential lot.

Board Member Norton said, reading his dialogue, it doesn’t sound so much as a Church as a Civic Organization.” Vice-Chair Plageman said, “He took great pains to make that distinction.” Norton wondered why it should be considered as a Church, even though the applicant hasn’t decided how the parcel will be used. Kelley read the definition of ‘Church’. Kelley stated that in her discussions with the applicant, he believed his operation was more of a “Religious Institution”. Board Member Norton said, “The question for him is what are they worshipping.” Chairman Martin noted that is a question for the applicant. Norton said, “If they are not a monotheist society, are they deist.” Norton said the proposal did not sound like it was a church to him. Norton believes that is very important to understand, noting that the applicant was not present to clarify.

Kelley noted that packets went out a little later than usual and reported that the packet for this meeting was sent to the applicant via email. Staff does not confirm attendance with applicants. Kelley noted that although she did not make this a condition in the Staff Report, the applicant will be required to seek Planning Commission approval for the site plan elements (parking, lighting, traffic, etc.) of this review.

Kelley recommended that if the ZBA disagreed with how it was warned, the application should not go forward and be warned differently. Board Member Norton stated that the narrative states, “I am one of the founding members of a VT founded Secular Humanist Religious Group” and Norton believes that is not a religion.

Kelley suggested that the ZBA preform a site inspection, noting that parking spaces in several different areas rather than one central location. Kelley noted that she did examine the driveways and noted that the buildings seem to be very close together and thought that a site visit for both the ZBA and Planning Commission would be beneficial.

Norton stated without the applicant present, it is difficult to understand all the elements he is proposing, such as an Airbnb, and that it was not warned for same. Kelley stated that if he chose not to go forward with an Airbnb at this time, he would still need to return to the ZBA should he decide he wanted to go forward with that in the future. Kelley stated that if the ZBA did not agree that the proposal meets the 'Church' definition, they would either need to deny this application, or continue so that it could be rewarned under a different category. Kelley's concern with an Airbnb is that there is no defined parking for this use and the house is permitted with 5-bedrooms. She informed the ZBA that the landowner could rent out each bedroom, which would increase the need for parking.

Kelley reported that the narrative calls out a total of 30 member for the religious institution, however it also recorded a total of 40 members and that needs clarification. Kelley's concern is that it is common that a Church or religious organization usually increases in size over time.

Kelley noted that this lot is 1 of 6 lots created by Nate Hayward a few years ago. This subdivision created 5 new lots/homes. Kelley described where the path was located in front of the new homes that connected to the applicant's lot. Kelley stated that it appears that the path in front of 10 Old Stage Road is no longer visible on the lot, noting that a good portion of the front yards on the lot has been disrupted with construction. She reported that she required an escrow for the completion of the path with the issuance of the last site inspection. At that time the remaining work was to complete a crosswalk across Old Stage, with the installation of a sidewalk and rumble pad on the side of Old Stage Road. The work is complete and the escrow returned to the then landowner (Hayward.) Kelley noted that Public Works requested a sidewalk be construction in front of this lot, however she confirmed with Public Works that they would accept a paved path, and a cement sidewalk with ADA measures as you approach the road. This will be a condition of approval.

Kelley referred to the hand-drawn site plan that was submitted to the ZBA, noting that they to accept the simpler plan, however the applicant would need to provide an engineered-to-scale site plan for the Planning Commission and recommends it be done for the ZBA's next review.

Chairman Martin asked the ZBA if they had any questions.

Board Member Norton reiterated his concern that it was advertised as a religious institution when the narrative says, "We are secular humanists that don't worship anything." Kelley stated that maybe it had been better to warn the application as 'Unspecified Use'. Board Member Norton said, "I don't think we can call it something that it isn't." Kelley noted that the narrative calls it a Church.

Chairman Martin asked if the applicant or a representative of the applicant was present. There was not.

Chris & Rhonda Dilello, 6 Old Stage Road, stated they lived south of 10 Old Stage Road and have lived there for 23-years. They have "lots of concerns." They made the follow points:

- They have been putting up with construction for the last 5 years and debris is everywhere on the lot;
- They have concerns with the proposed use being in a this residential area. They want to keep the character of the area as residential;
- A bigger problem for them is with stormwater runoff. They are worried that the ground will not absorb water from a parking lot;

- They recently put in a new Gazebo which looks at 10 Old Stage Road. They do not want their view to be a parking lot. They noted the lot is tiny and they are not sure how cars will fit on the lot;
- They had a concern with outdoor lighting requirements for the use. They asked that a developed barrier be installed if the application is approved;
- They have no concerns with a residential rental;
- They have concerns with the hours of operation; and
- Reiterated the need for some kind of separation between the lots.

Marie Froeschl, 147 Lost Nation Road, stated that she has lived on the road for 38 years and frequently runs the road; she felt the amount of people this use could bring in is scary for this tiny lot; traffic is an issue and, there are a lot of unknowns with the proposal. Froeschl questioned how long the site can stay in a construction state.

Board Member Plageman, stated that he observed pipe staging on the back side of the building and there is no dumpster on the site “which is why it looks like a bomb went off.” He noted that parking spaces are 9’ wide x 12’ long at a minimum, and ADA spaces are wider.

Nate Dolan, 4 Lost Nation Road, stated that he is the 1st new house (Lot 2). He feels badly for his neighbors, Chris & Rhonda Dilello. Dolan stated that the landowner has told him the use was always going to be a residential property, which he has no concerns. He noted that his young children’s bedroom is over his garage and approximately 20-30 yards from the neighbor. Again, no concerns with a residential rental, however the proposed use gives him concerns. He has concerns with a growing church and the potential to demolish structures. He questioned if weddings could occur at the site. He stated that the area is a peaceful, quiet residential neighborhood and the proposed use is different. He asked if they get a tax break because of the classification. He reported that it cost him one-half million dollars to build his house 2-3 years ago and if this use is approved, it was not what he was expecting. He also asks for a durable, solid fence to insulate the noise. He reiterated that “Chris caught him out of the blue” with this proposal.

Vice-Chair Plageman confirmed with the Zoning Administrator that a demolition permit would be required, and any new structure would need to meet the setback requirements.

Vice Chair Plageman MOVED and Board Member Yandow SECONDED a MOTION to close the Fact-Finding/Public Hearing.

A discussion ensued amongst the ZBA. Board Member Norton stated that the Public Hearing should be left open so that additional fact finding can ensue with a continuance of the hearing. Norton would like to know more about the applicant’s 501 non-profit and if that is explicit in a state definition.

Vice Chair Plageman and Board Member Yandow rescinds the MOTION.

Vice Chair Plageman MOVED and Board Member Yandow SECONDED a MOTION to keep the Fact-Finding/Public Hearing open to the next available hearing once an engineered site plan and information about the 501 non-profit is submitted to staff. The MOTION passed 4-0.

AGENDA ITEM 3: CREATING WORK GROUPS Re: ETC|NEXT PLAN.

The ZBA determined who would work on the selected ETC|NEXT projects and report back to Planning Commissioner, Vice Chair Josh Knox, as follows:

- ETC Design Standards; Chairman Nick Martin
- Solar & Electric Charging Ready; Nick Martin
- Allowable/conditional uses in all zones; Vice-Chair Mike Plageman
- Fort Ethan Allen; Mike Plageman
- Energy Efficiency; Clerk Tom Yandow
- Old Historic Center; Tom Yandow
- Performance standards. Board Member Norton:
- Inclusionary Zoning; Hubie Norton

AGENDA ITEM 4: MINUTES: February 3, 2022 and April 7, 2022:

Vice Chair Plageman MOVED and Board Member Norton approved the 2/3/2022 minutes with the following change: Line 49: Replace “Board Norton” with “Board Member Norton”. The MOTION passed 3-0-1 (Martin abstained.)

Board Member Yandow MOVED and Vice Chair Plageman approved the 4/7/2022 minutes as written. The MOTION passed 4-0.

OTHER BUSINESS:

Kelley informed the ZBA of a cannabis workshop coming in the future and asked to let her know if they would like to attend.

The meeting adjourned at 6:53 p.m.

ZONING BOARD OF ADJUSTMENT

By:

Nick Martin, Chair