

TOWN OF ESSEX ZONING BOARD OF ADJUSTMENT
DRAFT MINUTES
DECEMBER 1, 2022

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

ZONING BOARD OF ADJUSTMENT (ZBA) MEMBERS PRESENT IN HOUSE:

In Person: Nick Martin, Chair; and Hubert Norton.

VIRTUAL: Michael Plageman, Vice-Chair.

OTHERS PRESENT:

Sharon Kelley, Zoning Administrator; Nicholas Halloran and Kelsey Roberson.

Chairman Martin called the hearing to order at 6:06 p.m; and took roll call of the Board Members present.

AGENDA ITEM 1: UNSPECIFIED USE-CONDITIONAL USE: NICHOLAS HALLORAN & KELSEY ROBERSON d/b/a HIGH RIVER REAL ESTATE, LLC: Proposal to operate a Short-Term Rental located at 184 River Road in the Medium Density Residential (R2) Zone. Tax Map 4, Parcel 10, Lot 2.

Board Member Norton MOVED and Vice-Chair Plageman SECONDED a MOTION to open the Fact-Finding/Public Hearing. The MOTION passed 3-0.

Sharon Kelley reported that this was another application for a Short-Term Rental (STR) and comments from staff departments, including Public Works, Recreation, Police & Fire, were the same for all the recent STR's that have been reviewed over the past few months. Kelley did not have anything further to add other than what she provided to the ZBA as suggested Findings and Conditions as noted below:

“FINDINGS:

- 1) The landowners are Nicholas Halloran & Kelsey Roberson, d/b/a High River Real Estate, LLC. The parcel under review is located at 184 River Road in the Town of Essex, Chittenden County, State of Vermont. This is an approximate .97-acre lot with 187.3 ft. of frontage. The lot is serviced by town water and sewer. The parcel is situated in the Medium Density Residential (R2) Zoning District; Scenic Resource Protection Overlay (SPRO) District & the Floodplain Overlay (C2) District. In 2007, a permit was issued for the construction of a 1-bedroom single-family house; an additional permit was issued in 2015 to add a second bedroom.

On July 8, 2021, Ronald & Alice Siegriest received Planning Commission approval (#PC:2021-21) to combine and re-subdivide and/or reconfigure two (2) existing lots known as 226 & 236 River Road into five (5) new lots. 184 River Road became its own lot as shown in the chart below.

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Address on River Road	Dimensional Requirement	Min. Lot Area	Min. Lot Area per Dwelling Unit	Min. Lot Frontage	Min. Front Setback	Min. Side Setback	Min. Rear Setback	Max. Height
	Required: off-site water and sewer	20,000 sq. ft.	20,000 sq. ft.	100 ft.	20 ft. ^(b)	15 ft.	20 ft.	40 ft.
	Required: on-site water or sewer	30,000 sq. ft.	30,000 sq. ft.	100 ft.	20 ft. ^(b)	15 ft.	25 ft.	40 ft.
# 232	Proposed Lot 1 (off-site sewer, on-site well)	1,265,418 sq. ft.	1,265,418 sq. ft.	246.08 ft.	220 ft.	140 ft.	60 ft.	< 40 ft.
# 184	Proposed Lot 2 (off-site water & sewer)	42,058 sq. ft.	42,058 sq. ft.	187.31 ft.	60 ft.	80 ft.	200 ft.	< 40 ft.
# 236	Proposed Lot 3 (off-site water & sewer)	23,824 sq. ft.	23,824 sq. ft.	100.18 ft.	240 ft.	15 ft.	20 ft.	< 40 ft.
# 228	Proposed Lot 4 (off-site water & sewer)	40,956 sq. ft.	20,478 sq. ft.	100.00 ft.	310 ft.	15 ft.	21 ft.	< 40 ft.
# 226	Proposed Lot 5 (off-site water & sewer)	60,103 sq. ft.	20,034.33 sq. ft.	122.00 ft.	114 ft.	11 ft.	400 ft.	< 40 ft.

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- 49 2) The applicant is proposing to use this property as a Short-term Rental and submitted various
50 diagrams showing the parcel, along with the following narrative:

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52 **History:** Nicholas Halloran and Kelsey Roberson Halloran purchased 184 River Rd. (An
53 Aframe style house) in March, 2022 as a vacation and part-time home. The home
54 required extensive renovations to the interior and exterior to make it habitable. Nick is a
55 Firefighter and Kelsey is a CPA who can work remotely and plans to work from the
56 property seasonally.

57

58 **Proposed use and current plan:** The current owners intend to use the property as much
59 as possible for personal use and utilize it as a short term rental property when they (or
60 family members) cannot stay there. The owners have partnered with a Management
61 company, Vacasa, who will oversee local operations when they are out of town and have
62 a local property manager available to guests. The current owners have also established
63 relationships with local Companies to manage lawn care, pest control, trash and
64 recycling and seasonal maintenance such as snow removal.

65

66 The current septic system and driveway will remain the same. Power line and power
67 provided by GMP will remain the same. Parking on the property will remain the same;
68 current driveway accommodates 4 vehicles easily. The house will accommodate a
69 maximum of 6 people who are related. Owners will vet tenants so as not to exceed 5
70 unrelated persons.

71

72 **House Rules include:** No Parties, No Smoking, Registered Guests Only, and

Quiet Hours (10:00pm-9:00am) while always being mindful of our neighbors. Owners have posted the address of the home, our contact information, and Emergency Info; including Fire, Police and Hospital phone numbers. The local Property Manager will be available to monitor and manage house activity. Both owners will be available and responsive at all times while rented.

General Standards:

- 1. No new demands for community services or facilities will be needed. Road maintenance, police and emergency services, which have been provided since the property was built, will remain the only town services used.*
- 2. **Character of the area affected:** The area, which is zoned residential will not be affected in any way. Road frontage [187 feet] and land [1 acre lot] use will be the same as when property was built. Mailbox on street labeled with "184" to aid emergency personnel in locating the home.*
- 3. Smoke/carbon monoxide detectors are working and will be maintained. There is a fire extinguisher in the kitchen and will be maintained.*
- 4. Renters will be notified that they are to follow all applicable state laws, local ordinances, rules and regulations. For example: Noise regulations (our quiet hours are 10:00pm to 9:00am), Winter Parking Ban, Burning regulations, and Firearms regulations.*
- 5. Police Chief and Fire Department will be notified of property emergency contact names and phone numbers.*
- 6. **Effect on traffic, roads and highways in the vicinity:** No projected change / impact on the traffic of River Road by the currently proposed use is expected since the house and property continue to be the same in size and use.*
- 7. **Bylaws and ordinances:** No violation of existing bylaws and ordinances noted.*
- 8. **Conformance with Town Plan and Community Character:** No changes in conformance or impact on community character is projected.*

3) Pursuant to state statute a 'Notice of Hearing' was posted on the property.

4) The abutting property owners were notified of this meeting by certified mail.

5) The applicants were emailed a copy of this Staff Report prior to the meeting.

6) The Planning Commission was informed of this application and had no comments.

7) Nicholas Halloran & Kelsey Roberson were in attendance for the hearing and provided the following comments:

Nicholas Halloran stated that they purchased the lot in March, 2022, and they have put a lot of sweat equity into the property. They wanted to secure a place for financial equity as well as having a place when they visit from their home in Massachusetts. He informed the ZBA that they have a dog and they plan to allow the STR to be pet friendly, noting that all vaccination documentation will be required. Halloran stated that he was a firefighter and he wants safety to be first with his property. He stated that he appreciates the ZBA's consideration of the application.

Hallaran stated they secured 'Vacasa', a local property management company; they will also be available and he will provide all contact information to the Police Department and staff.

Kelsey Roberson confirmed that the parcel is served by town water and sewer.

8) No one from the public attended the hearing.

9) The Public Works Director and Recreation Director have no concerns with the application.

10) The Police Chief requested the following requirements for all Short-Term Rentals:

- *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).*
- *Notify the State of Vermont Dept. of Fire & Safety of the rental unit.*

11) In an email dated 11/9/22, the Fire Chief said, *Their mention of notifying both the Fire and Police about emergency contract numbers, can be satisfied by just saying Essex Police Dispatch. The building should also be numbered with their street address for both occupants and responders to locate.*

12) 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.
- h. The proposed use is in conformance with community character.

CONDITIONS:

- 1) The approval for a Short-Term Rental, located at 184 River Road is granted based upon the operations as noted in Finding 2 above as well as the conditions listed below.
- 2) The applicants shall secure a Use Permit and schedule a Certificate of Occupancy inspection prior to renting the unit.
- 3) Prior to the Certificate of Occupancy, the applicant shall post the complete address '184 River Road', using contrasting colors, on the structure or premises so that it is clearly visible from the road.
- 4) Prior to the issuance of a Certificate of Occupancy, the Zoning Administrator shall confirm that all smoke detectors and fire extinguishers are in working order and the applicant shall maintain same while the premises are used as a rental unit.
- 5) The landowners shall notify renters that they are required to follow all applicable state laws, local ordinances, rules and regulations; and shall post the physical address of the unit, along with emergency contact numbers so that they are visible within the unit.
- 6) The landowner shall provide the emergency contact names and phone numbers of the landowners to the Essex Police Dispatch office.
- 7) The landowners shall secure and provide any/all State licensing or permits to the Zoning Administrator prior to commencement of the Short-Term Rental and/or shall register the business with the State of Vermont.
- 8) All conditions from previous approvals shall remain in effect except as modified herein.
- 9) 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."

Chairman Martin inquired if the condition was to put the full address, including the street name, on the building. Kelley confirmed that the Town is now asking for the full address to be listed either on the building or on a post near the road. She noted other areas in Town where you could find the full address on the buildings.

Nicholas Halloran & Kelsey Roberson, 184 River Road, Essex, VT, spoke on this application.

Nicholas Halloran stated that they purchased the lot in March, 2022, and they have put a lot of sweat equity into the property. They wanted to secure a place for financial equity as well as having a place when they visit from their home in Massachusetts. He informed the ZBA that they have a dog and they plan to allow the STR to be pet friendly, noting that all vaccination documentation will be required. Halloran stated that he was a firefighter and he wants safety to be first with his property. He stated that he appreciates the ZBA's consideration of the application.

Board Member Plageman did not have any questions for the applicants as his question was answered during the testimony.

Board Member Norton referred to Line 42 of the Staff Notes and questioned where the septic system was located as he did not see it noted in the diagram. Kelley stated that she thought it was on town sewer, however noted that the language was a quote from the applicant's narrative and requested the Board to confirm with the applicant. Kelsey Roberson confirmed that the parcel is served by town water and sewer. The applicants agreed to amend their comments.

Chairman Martin referred to Lines 51-52 of the Staff Notes wherein it read, in part, "The local Property Manager will be available to monitor and manage house activity." He asked if the applicant's if they lived locally. Halloran said, *No, they live in Boston*. He added that they secured 'Vacasa', a local property management company. In addition, they will be available and he will provide all contact information to the police department and staff.

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

Board Member Norton MOVED and Vice-Chair Plageman SECONDED a MOTION to approve the application for a Short-Term Rental located 184 River Road, subject to the Findings and Conditions provided to the ZBA in a document dated December 1, 2022 and entitled, '184 River, Essex, VT Proposed Findings & Conditions', including the following changes:

Finding 2, Line 42: Delete "current septic system and".

Finding 7, Line 87: Add the following:

Nicholas Halloran stated that they purchased the lot in March, 2022, and they have put a lot of sweat equity into the property. They wanted to secure a place for financial equity as well as having a place when they visit from their home in Massachusetts. He informed the ZBA that they have a dog and they plan to allow the STR to be pet friendly, noting that all vaccination documentation will be required. Halloran stated that he was a firefighter and he wants safety to be first with his property.

He stated that he appreciates the ZBA's consideration of the application.

Kelsey Roberson confirmed that the parcel is served by town water and sewer. The applicants agreed to amend their written comments.

Hallaran stated they secured 'Vacasa', a local property management company; they will also be available and he will provide all contact information to the Police Department and staff.

Finding 8, Line 89: Change to read, No one from the public attended the hearing.

Condition 2, Line 133: Add a new condition to read, "A local property management firm 'Vacasa' will be available for emergency response if necessary; and renumber remaining conditions accordingly.

The MOTION passed 3-0.

AGENDA ITEM 3: MINUTES: November 3, 2022

Vice-Chair Plageman Moved and Board Member Norton Seconded a Motion to approve the 11/3/2022 minutes with the following changes:

Line 24: Replace “3” with “4”; and

Line 275: Replace “3” with “4”.

The Motion passed 3-0.

AGENDA ITEM 4. OTHER BUSINESS:

Kelley reported that the Planning Commission is turning its attention to the Town Plan update, therefore the working groups will be suspended for now. However, he stated that the groups could continue on their own.

Kelley reported that there will be a meeting in January.

The meeting adjourned at 6:38 p.m.

ZONING BOARD OF ADJUSTMENT

By: _____

Nick Martin, Chair