

TOWN OF ESSEX ZONING BOARD OF ADJUSTMENT
DRAFT MINUTES
March 7, 2024

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

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

In Person: Nick Martin, Chair; Michael Plageman, Vice-Chair; and Hubert Norton

VIRTUAL ATTENDANCE: None.

IN HOUSE ATTENDANCE:

Sharon Kelley, Zoning Administrator; Lori Burritt; and Ian Carroll.

AGENDA ITEM 1: CALL TO ORDER: Chairman Martin called the hearing to order at 6:01 p.m; and polled the ZBA for attendance.

AGENDA ITEM 2: ADDITIONS/CHANGES: None.

AGENDA ITEM 3: UNSPECIFIED USE: Lori Ann Grzywna K/N/A Lori A. Burritt: Proposal to operate a Short-Term Rental (STR) located at 88 Old Colchester Road in the Medium Density Residential (R2) Zone. Tax Map 6, Parcel 4.

Chairman Martin provided the oath to those testifying on this application and opened the Public Hearing.

Sharon Kelley stated that the ZBA was very familiar with the request to operate a short-term rental and she did not have anything more to offer other than what was noted in the Staff Report. Kelley pointed out that Finding 1 of the staff report should read that the house was built in 1970 and that Finding 2 was amended to reflect a more updated plan that was submitted for the ZBA's review.

Lori Burritt, property owner, stated that she lives on the first floor of the house and the accessory apartment was located in the downstairs however, has not been occupied for some time. Burritt was primarily interested in renting to travelling nurses and briefly explained the websites that she would advertise for same. She also would like the choice to rent out to others if an occasion were to arise when she was not able to secure a travelling nurse.

Kelley noted the difference between an accessory apartment and a STR, being that if she rents out to someone on a longer term, the landowner would need to go through an eviction process once a tenant was in the unit for 30-days or more. Vice-Chair Plageman noted that if a nurse does not leave after 3 months, it would seem that an eviction would "seem like a headache." Burritt noted that she is advertising through 'Furnished Finder' and someone looking to rent has to go through its process.

Board Member Norton asked if the City of Essex was notified as they are an abutter. Kelley advised that the City is not an abutter as the applicant's lot is surrounded by the condo units on both sides of her house.

Board Member Norton asked if there was sufficient parking. Burritt stated that several cars can fit into her driveway.

Chairman Martin confirmed that access into the house was from the back of the building. Burritt confirmed.

Vice-Chair Plageman asked about the ‘Wastewater’ forms that Public Works referenced. He noted that the lot has private septic. Kelley explained that the form used for additional capacity is called “landowner needs to secure is referenced as a Wastewater Allocation form, and is used for both water and sewer.

Board Member Norton MOVED and Vice-Chair Plageman SECONDED a Motion to Close the Public Hearing. The MOTION passed 3-0.

Vice Chair Plageman Moved and Board Member Norton Seconded a Motion to Approved the application subject to the following Findings and Conditions:

FINDINGS:

1. The Landowner is Lori A. Burritt. The parcel under review is located at 88 Old Colchester Road in the Town of Essex, Chittenden County, State of Vermont. This is a .69-acre lot with 174’ +/- of frontage. The lot is serviced by Town water and a private septic system. The parcel is situated in the Medium Density Residential (R2) Zoning District. The house was built in 1970.

On October 23, 2008, the Planning Commission approved a Final Plan Amendment (Reference PC Approval #2008-26) to create a 2-lot subdivision of property consisting of the single-family dwelling and the condominium units.

2. The applicant is proposing to use the existing accessory dwelling unit as a Short-Term Rental, and provided the following narrative, including pictures of the premises:

The attached application is for an Accessory Apartment as a Short-Term Rental in my existing single-family home at 88 Old Colchester Road. My plan is to use the space infrequently for Traveling Nurses via Furnished Finder. Typically, they are looking for 1–3-month rentals. As well as renting through organizations such as Airbnb/VRBO for shorter stays. I request an after the fact building permit. The basement apartment space was completed prior to my owning and living in the home. The apartment space is 759 ½ square feet.

Proposed Apartment Lori A. Burritt 88 OLD COLCHESTER ROAD ESSEX –VERMONT, dated 10/9/23, as drawn by Willis Design Assoc., Inc.

3. Pursuant to state statute, a ‘Notice of Hearing’ was provided to the applicant for posting on the property and noticed in the ‘Seven Days’ newspaper.
4. The abutting property owner was notified of this meeting by certified mail. It is noted that this parcel abuts two properties, one being the Town of Essex.
5. Lori Burritt, property owner, was in attendance for the hearing and provided the following comments:

Burritt stated that she was primarily interested in renting to travelling nurses and briefly explained the process to do so. She also stated that she would like the choice to rent out to others if an occasion were to arise.

6. No public comments were provided.

7. The Recreation Director has no concerns with the application. Currently, accessory units are not charged a recreation impact fee.

8. In an email dated 2/13/24, the Fire Chief stated, in part,

Thanks for sending the pictures, they really help. I'm fine with this apartment but they will still need to get approval from the State FM. Based on the pictures, I don't believe they will have any issue.

In an email dated 2/13/2024, the applicant reported, The State Fire Marshal came today and the accessory apt passed inspection. I am running out now to drop off their form and fee at their Williston offices. As soon as I get official documents from them I will email them to you.

The Zoning Administrator confirmed with State Fire Marshall Jesse Dobiecki that the unit passed its inspection.

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

10. In an email dated 2/21/2024, Public Work's provided the following comments:

Public Works takes no exception to the application as proposed. The applicant will be required to purchase additional allocation for the accessory apartment and pay the associated fee. She will not be charged a connection fee. I've filled out the two applications she needs for the allocation that she needs to sign. Since she is going over her allowed capacity, the wastewater allocation permit will need to be signed by the Town Manager.

11. 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 88 Old Colchester Road is granted based upon the operations as noted in the Findings above.
- 2) The applicant shall secure and pay for the additional water allocation resulting from the accessory dwelling as noted in Finding 10 above.
- 3) A Zoning Permit and Certificate of Occupancy applications, along with fees, shall be submitted to the Zoning Administrator prior to the unit being occupied.
- 4) The landowners shall adhere to all state and local laws, rules or Regulations and ordinances regarding residential units.
- 5) 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.
- 6) Any and all conditions from previous approvals shall remain in effect except as modified herein.
- 7) 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 3-0.

AGENDA ITEM 4: MINUTES: September 7, 2023

Vice-Chair Plageman Moved and Board Member Norton Seconded a Motion to approve the 9/7/2023 minutes with minor a grammatical change. The Motion passed 3-0.

AGENDA ITEM 5. OTHER BUSINESS: Kelley introduced Ian Carroll, who was applying for the open seat on the ZBA. Mr. Carroll advised that he has been a resident for 20 year and that he voted against merger on every vote. He now feels that he needs to “put my money where my mouth is: and give back to the town. He noted that he works as a commercial business lender at Vermont Federal Credit Union and feels serving on the ZBA “can only benefit him” with his job. Lastly, he runs a non-profit Fun Run. Kelley asked if the non-profit was for Abby. Carroll confirmed and said he was trying to give back there as well.

Kelley reported that no applications were received for the April meeting.

AGENDA ITEM 6: ADJOURNMENT: The meeting adjourned at 6:40 p.m.

ZONING BOARD OF ADJUSTMENT

By: _____
Nick Martin, Chair