

TOWN OF JAFFREY NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
October 4, 2022

Present: Chairman Lee Sawyer, Members, Walter Batchelder, Erlene Brayall, Carl Jevne, Phil Cournoyer (alt),
will vote

Absent: Marc Tieger, David Jeffries (alt), Judy Lucero (alt)

Other: Elizabeth Webster, Conservation Commission, Jean Bergeron, Lorne Loudon, Sandi Stewart, Kelly Loudon, Mark Stone, Ashley Cenerizio, David Peltier, Ron & Miranda Giles, John Raleigh, Christine Pressman, Gary Niskala

Staff: Code Enforcement/Building Inspector Rob Deschenes, Recording Secretary Newton

MEETING MINUTES APPROVAL

On a **motion** by Jevne seconded by Batchelder the minutes of August 2, 2022 were approved as submitted. (3-0-2)
LS and PC abstained

PUBLIC HEARING

Chairman Sawyer called the public hearing to order at 6:12 pm. Notice of hearing for case No. ZBA 22-19, as advertised in the *Monadnock Ledger*, copies were posted in the Town Office building, the Library and the town website; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen; and notice of hearing was sent by certified mail to all abutters whose names were provided by the applicant.

PUBLIC HEARING NEW ITEMS

ZBA 22-19 JEMD Development LLC, Owner, Fieldstone Land Consultants, Agent
291 Squantum Rd Map 242 Lot 45 Zone: Res A, with town water

Variance – The applicant requests a variance to allow the construction of a 13-unit, townhouse-style development in the Res A District (Land Use Code, Zoning Ordinance Section IV, 4.2)

Presentation: John Noonan, Fieldstone Land Consultants

The applicant had previously come before the board (ZBA 22-13 June 2022) with an application for an 18-unit multi-family, townhouse-style development which was denied because *the scope of the project is too large for the size of the parcel*. The overall number of units have been reduced from 18 to 13. The revised plans call for two buildings; six units in one, seven in the other. Additional buffer space has been added to the northern property line, increasing the distance from 47.1 feet to 94.8 feet. Most of the proposed housing is located over the existing industrial building. The lot is located in two zoning areas; the area closest to Squantum Road is in Res A, the rear acreage, where a community septic system is proposed, is in Rural. The property has direct access from Squantum Road and there are no wetlands on site.

Mr. Noonan reviewed the variance criteria as presented in the application:

Fieldstone Land Consultants, on behalf of JEMD Development LLC, is submitting this variance application for Zoning Board approval. The proposed development consists of developing Tax Map Parcel 242-45 into a 13-unit Townhouse Style development with associated site improvements. The portion of the property where the

TOWN OF JAFFREY NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
October 4, 2022

development is proposed is located in the Residence A District and the rear of the property is located in the Rural District.

The proposed multi-family residential use on the property requires a variance since this use is not listed as a permitted use in the Residence A District in Section IV or in Section VI of the Dimensional Standards. As such we are hereby requesting a variance from these Sections of the Ordinance to permit the multifamily use on the subject site.

The subject property was once the location of King Manufacturing Company Inc . This company occupied the site from 1955 and operated out of approximately 23,000 square feet of building on the subject property. After the King Manufacturing Company closed, the property has been used for storage and now the buildings are in disrepair. The industrial use on the property is an existing nonconforming use. JEMD Development LLC would like to demolish the existing structures on-site and redevelop the property into a 13-unit Townhouse Style residential development. This development would utilize the same area of the site that was formally occupied by King Manufacturing Company Inc. but the use would be more conforming and compatible with the neighborhood. The use would also provide much needed housing for the community while allowing for the cleanup of an old industrial site.

The numbered items below correlate to the questions asked in the Town Application for a Variance.

Variance Request:

1. Granting the variance would not be contrary to the public interest because:

Granting this variance would allow for the productive use of the existing property. The subject site is currently occupied by 23,000+/- SF of industrial buildings formally occupied by King Manufacturing Company, Inc. These buildings are in need of repair and are currently being utilized for storage. The industrial use is a non-conforming use and it is our belief that redeveloping the site as proposed will make the property more conforming and more in harmony with the neighborhood. This redevelopment will come with significant costs for the demolition work which has been accounted for in the proposed residential housing plan. The development as proposed will not alter the character of the neighborhood or present a threat to the health, safety or welfare of the public. As a result, the proposed development will not violate the basic character of the neighborhood and will yield an improvement to the site and surrounding areas.

2. If the Variance were granted, the spirit of the ordinance would be observed because:

If the variance were granted the 23,000+/- SF of industrial building space would be removed from the site and a new residential townhouse style development would be constructed. The new development would be more in spirit with the ordinance and more in harmony with the surrounding properties. We believe the proposed layout depicts a reasonable development generally within the same area as the current industrial buildings. This proposal will not negatively impact the public's health, safety or welfare, nor change the character of the neighborhood. For all of these reasons we believe that granting the variance would observe the spirit of the ordinance.

3. Granting the variance would do substantial justice because:

This proposed development would allow for the productive use of the subject property and would allow for substantial reinvestment and removal of 23,000+/- SF of old industrial space. It is our belief that this proposal is a win-win for the owner and the Town. The owner and Town will all receive the benefit of a well-balanced proposal that redevelops a property in need of repair, will increase the tax base and provide much needed housing for the

TOWN OF JAFFREY NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
October 4, 2022

community. Granting this variance would do substantial justice because it would allow for the productive use of the property, as described above, while providing responsible growth in the community. The proposed development is appropriate for the site, does no harm to abutters, and the public would realize no appreciable gain from denying a variance.

4. Granting the variance would not diminish the values of surrounding properties because:

The proposed development and associated layout will meet the dimensional standards and will provide buffering to surrounding properties. This proposal will also clean up some history and associated easements with the abutting property owner on Lot 242-46 through a proposed lot line adjustment. The lot line adjustment will provide Lot 242-46 area for parking and yard space. Overall, this proposed development contemplates significant cleanup and reinvestment which will improve the value of the subject property and the surrounding properties. Traditionally new development, cleanup of old sites and reinvestment into an area actually increases the value of surrounding properties and we would anticipate the same for this project and the surroundings. For all of these reasons we do not believe that this development should have any negative impacts on the value of surrounding properties.

5. Unnecessary Hardship.

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

1. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

The subject site is currently developed into a 23,000+/- SF industrial building with associated site improvements which has existed on the property since 1955. This is an existing nonconforming use and the improvements are dated and in need of repair. The owner of the property wants to make an investment into the property but the investment needs to make sense. The expense to remove the existing improvements is extensive but it is our opinion that removing the structures and developing the site into a townhouse style residential development would make the property more conforming and in harmony with the surroundings. Given the history and existing nonconforming structures on the subject site we don't believe there is a fair and substantial relationship that exists between the general public purpose of the ordinance provision and the specific application of that provision to the property. This property is very unique, has a great history and requires relief for someone to make the investment into the redevelopment proposal.

2. The proposed use is a reasonable one because: *

We believe that the proposed use is a reasonable one for all of the reasons previously stated. The following is an outline of why we believe the proposed use is reasonable:

- Granting this variance would allow for the productive use of the existing property.*
- Would allow for the removal of the existing industrial buildings and associated improvements.*
- The redevelopment would be more in harmony with the surroundings.*
- The redevelopment would also allow for improvements to abutting parcel 242-46.*
- The multi-family use would be in harmony with the neighborhood and surrounding areas as the neighborhood includes another multi-family use.*
- The use would not be contrary to the public interest as this project will not alter the essential character of the neighborhood or threaten the health, safety or general welfare of the public.*
- This proposal would in our opinion observe the spirit and intent of the ordinance.*
- This project would have no measurable negative impacts on the surroundings or their property values.*

TOWN OF JAFFREY NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
October 4, 2022

For all of the reasons we believe that the proposed use is reasonable.

Christine Pressman – abutter. Her living room window will look out on the rear of the townhouses which could impact the sale of her property. She agrees that there is a need for housing, but feels this would change the nature of the community. Children ride bikes and people walk on Squantum Rd. Res A is zoned for single-family.

Lorne Loudon, speaking on behalf of his mother Melba Loudon, abutter. Agrees that this will change the neighborhood, it's a nice quiet rural area. His property has a nice backyard, the rear decks of the townhouses will face his yard. This will add more traffic to Squantum Road.

Gary Niskala speaking on behalf of his mother Gwen Niskala, abutter. His mother's lot is directly across the street from the existing driveway of the subject property. He is concerned that headlights will shine into her windows. This type of development is not allowed in this zone and would be replacing one non-conforming building with another. He is considering buying the land next to his mother's house to build a garage which would increase her land to 12 acres. Would this set a precedent so that he could demo his mother's house and build a large commercial building? Chairman Sawyer noted that no decision sets precedent, each application must stand on its own merit.

Kelly Loudon – abutter. Feels that the proposal would affect him because he is outside all the time. Squantum Road is a quiet place. There would be lights on at night and more traffic on the road.

Ashley Cenerizio – abutter. Her driveway is also across the road from the subject property. She believes that she will have to “battle the traffic” to get in and out of her driveway daily. There is already increased traffic in the neighborhood during the summer months for summer rentals near the beach. She asked, how will they control trash?

Mark Stone – abutter. Mr. Stone does not feel that this proposal complies with the spirit of the law which calls for single-family dwellings in the Res A district. The proposal is in his backyard, he may have to move if approved. There could be as many as 32 people living in these units. He believes that it will be expensive to demo the existing building which could make the purchase price of the units expensive. He agrees with other statements by other abutters that the character of the neighborhood would be changed.

Ron Giles – resident at 256 Squantum Rd. He is concerned about his family and children walking on the road. Traffic is heavy and people do not obey the speed limit. He has spoken to the police about traffic-calming measures.

Jean Bergeron asked if the road would need to be widened? Chairman Sawyer responded that this would be a question for the Planning Board.

W Batchelder asked, how much vegetative buffer will be used? J. Noonan responded that there would be a minimum 30-foot buffer provided. Additional trees will be planted behind the buildings (north side).

E Brayall noted that at the last meeting there was a discussion about a septic system located near a farm. Mr. Noonan responded that the septic system is required to meet DES subsurface standards.

On a **motion** by Batchelder, seconded by Jevne the Board voted to waive site review (5-0-0)

Following the Board's decision, Mark Stone and Gary Niskala asked how the proposal could get approved if it did not adhere to the strict zoning regulations for the Res A district which specifies only single-family dwellings?

TOWN OF JAFFREY NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
October 4, 2022

E Brayall explained that the purpose of the ZBA is to provide relief from zoning regulations. The applicant is before the board asking for a variance. The abutters were made aware of the process to file a request for a rehearing.

Chairman Sawyer closed the public hearing

L Sawyer noted that during the first proposal for 18 units was denied because *the scope of the project was too large for the size of the parcel*. This application reduced the number of units from 18 to 13, a 20% reduction, which the Board felt would be less of an impact.

DELIBERATION

The Board considered each of the five criteria.

1. **The variance will not be contrary to the public interest:**

WB – the property is very run down, this would be an improvement. LS agrees.

LS – granting the variance would allow for productive use of the property.

EB – this would not change the essential character of the neighborhood because this is a residential use.

WB agrees.

2. **The Spirit of the Ordinance is observed:**

WB in this case, if criteria 1 is met, so is 2. LS agrees.

3. **Substantial justice is done:**

EB – the proposal would provide housing for the community; however, they would not be designated as affordable or work-force housing.

WB – feels that it would be an injustice to the applicant to deny.

LS – this would supply more mid-range housing for the community.

4. **The values of surrounding properties are not diminished:**

WB – cleaning up the property would have a positive impact on surrounding properties.

LS – believes that property values would improve with the removal of the old building even though the neighbors might disagree.

EB – does not feel that property values would be diminished.

5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:**

LS – the property is unique due to its existing, non-conforming use and the shape of the lot.

WB – agrees, there is not much that can be done with back acreage. The proposed use is a reasonable one given the limitations of the property.

EB – when considering hardship are there other options for the property? RD there is not enough road frontage for a subdivision, but that is not what is being proposed.

The consensus of the Board agrees with bullet points as presented in the application in section 2 of Unnecessary Hardship.*

DECISION

ZBA 22-19 JEMD Development LLC, Owner, Fieldstone Land Consultants, Agent
291 Squantum Rd Map 242 Lot 45 Zone: Res A, with town water

TOWN OF JAFFREY NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
October 4, 2022

Variance – The applicant requests a variance to allow the construction of a 13-unit, townhouse-style development in the Res A District (Land Use Code, Zoning Ordinance Section IV, 4.2)

On a **motion** by Cournoyer, seconded Batchelder the request for a variance to allow the construction of a 13-unit, townhouse-style development in the Res A District was granted as presented per testimony given and plan submitted. (4-1-0) *CJ opposed*

Reason for approval: A consensus of the Board agreed that the proposal met all five variance criteria.

Plans submitted include: Zoning Exhibit Plan, Tax Map Parcel 242-45, 291 Squantum Rd, Jaffrey NH. Prepared for and land of, JEMD Development, LLC, PO Box 827, Rindge, NH 03461. Prepared by Fieldstone Land Consultants, PLLC. Dated Sept., 6, 2022.

Findings of Fact:

- The proposal is to allow construction of a 13-unit townhouse-style, multi-family development in the Res A district which is zoned for single-family.
- The applicant previously submitted a proposal for 18 units, which was denied on June 13, 2022 because *the scope of the project was too large for the size of the parcel.*
- There is an existing, non-conforming industrial use structure on the lot.
- The septic system must meet DES subsurface requirements.
- The current proposal meets all setbacks and road frontage requirements.

ADJOURNMENT

The meeting adjourned at 7:45 pm
Submitted:

Attest:



Rebecca Newton, Recording Secretary



Lee Sawyer, Chairman, Jaffrey ZBA