

Town of Greenville
46 Main Street, Greenville, NH
Zoning Board of Adjustment

Public Hearing – December 19, 2018

Call to order at 7:00 p.m. Present: David Orgaz, Chairman, Members Michael Rathbun, Pedro Sousa, and Michael Washburn, Town Counsel Biron Bedard, and Town Administrator Tara Sousa (serving as ZBA Secretary).

Chairman David Orgaz read the public notice. Applicants' counsel Silas Little noted that there were only 4 members of the Zoning Board present. Attorney Biron Bedard explained that a continuance might result in only 3 members being present, as Chairman Orgaz has resigned effective December 31, 2018. Attorney Little explained to his clients that an affirmative decision of 3 board members was necessary to prevail, noting to possibility of a tie with only 4 members present. Jason Seymour asked for the advice of his Counsel. Mr. Little explained both sides, but declined to make recommendation. Kathryn Seymour questioned how long the hearing would be delayed if it were continued. Attorney Bedard explained that there had been a vacancy on the Board for an extended period of time. The Seymours expressed their willingness to proceed, and their attorney noted the "knowing waiver".

Attorney Little expressed that both the appeal and variance were straight-forward, noting the location of the building in question directly across the street. He stated his understanding that if not for the existing hydro (electric facility), the proposed single-family occupancy would be a permitted use under the zoning. With regard to the appeal, he stated there is nothing in the ordinance that prohibits combining uses, for example there is nothing that specifically prohibits combining a legal, non-conforming use with a permitted use. He explained that prevailing in either the appeal or the variance yields the same result, and that he filed the variance on behalf of his clients should that be a more politically acceptable avenue for the Board to reach a positive decision. He explained that the applicants are seeking to convert all areas not currently leased to the hydro facility for residential purposes, with storage access at the 'downhill' ground floor, and the primary entryway for the 2 residential floors above to be at the 'uphill' ground level entry.

Speaking to the 5 required criteria, Mr. Little submitted that there would be no diminution of surrounding property values, explaining that the variance would allow for the structure to be occupied, to the betterment of the neighborhood, and that the prior historic use was not viable. He discussed his understanding that prior to the Seymour's purchase of the property, it had been vacant, save for the hydro use. To further support his assertion that there would be no diminution, he noted residential use is a permitted use. He submitted that the proposed use would not be contrary to the public interest, as it is in the public interest to have buildings used in a manner consistent with the ordinance, and single-family use is a preferred use in the district. He stated that the building would not be broken down into multiple units or condominiums. Regarding unnecessary hardship, he explained that with the existing hydro facility, which is under long-term lease, in one portion of the building, saying that 2 uses cannot exist in the same building effectively denies the owners reasonable use of the rest of the property. He noted that this property is a "one-off", in that there are no other properties in Greenville which have the

same burden. With regard to substantial justice, he expressed that they had a technical issue with the wording of the ordinance and how it has been interpreted, and that the proposal achieves a permitted use. Regarding the final criteria, Mr. Little stated that the spirit of the ordinance is to “encourage the reasonable and practical use of the existing buildings in the Town of Greenville.” He expressed again, barring the existence of the hydro, there would likely be no issue with single family use. He expressed that the historic use, perhaps as part of the Chamberlin Mills manufacturing furniture, will not occur today. He stated that the hydro facility does not present a danger or adversely affect the living quarters.

The members of the Zoning Board indicated that they did not have any questions. Chairman Orgaz opened the floor for comment from those in attendance.

Michael Sadowski stated, as a resident, his support of the application. He asked when the last time there was a business at that location, and guessed it was perhaps a decade or more ago. He expressed that he would prefer to see the building occupied and taken care of, than to see it “fall into the river.” He noted that these are motivated individuals willing to improve and take care of the property.

Renee Barretto stated that she has witnessed the new owners taking better care of the property than the previous owner. She expressed support for them occupying the space in the part of the building away from the hydro.

Miles Horsley expressed as a resident of High Street that he supports the conversion of the building into a single family residence, not condos or a multi-family, and that it is good thing they are doing to help “keep the downtown alive.”

With no other questions or comments, Chairman Orgaz announced the closure of the public hearing. Attorney Bedard recommended the Board determine which application it wished to consider first. Mr. Sousa indicated he wished to take the variance application first, and Chairman Orgaz agreed. Chairman Orgaz expressed that he supported approving a variance for single-family use, agreeing with public comments made that it helps the downtown, and that it would be good to see the building in use. Attorney Bedard asked if the Board agrees that the applicant has met each of the 5 criteria for a variance. Mr. Sousa expressed that he agreed the applicant had met each of the 5 criteria. Attorney Bedard recommended the Board make motions for the 5 individual criteria.

Motion by Mr. Sousa, 2nd by Mr. Rathbun, that criteria 1 is met, in that the proposed use does not diminish surrounding property values.

Motion carried with 4 in favor, none opposed.

Motion by Mr. Sousa, 2nd by Chairman Orgaz, that the proposed use is not contrary to the public interest (criteria 2).

Motion carried with 4 in favor, none opposed.

Motion by Mr. Sousa, 2nd by Chairman Orgaz, that criteria 3 is met, in that denial of the variance would result in unnecessary hardship.

Motion carried with 4 in favor, none opposed.

Motion by Mr. Sousa, 2nd by Chairman Orgaz, that criteria 4 is met, in that granting the variance would do substantial justice because the use as a single family is consistent with the stated purpose of the Zoning Ordinance in promoting appropriate and wise uses of land in Greenville.

Motion carried with 4 in favor, none opposed.

Motion by Mr. Sousa, 2nd by Chairman Orgaz, that criteria 5 is met, in that the use is not contrary to the spirit of the ordinance.

Motion carried with 4 in favor, none opposed.

Motion by Mr. Sousa, 2nd by Mr. Rathbun, that with the 5 required criteria having been met, the variance (for single family use) be granted.

Tara Sousa asked for clarification of the variance granted, to assist the Town from an assessing perspective. Mr. Sousa answered that the Board was granting single family occupation as stated in the application. Attorney Bedard clarified that the variance is from Section 2.7.2 of the Zoning Ordinance permitting single family use of the property at 47 Main Street, with an existing hydropower facility in part of the same structure. Mrs. Sousa asked if it would then be considered mixed-use. Attorney Little noted that there is already a separate tax card for the hydro portion of the property. Attorney Bedard indicated that the manner of assessment would be up to the Town's assessor to determine.

The motion on the floor was restated and the motion carried with 4 in favor, none opposed.

Attorney Little stated that his clients were withdrawing their appeal of the administrative decision regarding their building permit.

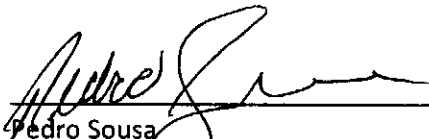
Chairman Orgaz announced the closure of the proceeding at 7:24 p.m.

Submitted by: Tara Sousa/Town Administrator

Approved by:



David Orgaz/Chairperson



Pedro Sousa



Michael Washburn

Michael Rathbun