

# Town of Jefferson Board of Adjustment

## Minutes

October 17, 2019

Acting Chairman Jason Call opened the meeting at 7: 35 p.m.

**Members present:** Chairman Kim Perry; Rodney Houghton, alternate; Tom Walker, Jason Call

**Members absent:** Biff Wyman, Cricket Ingerson

**Others present:** Charlene Wheeler, Board secretary; Chris Milligan, Barry Nelson, Wayne and Denise Bilquin, Michael Fraser

In the absence of a regular member, Rodney Houghton was designated a voting member for this meeting.

### Hearing of Appeal – Fraser

Chairman Perry opened the public hearing for case # 191-2019. Michael Fraser of P.O. Box 1748 Sagamore Beach, MA is applying for a Special Exception in compliance with Article III, Section 2 of the Land Use Ordinance. The applicant proposes to operate a tourist accommodations and lodging business at 959 Presidential Highway, Map 8, Lot 44. Chairman Perry read the application. Application fees had been received but the total was incorrect. Another \$4.00 was due for a certified letter mailing. Notices were mailed and posted as required. Mr. Fraser introduced himself and gave a brief history of the property once known as the Iron Dog Inn. He said he wanted to contribute to the tourism industry in the town. He said the house is a unique blend of Victorian architecture he wants to highlight in his renovations. Different businesses have occupied the site over the years. A sign is now in front of the building with the name as of Jefferson North. Mr. Fraser said if he can't operate the business as an inn he would continue to do it as an Airbnb. He said he had approached the fire department to do an inspection of the premises. The fire department has made a report to the Select Board of their findings assuming an occupancy of more than 16 people which would define as a hotel under the fire code, it's irrelevant whether it is called a rental, lodging units, Airbnb, or a hotel. He listed a multitude of improvements he has made to improve the building safety. Local contractors in the area have benefited. He didn't want to make changes that interfered with the Victorian esthetic. Starting over at this time would be ludicrous. Jason Call asked how many rooms are available for rent and was told 8 or 9 among 3 floors. Some have baths, some don't. There is a private owner's residence also in the building downstairs including what he termed a "condo". There is a large kitchen available to guests. Oil, gas, and pellets are all used for fuel to produce heat and there some fireplaces in the building. Mr. Fraser was asked about his plans for the large barn on the property. It wouldn't be for large events, a night before the wedding party, for example, or a small group staying as a retreat. Guests staying could use the space on an individual basis. What about parking? There is parking for nine cars in back, 3 to 4 more in front. Are there any plans for expanding the parking area. Mr. Fraser said he has acquired an adjoining piece of property possibly for that purpose. There is a 2000 gallon capacity septic tank he has pumped three times a year which is more than adequate to handle the facility. Jason Call asked about a driveway permit for more than access to a single-family dwelling. This would have to come from the state not the town as Route 2 is a state highway. Mr. Fraser said there should be no problem with the driveway entrance. He said he has plans to build a covered bridge over a brook running through the property but will have to check with the state about those plans. A well has been drilled to provide water to the facility. There is a surveillance system in place. Chairman Perry tried to clarify what Mr. Fraser was asking the Board to approve. Whether an Airbnb or inn or hotel these are all tourist accommodations but different in scope. Do you plan to operate an events center for larger gathering such as weddings, etc. in the separate barn building? Mr. Fraser said he did not at this time but may consider it in the future. The Board secretary read from Mr. Fraser's website which advertises an events center. Mr. Fraser said that was an error, some of his employees were responsible for that website.

Chairman Perry opened the hearing for public comment. The Board secretary reported that no correspondence or phone calls have been received. Mr. Wayne Bilquin who is an abutter to the Fraser property asked to speak. He said the location under discussion has history but we are now discussing the present. This is a commercial facility with a potential for growth. Mr. Fraser plans to use the barn and is advertising it as such for events. He is not telling the story of what is to come. Would the Board's approval allow for such expansions? The Bilquins are concerned about noise, lighting, accidents if there is drinking. Larger parking areas require lighting. What happens if the business is sold to another owner? Mr. Fraser assurances now will be no good then. They are concerned about their property losing value. Denise Bilquin said she was concerned about drivers who may not be familiar with the area exiting the facility's driveway, perhaps under the influence of alcohol, in a stretch of highway with a posted speed of 50 mi/hr. There are lots of trucks on that road. Jason Call clarified zoning in the town. The entire town is zoned residential/agricultural. Other uses may be permitted by Special Exception and are listed in the Land Use Ordinance. Tourist accommodations and lodging is one that is listed. The question is what is reasonable at the present time for this location, every location is unique and must be judged that way. Chris Milligan and Barry Nelson said according to the fire code lodging for more than 16 people is considered a hotel and there are certain additional codes to be enforced. A building hosting a gathering of less than 50 people, for a wedding as an example, is not considered a venue for fire code consideration. As far as access to the structure itself by a fire truck or other emergency vehicle there seems to be no problem at the present time. Mr. Fraser did allow access to his building by both them and the state fire marshal. The Board of Adjustment had a summary of their preliminary inspection. There being no other questions or comments, Chairman Perry closed the public portion of the hearing.

Discussions began. Jason Call cited RSA 674:33. There are four things to decide: 1. Is the applied for use allowed as a Special Exception in the Ordinance? 2. Is the location appropriate and of adequate size for such a use? 3. The use will not adversely affect the surrounding area. 4. The use is not contrary to the spirit of the Ordinance.

Tourist accommodations and lodging are allowed in the Ordinance by Special Exception and this use should fall into this category. There is concern about the size of the proposal for the present location. Is this large enough to be considered a hotel with fire safety code issues, etc. How will this impact the surrounding area? The barn usage and additional guests on the property were discussed and debated. At this point, Mr. Fraser said he was becoming uncomfortable listening to the Board's discussion. He wanted to be treated fairly, like the Jefferson Inn which is allowed to operate. Perhaps he should consult with his attorney. Chairman Perry said the Board could stop the hearing right then if Mr. Fraser so requested. The Board has criteria but must set adequate parameters based on the evidence before it. Each property is unique. It can't always be compared exactly to others. He used as an example Santa's Village, a large amusement park, catering to thousands of patrons which is allowed in the town. It is a pre-existing nonconforming use that predated Jefferson's Land Use Ordinance. Would this business be allowed on Mr. Fraser's lot? Probably not because of the lot's size and location. But if Mr. Fraser wishes he may stop at this point and come back to the Board at another time. Mr. Fraser decided to continue.

Jason Call said Mr. Fraser has improved the property and it looks very attractive. Tourist accommodations have always been a historical use in the town. It preserves the rural character and will contribute to the town's tax base. Its use is not contrary to the spirit of the Ordinance if conditions for approval are met. After deliberations by the Board, conditions were listed as follows: 1. The occupancy is limited to up to 16 lodgers at any one time. 2. The facility may operate year-round. 3. The structures will comply with noted life and safety codes for such a size as identified by the fire Department. 4. The barn is not to be used as an events center for paid functions other than casual use by lodgers. 5. A statement will be obtained from the NH Department of Transportation that the driveway entrance is adequate for the proposed use. 6. The approval is only granted on the current lot under consideration where structures are now located, Map 8, Lot 44. 7. Any expansion of the business beyond the above parameters will require Mr. Fraser to return to the Board of Adjustment with another application.

Tom Walker made the motion to grant the appeal for a Special Exception with the conditions as stated above. The motion was seconded by Jason Call. The vote to accept the motion was unanimous.

Chris Milligan, Barry Nelson, Wayne and Denise Bilquin thanked the Board and left the meeting. Mr. Fraser paid the \$4.00 still owing on the filing of the application, thanked the Board and left the meeting

#### **Minutes**

The minutes of the August 8, 2019 meeting were read. Tom Walker made the motion the minutes be approved as read, seconded by Jason Call. The vote to accept the motion was unanimous.

#### **Financial Report**

The Board received a report of Board of Adjustment expenditures to date and are still under the budgeted \$1000. It was decided to again request the same amount for the next fiscal year when budget requests come in December.

Jason Call made the motion to adjourn the meeting, seconded by Tom Walker. The meeting was adjourned at 10:00 p.m.

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Charlene Wheeler  
Secretary to the Board