

Town of Seabrook
Board of Adjustment
September 27, 2023

Members Present: Jeff Brown, Teresa Thurlow, Dr. Lebold, David Davidson, Phil Howshan, Lacey Fowler
CEO.

Roll Call

Jeff Brown, Chair opens the meeting at 7:00 pm and explains the procedures and where the notices of the meeting have been posted. We have a full board tonight. When speaking please say your name and address for the record.

Old Business

August Minutes

Motion: Dr. Lebold

Second: Dave Davidson

Unanimous

Administrative Items:

We had a request to rehear Case 2023-013 at our October Meeting.

Motion: Dr. Lebold

Second: Phil Howshan

Unanimous

New Business:

Case 2023-014 RMH NH, LLC 319 Route 107, Map 2 lot 41 the undersigned hereby requests for a variance to the terms of Section 5, 6, 7 and 15 and ask that said terms be waived to permit: 200 multi-family residences which include 20 work force housing units and 17 duplexes in Zones #1 and 3.

Attorney Cronin is representing the RMH NH, LLC with a revised housing plan. Attorney Cronin explains that the town does not have an ordinance for multi-unit housing likewise they don't have an ordinance for workforce housing. Attorney Cronin states when you don't regulate it is allowed in every zone. There were concerns about water, sewer, no elderly and no workforce housing. They are presenting a down-scale plan. Reduction from 300 to 200, there would be 81 senior units. There are 119 market units 20 of them will be work-force housing. the rent would be discounted at 40%.

Attorney Cronin talks about the impact on the schools. Seabrook has one of the lowest students to teacher ratios of 9.34 to 1. The National Average is 17 to 1. Seabrook enrollment numbers have been in decline since 2015. Given the reduction in the number of units and the introduction of the 55+ residential units, the independent study now calculates that the project would introduce 9 school age children which they believe the school can handle. This is down from the previous project estimates of 70 students. If the variances were granted and it was developed as depicted, it would not diminish the surrounding properties. They had a drone take pictures so you can see an overview of the property and what they are proposing.

Concerns were raised about the water and sewer, they were going to put wells on the brook property to help with the water shortage. They were told they didn't need to because the town is getting new wells. The sewer is looking for more users. Water and Sewer are no longer a concern.

Andre went over the water usage in Seabrook. Current Ave pumpage is 1 million gallons per day, peak pumpage is 17 million gallons per day, current capacity is 2 million gallons per day. Water availability at peak: 300,000 to 1 million gallons per day. Potential additional capacity of 2 new wells by 2027. 1 million gallons per day added capacity in 3 to 5 years. New total capacity – 3 million gallons per day. Project Forecasted Water usage: 77,000 to 127,000 gallons per day. Post project water availability at peak: 1.1 to 1.9 million gallons per day.

Curtis Slayton the Water and Sewer Superintendent wrote an email saying if this project becomes reality, then his recommendation would be to design the landscape with plants that are drought resistant restrict irrigation on the site, and capture storm water run-off from roofs and parking lots to recharge the area.

The use variance is the big item. We have a 30 ft high restriction in rural zone #1, we will need a variance for the height restriction, in the industrial zone there is a 50' limitation and we will not need any relief. This is a large lot, and they don't plan on subdividing so they will need a variance for the one building per lot.

Andre Carrier is going over the power point presentation. Andre spoke about the shortage in NH housing. Based on estimated population growth, almost 60,000 units are needed between 2020 and 2030; nearly 90,000 units are needed between 2020 and 2040. This includes the state's current housing shortage of over 23,500 units needed to stabilize the housing supply. There are two zones on the property the rural zone approves single family housing and duplexes and the industrial zone. The case we put forward is residential use. The residents are abutting our parking lot. Andre explains their goal is to preserve the essential character of the abutting neighborhoods. Now the abutter will be backyard to backyard instead of backyard to parking lot. They want to improve the view line and buffer with new residential construction and greenbelt. Andre was explaining where the buildings would be located and how many feet from the abutters. The setbacks legal requirement is 30' buffer, the closest duplex is 123', closest to the 55+ complex is 227' and the closest non-Maple ridge abutter is 490'.

The proposal – Residential use case

- Duplex (Allowed Use)
- Workforce housing
- 55+ Senior Housing
- Apartment Homes

Duplex an allowed use, workforce housing, 55+ Senior Housing and apartment homes. Multi family is 119 units with 43 one bedrooms and 76 two bedrooms, The senior housing will have 81 total units with 36 one bedrooms and 45 two bedrooms. 20 workforce housing units. Andre explained this will not be affordable housing like section 8 housing units. He is looking for market rate housing.

Andre spoke about the landscaping plans he would like to have, and it would benefit the abutters as well. He would like to have a fitness walking nature trail and community gardens.

Andre spoke briefly about the traffic impact which he will consult with the NH DOT because it's a state road. They did do a traffic study and it showed if the use of the property for industrial use most of the traffic would be on peak. Residential use people coming in and out are off peak.

Attorney Cronin wanted to go over the criteria: The public interests and the spirit of the ordinance test the supreme court has given them some guidance with a case from Keene if the variance is granted it will not result in a marked or substantial change in the essential character of the neighborhood in this case your ordinance has no intent relative to multi-family housing because it does not exist. The test remains the same on the other criteria. The benchmark analysis for some is not open land, some abutters like wildlife and don't want to see the land developed. The benchmark analysis to that is fully development under existing regulations. Duplexes are allowed and along with some industrial property. As Andre stated, that whole corridor is basically a mixed-use area. This particular use as proposed will not change the character of the neighborhood in fact it will screen the existing entertainment and provide like use to like use. The next prong is substantial justice that is noted as a subjective prong and that is a balancing test looking what the benefit is to the public if the variance granted versus the harm to the public.

The benefit to the public is substantial tax positive project you get 600,000 in annual revenue you must have 1,000,000 to generate that revenue at 6.6%. Also, you get the car registration revenue, you also satisfy the burden of providing a reasonable share of workforce housing which you don't currently do. By adding these 20 units you go along way immediately to taken steps to meet that need under the Route Analysis. This project provides housing, new housing, and quality housing for many people.

The variance the value of surrounding property are not diminished prong Calley Milne of Kanteres Real Estate based on her education, training and experience, it is her opinion the value of surround properties will not be diminish if the variance is granted. Mr. McKeon, of McKeon Appraisal Services, says there is no doubt that the project as proposed is more supportive to the neighboring property values than any industrial use.

Final steps, the hardship is we have a unique property in large size that will be developed one way or another. The location, the terrain and topography are unique in character out on route 107. One of the critical areas of the hardship is the ordinance itself and that is something being considered by the Supreme Court right now whether the ordinance by its own right could be an element or hardship they contend that ordinance as written today we recognize there is an ongoing effort to fix that problem as of this application the ordinance controls does not provide reasonable opportunity for multifamily housing, by the inclusion of workforce housing there is a different standard that you have to look at, you have look at obligation for the statue for workforce housing, look at the overriding ten of the hardship tests Supreme Court Justice from Nashua flipped the old standard of hardship with a new standard of hardship and base it on reasonable use.

Andre is taking questions Teresa was taking about the water usage, what happens if there is an issued and they can't hook up in 2027 to the new wells and in the past drought concerns. Andre met with the Water Department Employees and informed Teresa Rowe Thurlow she should talk with the Water Department. Engineers have come up with the numbers of water usage.

Jeff Brown are you saying this board has the power to say whether or not you need a variance. Attorney Cronin replys yes. He explains with Bartlett vs Berkside Church said to the board has discretion to determine whether

a variance is required as all. If zoning officials makes a determination that a variance is required then the zoning board looks at that and they disagree we don't believe you don't need a variance to go forward.

Jeff asks you think this board can decide if you don't need a variance. Attorney Cronin said the Use Variance because it is a workforce housing, and you don't have any ordinance. In your discretion say you don't need a variance to the with respect to the height and the setbacks I don't think that would apply he would have to have your affirmative vote on those issues.

Jeff says to Attorney Cronin that duplexes are allowed in one of the zones. Duplexes are allowed in the rural zone and you can apply for special exception in the industrial zone.

Anyone in the audience here to speak in favor of the project:

Anyone in the audience here to speak against the project.

Henry Boyd, 4 Myrtle Terrace, very little industrial land only in Seabrook. Concerned about the ambulance calls? They have fire suppression, so they won't need help from the Fire Department with the trucks. He doesn't see the hardship.

Debra Van Dyke 19 Maple Ridge Road is not in favor they are not a good neighbor the contractors start at 5:30 every morning when they should be starting after 7. You need to have control over your contractors.

Shawn McClelland 17 Randall Drive still has a problem with noise. Giant television is left on when no one's out back all night. Water usage. Traffic impact.

Harold Eaton has concerns about the cost of school and believes the town will be losing money. The town services will be affected. Attorney Cronin quoted a supreme court case that went in favor of the person not the town. Look really hard at our infrastructure and look at the burden it placed on the residents. Under 674.22 growth management and timing of development.

Kristy Fuller 12 Gould's Way is not in favor of the project due to the impact of services in the town. Doesn't want the height variance to be accepted.

John Hird 16 Irenes Way is not in favor he has concerns about the traffic.

Brian Halloran 13 Maple Ridge Road noticed that you were given a book about this case and wants to know if you have to vote on the project tonight or can you postpone the vote so you can look at the book. The board can make a ruling and not vote tonight if needed.

Robert Johnson 29 Maple Ridge Road has concerns 1st noise is still not have a factor, the petition mentioned screening to the abutters property. There is now a nuisance to the property with people making donuts with their cars and cars revving their engines, etc. Supposedly there is security now and they can't take care of the problem of how they are going to handle more housing units. Value of the property? Industrial zone make us more money. He suggests Lead Certification building. It is environmentally safe.

Philip Walsh 31 Irenes Way not in favor. We need to protect the Police and Fire. Traffic Impact.

Ted Panopoulos 21 Irenes Way not in a favor. Traffic impact adds 600 to 700 people to the town. Traffic will be outrageous.

Joe Connolly 7 Maple Ridge Road asks about the housing board. Jeff explains they have a right to seek court or housing board.

Laurie Reardon 26 Deer Crossing Road she has concerns about the wetlands, if they impact any wetlands they will need to contact Planning Board, Conservation and NHDES etc. The wetlands that abut the west of the brook. They want to lower the wetland setback to 15ft instead of 25ft.

Kathy Matthew 27 Maple Ridge Road regarding the affordable workforce housing are those intended for the Brook employees. Keeping up with the landscaping on the property.

Nina Camuso 225 Route 107, traffic backs up in front of her house. The traffic impacts the homes on Route 107.

Lacey Fowler informs if people in the audience have problems with noise from the brook contact the Building Inspectors Office.

Jeff has one last question – call your attention to the map. The circle of duplexes were they any thoughts at all being a smaller type of community with smaller buildings and less duplexes.

Attorney Cronin wants to speak about traffic, the NH DOT likes only one entrance and exit for traffic flow and safety. If the NHDOT want traffic lights then the Brook will have to supply traffic lights. The NHDOT will make sure it is safe. Andre explains the NH DOT controls the entire frontage of the property. Andre informs that the land will be developed one way or another. Nine of sixty abutters spoke tonight thought of people. This project, this land in some form of fashion is going to be developed. Purchase all of it and I'm going to use it. Humbly when through the process and surprising tonight find people talk about industrial again, I will remind you that industrial will go right in the backyard of those Maplewood residents on New Zealand that is where it was design by zoning to go. He didn't think that was in the best interest of his neighbors, but it is widely more profitable. Industrial is widely more profitable and widely lower risk the sediment here is about trying to make money became against Core America values and trying to make money for the men and women work at the business and own the business. Andre says he humbly worked through this process and worked to try and build a nice new neighborhood next to a nice neighborhood.

After reviewing the petition and hearing all the evidence and by taking into consideration the personal knowledge of the property in question, this Board of Adjustment Member has determined the following findings of fact.

	J. Brown	P. Howshan	T. Thurlow	Dr. Lebold	D. Davidson
1	NO	NO	NO	NO	YES
2.	NO	NO	NO	NO	YES
3.	NO	NO	NO	NO	YES
4.	NO	NO	NO	NO	YES
5.	NO	NO	NO	NO	YES

Jeff Brown the Chair wrote the criteria's on why he voted the way he did

The variance is not contrary to the public interest. ***Substantial size of the project has a negative impact on the current area of town based on increased population and demand on services.***

The spirit of the ordinance is observed: ***The spirit was to preserve rural areas and industrial projects which bring benefits to the town such as limited services and jobs.***

By granting this variance substantial justice is done: ***The benefit to the community at this time is not greater than that of the applicant.***

By granting the variance the value of surrounding properties are not diminished. ***Increasing population would reduce value as well as increase density.***

Literal enforcement of the ordinance would result in unnecessary hardship. ***There are other projects such as industrial which would fit in this area. Applicant can develop housing in currently rural zone.***

Move to deny the request for a variance. Multi-family housing isn't permitted in industrial or rural zones. Multiple number of primary structures not permitted. Building heights above 30' & 50' presents safety, police and fire concerns not permitted. Wanting to establish a parking area within 15 feet of wetlands. Not permitted vs 25' required. The town's concern over our water supply and safety. The town has very little industrial space. The town has a reasonable % of multi-family housing and at least 6 plus mobile home parks. Dr. Lebold wrote the variance during the meeting it was not done ahead of the meeting.

Motion: Dr. Lebold

Second: P. Howshan

Opposed: Dave Davidson

Next meeting will meet October 25, 2023.

Motion to adjourn at 10:00 p.m.

Motion: Dr. Lebold

Second: T. Thurlow

Unanimous



Jeffery, Brown, Chair

NOTICE OF DECISION
BOARD OF ADJUSTMENT
TOWN OF SEABROOK, NEW HAMPSHIRE

You are hereby notified that the request of RMH NH, LLC, 319 Route 107, Map 2 Lot 41 for VARIANCE, APPEAL, SPECIAL EXCEPTION, EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS) OR EXPANSION OF THE NON-CONFORMING USE to: The Zoning Ordinance has been Denied for the reasons given in the following resolution passed by a majority of the BOARD OF ADJUSTMENTS on September 28, 2022.:

ON CONDITION OF GRANTING ANY VARIANCE, APPEAL, SPECIAL EXCEPTION, EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS OR NON-CONFORMING USE IS THAT IT EXPIRES AT THE END OF TWO YEARS IF NOT COMPLETED WITHIN THAT TIME.

RESOLVED, THAT THE FOLLOWING CONDITIONS SHALL BE ATTACHED TO SUCH USE:

Case # 2023-014 RMH NH, LLC 319 ROUTE 107, Map 2 lot 41. The undersigned hereby request a variance to the terms of: Section 5,6,7 and 15 and asks that said terms be waived to permit: 200 multi-family residences which include 20 work force housing units and 17 duplexes in Zone 1 and Zone 3

Move to deny the request for a variance. Multi-family housing isn't permitted in industrial or rural zones. Multiple number of primary structures are not permitted. Buildings heights above 30' to 50' presents safety, police and fire concerns not permitted. Wanting to establish a parking area within 15 feet of wetlands. Not permitted vs 25' required. The town's concern over our water supply and safety. The town has very little industrial space. The town has reasonable % of multi-family housing and at least 6 plus mobile home parks. Dr. Lebold wrote the motion during the meeting it was not done ahead of the meeting.

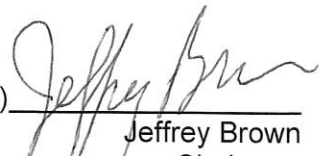
Motion: Dr. Lebold

Second: P. Howshan

Opposed: D. Davidson

("Compliance with these conditions must be met before a building permit can be issued.")

(Signed)


Jeffrey Brown
Chairman
Board of Adjustment

Date:

10 25 23

NOTE: Application for rehearing on any question of the above determination may be taken within thirty (30) days of said determination by any party to the action or person affected thereby according to the New Hampshire Revised Statutes Annotated, 1955, Chapter 31:74-76. Form Revised 2001