**Lenox Zoning Board of Appeals**

**Minutes**

**November 7, 2018**

**Landuse Meeting Room**

**Members present:** Acting Chair Robert Fuster (RF); Robert Fuster (RFjr); Al Harper, (AH); Clifford Snyder, (CS); Ned Douglas, (ND)

**Absent with notification:** Shawn Leary Considine

Also present were: Les Freeman, Michael Considine, Bob Vaughan, Katy McNulty-Vaughan, Rich Hays, and Rebecca Willey.

The hearing was recorded.

The meeting was called to order at 7:15 PM.

**Michael Considine and Shawn Leary Considine, 88 East Dugway Road, (Map 17, Parcel 48)** Special Permit under Section 9.2 “Accessory Dwelling Units” of the Lenox Zoning Bylaw to create an Accessory Dwelling Unit (ADU) in an existing, 675 square foot living space above the attached garage.

Presenting the application was Michael Considine who stated that his lot is approximately 1.5 acres and exceeds the 10,000 square feet required for an ADU. There will be no exterior changes other than for an egress opening to the porch. A small kitchenette will be added. The Considine’s were granted a variance in 1993 for the addition of a garage within the setback. There is no need for additional parking. The Considines occupy the residence and will continue to do so. Mr. Considine said that he feels that the well and septic system are sufficient for the addition of the ADU.

AH, stating that a requirement for a special permit for an ADU includes that it be a value to the community, asked Mr. Considine how he could justify that. Mr. Considine responded that it would increase the availability of permanent housing and may increase tax dollars. He added that the ADU would have no adverse impact to the neighborhood. He said that a neighbor, Jim Nejaime, fully supports the Considine’s petition. A comment by Kate McNulty Vaughan, a member of the Planning Board, was that when the Planning Board added ADUs to the bylaw, a purpose was to add to year around housing. AH said that he felt that the petition met the requirements of Section 9.2.23, but noted that the Zoning Board also considers the requirements of Section 3.4.2, and that the Petitioners met those requirements as well. RFjr made a motion to grant the Special Permit and AH seconded the motion. The Board voted to agree 5-0.

**Robert Vaughan and Kathleen McNulty-Vaughan, 10 Post Road, (Map 45, Parcel 24)** Variance from Section 6.1.1 “Table of Dimensional Requirements” to construct a 16’ x 20’ black locust pergola over blueberry bushes on the west side of the property. *Due to a lack of a quorum, this meeting was rescheduled from Oct. 17th to November 7, 2018*.

Presenting the application were the Vaughans. They said that over 30 years ago they planted their blueberry bushes close to the property line never considering that they would be putting up a structure. In recent years, they have seasonally put up a plastic pipe and netting type structure to cover the bushes to keep the birds from eating the berries. Now they are looking to put up something more permanent that will make it easier to cover with the netting.

Rich Hayes, of 16 Post Road, was present and he spoke in favor of the Vaughan’s request.

Ms. McNulty-Vaughan said that they would agree to a condition to take down the pergola if they were to sell their property or if new neighbors were to buy Mr. Hayes’s property and objected to the structure.

The Board discussed the soil conditions and ledge that is found on the property. They were not sure that this pergola would actually be considered a structure. The Vaughans said that the Building Inspector told them that they should seek a variance and that the pergola should be constructed to be safe. It was agreed that this property was not characteristic of the neighborhood, the bushes could not be located anywhere else on the property due to the ledge, and the soil where the bushes are planted is conducive for growing blueberries. Based on these findings, the Board felt that the petition met the requirements of a variance. ND made a motion to grant the request as presented and RFjr seconded. The Petition was granted by a vote of 5-0.

**Christian Selke, 33 Main, (Map 43, Parcel 21),** modification to an existing Special Permit under Section 8.8.2 “Bed and Breakfast Inn” of the Lenox Zoning Bylaw to host between 10-15 indoor and outdoor events at the existing inn. *Due to a lack of a quorum, this meeting was rescheduled from Oct. 17th to November 7, 2018.*

The inn, “33 Main”, is located at the corner of Sunset and Main Streets.

Presenting the application was Rebecca Willey, General Manager of 33 Main. She stated that they are hoping to have summer and fall weddings, between 10-15 events a year for 49 or under people. It was clarified that the request is for outdoor catered events, e.g., showers, weddings and they would be catered. Ms. Willey said that when the inn was being established they had checked with the Town to see about available space to rent for weddings and found that the Library, Roche Reading Park and Lilac Park were available. With Lilac Park just opposite of the 33 Main, this would be preferable. ND mentioned that he had understood that the Board of Selectmen was going to cut back on events at the Lilac Park. AH said that he did not think that this was pertinent to this application. Ms. Willey said that parking is available in the lot behind Berkshire Bank and on street parking is available on Sunset Avenue and 3 hour parking is available on Main St. Live music could be provided with a band or a disk jockey, “DJ”. The events would end by 11 PM.

CS asked how close the tents would come to the property line. Ms. Willey said that for a side yard location the distance would be 2-3 feet from the property line. At the back, in the Inn’s parking lot, it would be 3-4 feet from the property line. A smaller “bar tent” is depicted on the plans submitted and it is shown to be located adjacent to the bank’s property. The tents would be taken down after an event, usually the next day. It was noted that when a tent is erected in the parking lot of the Inn, parking for the guests will no longer be available. Ms. Willey said that the handicap space would still be available even with a tent in the lot.

ND asked if parking was addressed in the bylaw which applied to events such as this. AH responded that when the Inn was established, the parking provided was sufficient for the rooms available for rent, but said that he was concerned if the parking lot would be used for placement of a tent. AH felt that the public parking behind Berkshire Bank would be sufficient, but was concerned about Sunset Avenue being used for parking and hoped the traffic would be directed to the public parking. ND believes that parking on Sunset is already limited to about 5-6 cars.

Lighting would be contained under the tent. No additional outdoor lighting is planned.

CS stated that while he appreciates why the applicant wants to pursue their petition, he is concerned about the encroachment upon the neighbors regarding noise.

ND expressed his concern that the events would take up public parking during the summer and have a detrimental affect on other businesses in town.

Ms. Willey said that neighbors two doors down from the Inn have stated that they are excited with this proposal. The Board noted that no correspondence has been received and that no abutters were present.

RFjr said that there were several special conditions placed upon the Board’s approval of Kemble Inn’s petition for events and that 33 Main is located in a denser neighborhood.

Les Freeman of Elm Court Estate said that he is for development, but spoke of the restrictions/conditions which were placed on Elm Court’s approval and asked if the same would be placed upon 33 Main should their request is granted. At Elm Court guests will be shuttled and the cars will not be visible. He asked if 33 Main considered the parking that would be required for the catering staff. At Elm Court, the events are not to go beyond 10:00 PM and sound metering tests are to be conducted three times a year for five years.

Ms. McNulty Vaughan stated the inn is on a critical corner and was concerned with the number of events that are proposed. She commented that many properties that are much larger had extreme limitations and that she feels this proposal raises many questions.

AH made a motion to continue the hearing and to schedule a site visit. RFjr seconded the motion and the Board agreed 5-0. The site visit will take place on Friday, November 16th at noon. The hearing was continued to December 5, 2018 at 7:00 PM.

The meeting was adjourned at 8:25 PM.

Respectfully submitted,

Peggy Ammendola