**NEWMARKET ZONING BOARD OF ADJUSTMENT MEETING**

**FEBRUARY 4, 2019**

**MINUTES**

Present: Chris Hawkins (Chairman), Bob Daigle (Vice Chairman), Steven Minutelli, Richard Shelton (Alternate)

Absent: James Drago

**Agenda Item #1 - Pledge of Allegiance**

**Agenda Item #2 - Review & Approval of Minutes: 01/14/19**

Chairman Hawkins appointed Richard Shelton to sit in for James Drago.

**Action**

**Motion: Richard Shelton made a motion to approve the minutes, with an amendment, where, just prior to his motion to approve the variance application, he would like it to state that Chairman Hawkins stated he was free to make a motion, if he chooses to do so.**

**Second: Bob Daigle**

**Vote: All in favor**

**Agenda Item #3 - Regular Business**

***Kelby Ferwerda & Martin Ferwerda – Public hearing for an application for a Variance from Section 32-89 of the Newmarket Zoning Ordinance to permit a density of six residential units per acre, where two are allowed, and a Variance from Section 32-56, Table of Permitted Uses to permit a multi-family residential use. If the variances are granted, the lots will be combined. The lots are located at 2 & 4 Beech Street Extension, Tax Map U2, Lots 107 & 108, R3 Zone.***

Chairman Hawkins stated they did not need to ask for the variance from Section 32-56 Table of Permitted Uses to permit a multi-family residential use, because that was already allowed in the R3 zone. Diane Hardy stated that was correct. Chairman Hawkins stated the only variance necessary was the one for the six units per acre. He explained the Board has read the application material. Typically what happens is the applicant will step up to the microphone and have an opportunity to tell everyone why the variance should be granted and give any other evidence they believe needs to be considered.

Chairman Hawkins stated the applicant needed to understand that, by State statute, they would need at least three affirmative votes to get the variance. Normally, there is a five member board and tonight they are short by one member. The applicant has the choice on whether to proceed with a four member board and try to get three affirmative votes or wait for the five member board. Martin Ferwerda stated he would like to wait for a five member board. Chairman Hawkins stated they now need to continue the hearing to a date specific, preferably within the next 30 days. He stated he would try to make sure they have a full board or another alternate here. It is the applicant’s call on whether to proceed.

**Action**

**Motion: Bob Daigle made a motion to continue the application of the Ferwerdas to February 11, 2019, at 7:00 p.m., at Town Hall**

**Second: Steve Minutelli**

Chairman Hawkins stated to be clear this was based on the applicant’s request, because there are only four members present.

**Vote: All in favor**

Chairman Hawkins stated a number of letters have been submitted into the record and many people have turned out tonight. The Board is happy to have them come back next week. Public notice will be posted including the location of the meeting. Hopefully, the meeting will be in the Town Council Chambers, subject to availability.

***Eric DeWitt - Public hearing for an application requested by Eric DeWItt, for:***

1. ***A Special Exception reference Section 32-88(4) of the Newmarket Zoning Ordinance to allow a cupola to exceed the allowable building height of 35 feet by 1.1 feet and***
2. ***A Variance from Section 32-88 to permit the proposed building height to be .8 feet (previously said .08 in error) above the maximum allowed height of 35 feet, as defined in the Dimensions Table in Section 32-89. The property is located at 81 Exeter Road, Tax Map U3, Lot 137, B1 Zone.***

Eric DeWitt stated he would like to proceed with four members of the Board present.

Chairman Hawkins stated the Board had read his application.

Eric DeWitt stated for Criterion #1, in addition to what he submitted, it would be possible to comply with the ordinance by reducing the height of the ceiling within the commercial space to closer to nine feet, except he would still have to pay for ten foot high ceilings, because material comes in ten foot lengths, including sheetrock and all dimensional lumber. It is in the public’s best interest to have a commercial space that has higher ceilings, because it allows for more design features, more lighting possibilities, and a nicer space.

Chairman Hawkins asked where the building would be situated relative to Route 108. Eric DeWitt showed a drawing of the building and pointed out the road. The building complies with the setback. The land slopes away. The front of the building complies with the ordinance at 34.1 feet. At the road level, it is 32.4 feet. They are not talking about a lot here. It is very little and only on the back side, which does not face the public. It is not a huge structure. It is just slightly above what is allowed.

Eric DeWitt stated on Criterion #5, it would be possible to comply with the ordinance, by reducing the ceiling height within the commercial to closer to nine feet. That makes the space less valuable, because businesses want higher ceilings. It also limits what can be done design-wise for the business in there. In terms of appealing to the most businesses and the ability to create a space people want to go to, that is in the public’s best interest. Denying the variance would be contrary to the public interest.

Bob Daigle asked to clarify they are dealing with the building height not the cupola. Diane Hardy stated there are two, one for the building height and for the cupola.

***Chairman Hawkins opened the public hearing.***

There were no comments and no audience present.

***Chairman Hawkins closed the public hearing.***

Chairman Hawkins stated, for the record, there was a comment received from Richard Bajger, who owns the property across the street, and he had no issues for the height variance and special exception.

Bob Daigle stated there was a lot of reference to how this will increase the value that was not germane to the height of the building, but that is okay. The Zoning Board had approved commercial/residential prior to this on those merits.

Richard Shelton had no issues with granting the requests.

Bob Daigle stated he could not find a clear definition of where the height is measured from. Diane Hardy stated there isn’t one. Bob Daigle stated he meets it on one side and it falls away on the other. He was fine with it.

Chairman Hawkins stated this was de minimis. In the past, talk about making a property more expensive to construct was not a hardship. In this instance, it is so de minimis, it is not worth having the discussion. He reserves the right to make different judgements on future applications, with different circumstances. He suggested take the submitted materials, adopt them as their findings, and grant the variance and special exception, as presented, if that is acceptable.

Richard Shelton stated the cupola makes it more aesthetically pleasing.

**Action**

**Motion: Bob Daigle made a motion to approve the presentation as our findings and grant the Special Exception and Variance as presented**

**Second: Steve Minutelli**

**Vote: All in favor**

**Agenda Item #4 - New/Old Business**

None.

**Agenda Item #5 - Adjourn**

**Action**

**Motion: Bob Daigle made a motion to adjourn 7:23 p.m.**

**Second: Steve Minutelli**

**Vote: All in favor**