**NEWMARKET ZONING BOARD OF ADJUSTMENT**

**OCTOBER 19, 2020**

**MINUTES**

Present: Bob Daigle (Vice Chairman), Diane Hardy (Town Planner), Wayne Rosa, James Drago, Steve Minutelli. Al Zink (Alternate)

Absent: Chris Hawkins, Jonathan Sack both excused

**1. Pledge of Allegiance**

**2. Review and Approval of Minutes**

**a.** 09/28/20 Minutes

**b.** 10/05/20 Minutes

**Action**

**Motion: Al Zink made a motion to table the minutes to the next meeting**

**Second: James Drago**

**Vote: Bob Daigle, Wayne Rosa, James Drago, Steve Minutelli, Al Zink in favor**

Bob Daigle appointed Al Zink to fill in for Chris Hawkins.

**3. Regular Business**

**a.** Jeffrey & Rachel Eames, Eames Family Revocable Trust of 2020- Continuation of a public hearing for an application for Variances, reference Sections 32-86 Residential Density, 32-47 M3 Zone, and 32-56 Table of Permitted Uses, of the Newmarket Zoning Ordinance, requested by Jeffrey and Rachel Eames, Eames Family Revocable Trust of 2020, to permit the conversion of a portion of the current first floor 1,210 square foot commercial office space to an 1,100 square foot residential apartment. The property is located at 195 South Main Street, Tax Map U4, Lot 27, M3 Zone.

Rachel Eames stated they are looking to divide the existing space. It is currently 1210 sq. ft. They would not be significantly changing the layout of that space. They are proposing an office space of 110 sq. ft. and an 1,100 sq. ft. residential apartment. On the far left of the drawing, it says current entry. That wall is existing. They will be making an L shaped wall to wall off the office.

Rachel Eames stated the building is extremely well kept. They have renovated the building. They have kept the character of the building and the motif. The lot is paved. The building is in great condition. They are surrounded by houses in the M3 zone that have multiple apartments that do not meet the current requirements of the zoning ordinance. Housing in the seacoast is widely needed. It will not be student housing. It will be well-presented and well taken care of. The business will still be onsite. They want the pride of ownership. 193 South Main next door is a six unit building on .48 acres. They have 12 parking spaces, but no handicap space. 198 South Main is on .19 acres and they have 3 apartments. 200 South Main is .18 acres and has 2 units. None of those meet the current zoning requirements. She has more land and better parking. Granting this variance would not alter the character of the neighborhood at all. It does not alter the public health or safety.

Bob Daigle asked to hear more about the hardship criterion. Rachel Eames stated the hardship is strictly commercial brick and mortar is difficult in the current environment. Covid has hit and people are working from home attending meetings from home. Brick and mortar is going to be difficult to keep filled. With employees working from home and taxes going up it will be more difficult for owners everywhere. She has been realtor and insurance agent for over 30 years. The writing is on the wall for small commercial buildings. They think it is prudent to offer a nice apartment in the market. That keeps things looking nice, keeps the taxes paid and things moving forward. Bob Daigle stated he is hearing that economically it is not viable to maintain such a large a footprint for a job that can be done in a much smaller way and they want to convert the existing space into something that is rental worthy and more economical for the business. Rachel Eames stated that was partially correct. She said it behooves the town to have well maintained rentals. There is a need. Multi-family units are not usually occupied by children.

***Bob Daigle opened the public hearing.***

No comments.

***Bob Daigle closed the public hearing.***

Al Zink asked Diane Hardy about the recent changes to the house. Diane Hardy stated in 2015 the Perkins purchased it with the intent of having the business on the first floor. They went to the Planning Board for site plan review. They did an excellent job in laying out the site and renovating the building. It is a good example of infill development and how it can be done with limited space. They are here, because they lost the original vesting. They want to put a residential use back on the first floor. They have two years to do this. Al Zink asked if there was any implication for the change in use. Diane Hardy stated this is a perfectly viable use. As part of her review of this, she revisited the Planning Board approval. The proposal before the Board meets the current Town regulations for stormwater, parking and handicap access, so they do not need further Planning Board review. It is a good example of infill development without negative impacts on your neighbors.

Steve Minutelli asked why they needed the variance when mixed use is allowed. Diane Hardy stated it was because they would have two units. You can only have single family in that zone. Also, the lot does not meet the residential density requirement.

Wayne Rosa stated he was familiar with the previous development of this property. It was done right. It certainly fits in the character of the neighborhood. He can think of more properties with multifamily than were mentioned. He had no problem with this proposal.

Bob Daigle was looking for more on hardship. Rachel Eames stated she was among other building owners with the same situation. The way the zoning is written it is now interferes with the reasonable use of the property which poses a hardship to the property owners. The proposed use does not hinder the neighborhood.

Bob Daigle stated this sounds like this is nestled with numerous multifamily apartments around them. Rachel Eames stated she is surrounded by them. This does no harm and will considerably aid the area.

Al Zink asked about setting precedents. Bob Daigle stated every property is unique. There is no precedent in applying the zoning criteria.

Diane Hardy stated it is a fully designed and engineered site. Many others in the area do not have anything close to this. The uniqueness of this tract is it is a ready-made tract that is designed and meets the Town’s regulations and because of that to not allow it for a reasonable mixed use development would be a physical hardship due to the design features of the site.

**Action**

**Motion: Wayne Rosa made a motion to approve the Eames Family Rev. Trust variance for Sections 32-86 Residential Density, 32-47 M3 Zone, and 32-56 Table of Permitted Uses, of the Newmarket Zoning Ordinance, requested by Jeffrey and Rachel Eames, Eames Family Revocable Trust of 2020, to permit the conversion of a portion of first floor 1,210 square foot commercial office space to an 1,100 square foot residential apartment. The property is located at 195 South Main Street, Tax Map U4, Lot 27, M3 Zone.**

**Second: Al Zink**

**Vote: Al Zink, Wayne Rosa, James Drago, Steve Minutelli, Bob Daigle in favor**

**b. *Jason & Sarah Mansfield-There will be a continuation of a public hearing for an application for Variances reference Sections 32-87 Setbacks and 32-89 Dimensions Table, of the Newmarket Zoning Ordinance, requested by Jason & Sarah Mansfield, to permit the construction of a single car garage five feet from the side property line abutting 30 Ladyslipper Drive, where ten feet is required, and five feet from the rear property line abutting Sewall Farm Open Space/Lift Station, where thirty feet is required. The property is located at 32 Ladyslipper Drive, Tax Map R4, Lot 136, R2 Zone.***

Jason Mansfield showed slides. The Board had requested more information and photos. There had been a question of why the building wasn’t closer to the street. He gave that some thought and believes it is a good idea to re-locate the building. He showed a google map slide of the current property. He had another slide showing the 30’ setbacks. The revised proposal moved the garage away from the original proposal. It is closer to the road. This request is more reasonable, with less impact. He showed photos of the existing conditions. He could add to the garage, but they would still encroach upon the setback. A large amount of money would be spent enlarging the driveway and bringing up the grades. He showed more photos of the property. Rick Malasky drove by the site and he asked Mr. Malasky specific questions. He stopped over this morning and his recommendation was he was concerned about the fire hydrant location. Mr. Mansfield stated he is not opposed to incurring some costs. Mr. Malasky had some issues with the hydrant. He was surprised this hydrant was installed with so much pipe sticking out of the ground. He felt it should be upgraded and relocated closer to the road.

***Bob Daigle opened the public hearing.***

No comments.

***Bob Daigle closed the public hearing.***

Diane Hardy stated Rick Malasky has jurisdiction in two ways for the driveway. He is the Public Works Director and he approves all driveway access permits for the Town. He is also Fire Chief and can request that the hydrant be moved. He was very clear to her it had to be moved. She feels this can be worked out. You also have to look at other things too, such as site distance. The Board could get a letter from him clarifying this.

James Drago asked if the driveway permit would have to be considered by the Board. Bob Daigle stated he would need the permit, but it really has nothing to do with the Board’s vote. It is not relevant to the Board’s vote in his opinion.

Diane Hardy stated this could be done as a conditional approval. The Board can act on this with a conditions on meeting the requirements for the driveway access permit as set forth by Mr. Malasky.

**Action**

**Motion: James Drago made a motion to approve the application, with the following condition:**

**The Public Works Director issues a driveway permit for the proposal shown on the plan by Mr. Mansfield.**

**Second: Al Zink**

**Vote: Al Zink, Wayne Rosa, James Drago, Steve Minutelli, Bob Daigle. Motion passes.**

**4. New/Old Business**

The Board went over the October 5 meeting to piece the minutes together due to audio problems.

**5. Adjourn**

**Action**

**Motion: Steve Minutelli made a motion to adjourn 7:50 p.m.**

**Second: James Drago**

**Vote: All in favor**