

APPROVED

**ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
Wednesday, December 15, 2021 – 6:00PM
Lincoln Town Hall, 148 Main Street, Lincoln NH**

Due to the current evolving status of COVID-19, this meeting will be a *hybrid* meeting to be presented both in person with social distancing encouraged (space limited to 8-12) and via ZOOM Video Conferencing to allow for town wide participation. A quorum of the members of the board will have to be physically present at the meeting. All others are encouraged to attend via ZOOM.

Join Meeting via Zoom:

<https://us02web.zoom.us/j/88227509753?pwd=djUyT3JVbkVKcnl5VUNvTWp3amc2dz09>

Meeting ID: 882 2750 9753

Passcode: 566097

Or dial by your location 1-929-205-6099 US (New York)

I. CALL TO ORDER: Chair Paul Beaudin

Members Present: Chair Paul Beaudin, Vice Chair Ray D'Amante (via Zoom), Member Jack Daly, Member Delia Sullivan, Member Myles Moran, and Alternate Jon Ham.

Recused: Alternate Susan Chenard

Members Excused: None.

Staff Present: Fire Chief & Code Enforcement Officer/Health Officer/Zoom Host and Moderator Ronald Beard, Planner Carole Bont, Planning Board Recorder Judy Sherriff (via Zoom).

Guests Present:

- **Joseph (Joe) P. Chenard**, resident of 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and owner of:
 - 257 US Route 3 (Map 107, Lot 042)
 - 261 US Route 3 (Map 107, Lot 043)
 - US Route 3 #LO (Map 107, Lot 056)
 - US Route 3 #LO (WS) (Map 107, Lot 055)
 - US Route 3 #LO (Map 107, Lot 051) (Owns with Peter C. Chenard – now deceased)
 - US Route 3 (WS) #LO (Map 107, Lot 044) (Owns with Peter C. Chenard – now deceased)
 - US Route 3 #LO (Map 107, Lot 045) (Owns with Peter C. Chenard – now deceased)
 - US Route 3 #LO (Map 107, Lot 048) (Owns with Peter C. Chenard – now deceased)
 - US Route 3 #LO (Map 107, Lot 046) (Owns with Peter C. Chenard – now deceased)
 - 11 Liberty Road (Map 107, Lot 061) (Owns with Peter C. Chenard – now deceased)
 - US Route 3 #LO (Map 107, Lot 053) (Owns with Peter C. Chenard – now deceased)
 - US Route 3 #LO (Map 107, Lot 047) (Owns with Peter C. Chenard – now deceased)
 - US Route 3 #LO (Map 107, Lot 050) (Owns with Peter C. Chenard – now deceased)

- US Route 3 #LO (Map 107, Lot 049) (Owns with Peter C. Chenard – now deceased)
- US Route 3 #LO (Map 107, Lot 052) (Owns with Peter C. Chenard – now deceased)

And Vice Chair of the Planning Board.

- **Susanne (Susan) A. Chenard**, (resident) 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069). Alternate member of the Zoning Board of Adjustment – *recused in this case*.
- **Jan M. Wolowski**, (APPELLANT), resident, 16 Plummer Hill Drive, PO Box 1012, Lincoln, NH 03251-1012.

II. CONSIDERATION of meeting minutes from:

- November 17, 2021 (Present: Acting Chair Jonathan Ham, Vice Chair Ray D'Amante (via ZOOM), Member Jack Daly, Member Delia Sullivan, Member Myles Moran, and Alternate Susan Chenard.)

Motion to approve minutes as distributed by Member Jack Daly

Second by Member Myles Moran

All but one in favor

One abstention by Chair Paul Beaudin.

III. CONTINUING AND OTHER BUSINESS (Staff and Zoning Board Member/Alternates).

IV. NEW BUSINESS

Request for a Special Exception to allow an Attached Accessory Apartment over 1,000 Square Feet in the Rural Residential (RR) District.

[SE 2021-03 M114 L070.2 Wolowski d/b/a 12 Plummer Hill Drive SPE, LLC – Special Exception for Attached Accessory Apartment Greater than 1,000 SF]

Appellant & Property Owner:

Jan M. Wolowski, d/b/a 12 Plummer Hill Drive SPE, LLC
16 Plummer Hill Drive
PO Box 1012
Lincoln, NH 03251-1012

Subject Property: 16 Plummer Hill Drive (Map 114, Lot 070.2)
Rural Residential (RR) District

Proposal:

Appellant Jan M. Wolowski, d/b/a 12 Plummer Hill Drive SPE, LLC, requests a Special Exception under the zoning ordinance [Land Use Plan Ordinance (LUPO)], Article IV (Definitions), Paragraph 2 (Accessory Apartment), limiting accessory apartments to a maximum of 1,000 square feet of floor space, however, the ZBA may grant a Special Exception if an accessory apartment is proposed over 1,000 SF under Article V (General Regulations), Section D (Accessory Apartments) Paragraph 4. Appellant will address adequate parking for his tenants (2 parking spaces for each residential unit) as required in Article V (General Regulations), Section A.

Susan Chenard recused herself as Alternate ZBA member.

Presentation/Discussion

Chair Beaudin asked Planner Bont if the appellant's application was complete. She confirmed that the application was complete.

Appellant Jan M. Wolowski stated that he has always wanted to have an apartment above the garage. The space would be accessible through the existing adjacent bedroom.

Speaking from the audience, Susan Chenard added that currently the space above the garage is living space which is more like a studio apartment as it contains a kitchen space.

Fees

Chair Ham reviewed the plans. Chair Beaudin wanted to be sure the plans as shown represent what appellant is asking to be approved for a Special Exception, as the plans will be placed in a file with the Town to determine the fee structure.

Planner Bont confirmed that Appellant has paid all water and sewer tap fees owed by adding the kitchen and laundry to the building. Appellant is caught up with the water and sewer tap fees owed. Planner Bont believes she has the necessary information about the location of the living space with kitchen and laundry setup for the Town's files. She has plans and photographs of the space showing the location of the kitchen and laundry fixtures.

Special Exception

Zoning Board Member Ham inquires why the Appellant is in front of the ZBA as this room has already been completed. Planner Bont explains that this project is from 2017 and they never completed affidavits and it was never inspected. As a follow-up she realized it requires a special exception as it is an apartment greater than one thousand (1,000) square feet. She mentioned that Mr. Wolowski is interested in using the entire second floor as well as the space above the garage to house some of his employees.

Fire Code

Member Myles Moran asked the Fire Chief Beard if he has any concerns with the layout of the second-floor apartment. Fire Chief Beard does not have any concerns with the egress as it is currently in compliance with the fire code.

Parking

There are currently six (6) parking spaces and the requirement is four (4) parking spaces.

Motion to open to public Chair Beaudin

Second Jack Daly

All in favor

Speaking from the audience, Joe Chenard expressed his opinion that this project of creating an accessory apartment on the second floor was doing the Town a service as it is providing employee housing.

Motion to close to public Jack Daly
Second Delia Sullivan
All in favor

Criteria for Special Exception:

1. **Criterion #1:** Site is suitable and appropriate for proposed use, structure or development and the specific site is in the appropriate location for the proposed use, structure or development; this includes adequate usable space, adequate access absence of environmental constraints within a proposed development or project area.

Appellant responded that the building's former use as a "residential use" (i.e., detached single-family home) will remain as a "residential use" (i.e., detached single-family home with an accessory attached apartment of greater than 1,000 square feet). The building will house the same number of people as two (2) separate dwelling units as building did when the building was one (1) dwelling unit with two (2) upstairs bedrooms when his two children were still living at home. "We just added living space over the garage."

Motion that Criterion #1 has been met by Jack Daly.
Second Delia Sullivan
All in favor

2. **Criterion #2:** The proposed use, structure or development is appropriate to the site. Consideration shall include parking scheme, traffic circulation, open space fence screening, landscaping and lighting impact.

Note: Two parking spaces for each dwelling unit are required under LUPO, Article V (General Regulations" Section A (Parking and Off-Street Loading), paragraph 1 a.

Appellant responded that he has plenty of parking spaces – at least six (6). The number of residents living in the residence with the attached accessory apartment will not be more than the number of residents living in the building when his two (2) children were still living at home. The traffic flow and lighting will remain the same as well.

Motion that Criterion #2 has been met by Chair Beaudin.
Second Jack Daly
All in favor

3. **Criterion #3:** The proposed use, structure or development will not have a negative impact on the immediate neighbor, neighborhood proposed use structure. The development is compatible with the surrounding residential district. The proposed use, structure or development will not disturb the tranquility of the district. The proposed use, structure or development will not be in compatible or

undesirable in relation to existing uses in the area. The proposed use, structure or development will not be detrimental injurious obnoxious or offensive to abutting properties in particular to the neighborhood in general. Typical negative impacts which extend beyond the proposed site include: noise, vibration, dust, glare or heat, smoke, fumes, gas or odors and decrease in valuation, lighting and noise level. The proposed use, structure or development will be such that such design is to not disturb the tranquility of the district.

The appellant's answer is that the use of the building as a residence will remain the same.

Abutter Notification: Chair Beaudin verified with Planner Bont that all abutters had been notified and that no written or other comments about the proposed project from abutters or the public were received by the Town.

Someone also mentioned that the owner (Jan Wolowski d/b/a 12 Plummer Hill Drive SPE, LLC) will be still be occupying the first floor of the home.

ZBA Member Delia Sullivan added that this attached accessory apartment is an enhancement to the Town as it adds an accessory housing unit to the Town's existing limited housing stock.

Motion that Criterion #3 has been met by Chair Beaudin.

Second Delia Sullivan

All in favor

4. **Criterion #4:** Traffic access to and from the proposed use, structure or development will not alter the character of the district. There will be no excessive trip generation as defined by the institute of transportation engineering trip generation manual. Additional successors set of guidelines. There will be no undue nuisance of serious hazard or vehicle traffic including locations designed access ways and off-street parking. The proposed use, structure or development will be well suited to the availability of public services and facilities. Following services and facilities are available and adequate to serve the needs of the proposed use, structure or development as designed and proposed fire protection, streets, parks and schools. The proposed use, structure or development is appropriate for the site. The proposed use will not be incompatible with or undesirable in relation to existing uses in the area.

Appellant answered that there will be no increase in the number of people who will be using the road than were using the road when his children were at home, prior to turning the upstairs into a separate dwelling unit.

Fire Chief Beard said he inspected the Plummer Hill Drive private roadway and the existing hammerhead currently has adequate space for a fire truck to turn-around. He explained that before Appellant Wolowski purchased the property, improved the roadway and replaced the failed culvert near the beginning of the road, Plummer Hill Drive did not adequately support any firefighting apparatus. Now Plummer Hill Drive does.

Motion that the criteria for Criterion #4 has been met because the Town of Lincoln's Fire Chief has inspected the roadway and the project meets the parking requirements by Jack Daly.

Second Delia Sullivan

All in favor

5. **Criterion #5:** The proposed use, structure or development will be well suited to the availability of public services and facilities and the following services and facilities are available and adequate to serve the needs of the proposed use, structure or development as designed and posed for fire protection for streets, parks and schools. There are no restrictions given in this application that will restrict anyone in this property from using any of the public services and facilities for the town.

Fire Chief Beard said he agreed that the residential use was well-suited to the availability of public services and facilities for fire protection and that no restrictions are needed.

Motion that the Criterion #5 has been met and there are no restrictions for item five (5) by Chair Beaudin.

Second Jack Daly

All in favor

Motion to open to the public by Chair Beaudin.

Second Jack Daly

All in favor

Public:

Joseph Chenard: As a member of the general public, Joe Chenard addressed the ZBA and mentioned that other property owners and their guests also have access to the private road (Plummer Hill Drive) which Mr. Wolowski owns.

Joseph Chenard also commented that someone mentioned earlier that the property was "owner-occupied". Chenard thinks that if the ZBA bases its decision, in part, on the fact that the property with the accessory attached apartment that is greater than maximum size of one thousand square feet (1,000 SF) is "owner-occupied", that could make it hard for the Appellant to sell the property in the future.

Chair Beaudin stated that the issue can be readdressed and a change can be made in the future.

Member Jack Daly added that the ZBA is discussing criteria that has to be met today and "owner-occupied" is not a condition of whether Appellant meets Criterion #5.

Vice Chair D'Amante asked that the ZBA provide clarification to be added to the decision about whether the application meets Criterion #5.

Member Delia Sullivan pointed out that the issue already has been addressed previously in assessing Criterion number four (4) above. Plummer Hill Drive roadway was improved by Mr. Wolowski and now allows for fire trucks to turn around.

Motion to close to the public by Jack Daly.

Second Delia Sullivan

All in favor

6. **Criterion #6:** The proposed use, structure or development is appropriate to the site.

Motion that the Criterion #6 has been met and that the ZBA members agree that it is appropriate to the site by Chair Beaudin.

Second Jack Daly

All in favor

Final Decision

All criteria have been met and the Application for Special Exception is granted.

V. OTHER BUSINESS

Planner Bont informed the ZBA that she has notified the newspapers of the public hearings for proposed changes to the Zoning Ordinance, made by the Planning Board, and has supplied the ZBA members with a copy of those proposed changes. As voters of the Town of Lincoln, she wanted to inform them of the proposed changes and to help spread the word about proposed changes to the Land Use Plan Ordinance (LUPO) to be voted on at Town Meeting on March 8, 2022.

One of the proposed changes addresses allowing mobile home parks (a/k/a "Manufactured Housing Parks") in more zoning districts than is currently allowed.

Currently, an individual mobile home or "Manufactured Housing" is allowed in three (3) of the seven (7) zoning districts, including:

- General Use (GU) District;
- General Residential (GR) District; and
- Rural Residential (RR) District.

As proposed, an individual mobile home (a/k/a "Manufactured Housing") would be allowed in two (2) additional Districts:

- Village Center (VC) District; and
- Village Residential (VR) District.

So individual mobile homes (a/k/a “Manufactured Housing”) would be allowed in five (5) of the seven (7) zoning districts. **Individual manufactured housing will be allowed in all districts except:**

- Small Business District (SBD); and
- Mountain Residential (MR) District

to allow for more work force housing.

ZBA Chair Beaudin (who is also a member of the Planning Board) added that the Planning Board has proposed changes to the Stormwater Management Ordinance to address how to define the “disturbed area” and change how the disturbed area is calculated which will hopefully reduce the need for the homeowner to have a Stormwater Plan in place.

Planner Bont added that a definition of “Campground” has also been proposed.

VI. PUBLIC PARTICIPATION AND OTHER BUSINESS: None

VII. ADJOURNMENT

Motion to adjourn by Jack Daly

Second by Myles Moran

All in favor

Respectfully submitted,

Judy Sherriff
Recording Secretary

Date Approved: March 29, 2022



Acting Chairman Jon Ham