



ZONING BOARD OF APPEALS - Minutes of Meeting(s)
DATE: February 5, 2019
PLACE: Lawrence J. Chaffee Hearing Room
TIME: 7:30 P.M.

CASE NO.: 2019-01
Applicant: Jessica Holbrook
Property Address: 90 Huggins Road

A Public Hearing was advertised on February 5, 2019 at 7:30 P.M. in the Lawrence J. Chaffee Hearing Room (Lower Level), 242 Union Street, Rockland, MA on the petition submitted by Jessica Holbrook, 90 Huggins Road, Rockland, MA 02370. The Applicant is requesting an Appeal of the ZEO decision regarding a Boarding house in an R-2 zone. If the ZEO decision is overturned by the ZBA, the Applicant is also requesting a Special Permit as per §415-9 "R-2 Resident Zoning District" and a variance as per §415-89.A "Zoning Variances" (use variance) to allow a boarding house in an R-2 zone. The owners of the property are Jessica Holbrook and Paul Donahue, 90 Huggins Road, Rockland, MA. The site is in an R-2 zone located at 90 Huggins Road and is further identified as Lot #140 on the Rockland Assessor's Map #56. A copy of this application is on file in the Town Clerk's office and is available for inspection during regular office hours.

ATTENDANCE: Board Members: Chairman Robert Manzella, Vice-Chairman Gregory Tansey, Stanley Cleaves, Rita Howes and Robert Rosa. Associate Members: Tim Haynes. ABSENT: Charles Heshion - Associate Member (due to conflict with application).

Also present was Land Use Counsel Robert W. Galvin and Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

MEMBERS VOTING: Robert Manzella, Gregory Tansey, Stanley Cleaves, Rita Howes and Robert Rosa.

DISCUSSION: The Chairman of the Zoning Board read the advertised notice in the Patriot Ledger.

The Chairman stated that the Board is dealing with the Appeal of the ZEO decision first.

The Applicant came before the Board to make her is presentation by reading the following that was put on Facebook and in neighbors' mailboxes. "Dear neighbor, My name is Jessica Holbrook, I am the owner of 90 Huggins Road here in Rockland, and I have been trying to reach out to you for the past few months, but I have decided that perhaps a letter would be more convenient. I am hoping you recently

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received a notice from the town regarding my appeal to the Zoning Board which includes having my property certified as a boarding house. I know, a boarding house sounds pretty terrible, but I would like to introduce myself and shine some light on my current situation. I am a twenty year old nursing student at UMass Boston, and I moved here recently from the Cape. I bought 90 Huggins in June of 2018, when I was only nineteen years old. A big step! But, in order to afford this property, I had to get the help of some other people who were looking for housing as well. To preface, a boarding house was never my intention. I wanted to rent rooms to some young working professionals to help me pay my mortgage as I am young and still in school. The town found out about these renters when one of them went to register to vote last fall, and I have been going through due process ever since. A boarding house is still not what I want; our neighborhood does not need to be labelled with a rooming facility and it only make things harder for me, but the town is requiring it for legal purposes and I do not have a choice. In regard to the house itself: I rent 4 rooms to tenants, one person per room, on a month to month lease. There is a thorough hiring process, with reference, employment and background checks, and I am highly selective in my tenants. This is not only because I want my house to be maintained, but I also live here every day, and I respect my new community and in no way do I want to be a hindrance to my neighbors. Due to the fact that my lease is month to month, I am capable of releasing tenant within 30 days notice if they do not seem fit for our neighborhood. It is entirely against my interests as a homeowner to host unbecoming tenants. In regards to my property as a whole, it is still a single-family house. I live on the first floor, my tenants on the second. I have tried my best to maintain the outside of the property as well as inside the house, and will continue to do so given the opportunity. If my abutters, our community, and the Zoning Board decide to grant me a Boarding House special permit, this will include the following changes: extra parking spaces will be installed on my lot, and my property will undergo safety and health inspections on a regular (I assume annual) basis. No other tangible or visible changes will be made. It will basically be the same property as it stands right now, with some extra parking. Given that a Boarding House permit would be regarded as a Special Permit in this district, upon sale of the house, the permit will be destroyed and the house will return to a single-family home and all tenants will be released. In other words, this would not be a permanent change. Instead, this would solely be an accommodation made for me as I get through my college education and start my

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new life in the city of Boston. If it hasn't been made clear, this Boarding House application is a strictly legal process, and would not result in any major changes from what is and has been happening at 90 Huggins since June 2018. There will be no expansion. There will be no deterioration of the property. There will be no upgrades to the house aside from regular upgrades one would find in a single family unit. The amount of people in my house is and will always be the same as what a regular family unit would be (with two adults and kids); it's just that we are not blood related. I have already been renting rooms to tenants for several months, since very shortly after purchasing the house. I am fortunate that my tenants have all gotten along, and treat each other, my house, me, and my neighbors with respect, but that is somewhat expected with my selective hiring process. It is my hope that none of my tenants nor myself have caused you any inconvenience, disturbance, or other hardship. It is my goal to be the best neighbor I can be (it would be completely against my best interest to do anything but that), and in doing so I will be diligent in my communication with my neighbors, and I welcome any complaints or concerns that they may have so that I can correct such matters in a reasonable time and manner. I cannot express how much I appreciate your patience through this process. Again, it is my goal to be as open and helpful as I can be. I am a newcomer and the last thing I want is to make my community upset. I hope that you can support me in the same way. In the event that you would like to clarify or get more details, or if you have any questions I may not have addressed, please feel free at any time to call or text me at 808-285-3146, or email me at jessicatholbrook@gmail.com. My door is always open as well! I look forward to speaking with you. Sincerely, Jess Holbrook."

The Applicant testified that she got help from other people who were looking for help, the house layout fits the description of a Boarding House; I rent four (4) rooms on a month to month lease. The Applicant testified that she lives on the first floor and the tenants live on the second floor and has been renting the rooms for several months. The Applicant testified that she has communicated with nine (9) abutters since last fall. The Applicant testified that one tenant moved out because of that person's living style. The Applicant testified that she had received a lot of feedback from Facebook.

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The Chairman asked the Applicant what was the layout of the dwelling. The Applicant testified that there are five (5) bedrooms and two baths – she lives on the first floor and the tenants live on the second floor. The Chairman asked the Applicant if there was a kitchen on the second floor. The Applicant replied, no. The Chairman asked the Applicant if she was aware of the R-2 requirements. The Applicant replied; she believes so. The Chairman stated that since you only have one (1) kitchen, and you have tenants living on the second floor, that is considered a Boarding House.

Mr. Cleaves had no questions at this time for the Applicant.

Mr. Tansey asked the Applicant if she has been operating a Boarding House. The Applicant replied, yes and has been doing so for 6 months. Mr. Tansey testified that a Boarding House is an unpermitted use. Mr. Tansey asked the Applicant about the driveway. The Applicant testified that her driveway is skinny and if this goes through, she wants to expand the driveway. Mr. Tansey asked the Applicant where do all the tenants park at this time. The Applicant testified that they park in the driveway; only two (2) tenants have vehicles besides herself.

Ms. Howes asked the Applicant if she plans on parking on the other side of the house. The Applicant testified that everyone fits in the driveway; we just do shuffling of vehicles. Ms. Howes asked the Applicant how many boarders she has at this time. The Applicant replied, four (4). Ms. Howes asked the Applicant if they had some kind of kitchen agreement. The Applicant testified that she has two refrigerators, they clean up after themselves. Ms. Howes testified that this dwelling is located in an R-2 zone which does not allow for Boarding Houses.

Mr. Rosa asked the Applicant what are your ideas regarding the significant hump on your property. The Applicant testified that she would have to level it out and increase the height. Mr. Rosa testified that parking for the Boarding House has to be on the same lot – you have two separate lots. The Applicant testified that she has Parcel A and Parcel B and understands she would need to go to the Planning Board. Mr. Rosa asked the Applicant if this was her intension to have roommates.

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The Applicant replied, yes. Mr. Rosa asked the Applicant why didn't she look for a two family dwelling. The Applicant testified that she could not afford a two family.

Mr. Haynes asked the Applicant if she only provided rooms and no meals. The Applicant testified that she provides space for storage and cookware; only provides a room; tenants are responsible for their own messes.

The Chairman stated that he is having a hard time with this dwelling being located in an R-2 zone as Boarding Houses are not allowed and not sure if we can even grant it.

Attorney Galvin stated that Boarding and Lodging houses are the same thing and it is clear that is what is going on at this location. Attorney Galvin stated that if it is a Boarding House, the Board of Selectmen needs to give them a license to have a Boarding House.

Attorney Galvin stated that the zoning issues are that a Boarding House is not allowed by right or in an R-2 district and the only other item is that the Applicant is seeking to apply for a variance.

The Chairman asked the Applicant if she has been before the Board of Selectmen to have a Boarding house license issued to her as he is worried about the liability of tenants living there.

Attorney Galvin opined that it is a criminal offense to operate a Boarding House without a license from the Board of Selectmen.

Attorney Galvin stated that the Board is here on the following (1) Appeal from Zoning Enforcement Officer that this is not a permitted use or (2) Applicant looking for a Use Variance.

APPEAL OF THE ZONING ENFORCEMENT OFFICER DECISION

Vote of the Zoning Board of Appeals:

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MOTION: Mr. Rosa made a motion to uphold the Zoning Enforcement Officer's decision that a Boarding House is not allowed in an R-2 zone. Mr. Cleaves seconded the motion. The vote of the Board was unanimous (5-0).

USE VARIANCE

The Chairman stated to the Applicant that you have to prove there is no other use allowed for a use variance to be granted.

Attorney Galvin stated that you need to show the Board a reason for the variance which states as follows:

- A. The Zoning Board of Appeals may authorize a variance for a particular use of a parcel of land or to an existing building thereon from the terms of this bylaw where, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such parcel or such building but not affecting generally the district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw. The Board may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures, but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner. If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to this section.
- B. Before any variance is granted, the Board must find all of the following conditions to be present:

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- (1) Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district.
- (2) Strict application of the provisions of this bylaw would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighborhood lands, structures or buildings in the same district.
- (3) The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this bylaw.
- (4) Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this bylaw.
- (5) Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

The Applicant testified that she does not have a lot of options.

Attorney Galvin stated to the Applicant, if the Board of Appeals denies the variance, you cannot come back for two years.

Mr. Rosa asked the Board if the Applicant could obtain a use variance for a boarding house.

Attorney Galvin stated that it would be by right of law or a Special Permit.

An abutter, Betty Olson asked the Board that if a variance is given, it stays with the land.

Attorney Galvin stated correct, it stays with the property if she sells the land.

Attorney Galvin asked the Applicant if she would like to step out of the hearing room to think about her options and discuss this with her father. At this time the Applicant stepped out of the room and the Board took a 5 minute break.

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The Applicant returned back to the hearing room and asked the Board if she could withdraw her application and apply for an accessory apartment.

The Chairman stated, yes.
The Chairman stated that the Applicant could not meet the criteria for a use variance.

The Applicant then testified that she would like to withdraw her application for a Special Permit and/or Use Variance for a Boarding House without prejudice.

Vote of the Zoning Board of Appeals:

MOTION: Ms. Howes made a motion to accept the Applicant's verbal withdrawal of her application without prejudice. Mr. Tansey seconded the motion. The vote of the Board was unanimous (5-0).

An abutter, Selina Kinman asked the Board what happens to the people living there now.

A resident residing at 431 West Water Street asked the Board questions regarding a Boarding House and is trying to understand how many people could live there – 4 and above.

The Chairman stated that the Applicant will be looking to go for a single family dwelling with an accessory apartment.

Attorney Galvin stated that two people can live in a home and not be related.