



TOWN OF BOW

Zoning Board of Adjustment

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DRAFT MINUTES

April 20, 2021

The Town of Bow Zoning Board of Adjustment met on Tuesday, April 20, 2021 at 7:30 PM via Zoom. Chair Harry Hadaway called the meeting to order with a roll call introduction of the Board.

Members present were Harry Hadaway, Chair, Robert Ives, Vice Chair, Tony Reynolds, Stephen Buckley, and Alternate Michael O’Neil. Matt Taylor, Community Development Director, and Alvina Snegach, recording secretary. Donald Burns was excused.

Mr. Hadaway read the virtual meeting checklist into the record and directed the attention of the Board to Agenda item I.1 Mr. Hadaway noted that Mr. Burns was excused and appointed alternate O’Neil to vote in his place.

PUBLIC HEARING

Application #102-21V for a Variance to allow use of a residential property as a boarding/rooming house (short term rental) in the I-1 zone. Applicant: Maryjane and Martin Coronis. Property located at 509 Hall Street, Block 1, Lot 73 in the I-1 District. Zoning Ordinance Articles: 5.11.A7 Table of Principal Uses; 13.02.B – Authorization of Variances.

Mr. Hadaway read the item into the record. Maryjane and Martin Coronis from Hudson introduced themselves as the owners of the property. Ms. Coronis went over the details of the variance request for the property on Hall Street that they purchased as a vacation home due to their need to stay close to their business venues in Hooksett and Concord. She said that they rent it out via AirBnb only when they cannot use it themselves. She then went over the variance criteria and the Bow Building Inspector comments about a gas leak, smoke detector, and egress issues that needed to be addressed, which she said were partially addressed as of today, however, she had plans to fully comply in the nearest future. Ms. Coronis then answered questions about the gas leak that was noted in the Fire Chief’s comments; the property currently being for sale; Halloween party on the property that got out of hand; renting to only couples who are 25 years of age or older; who manages the property and how close they are; potential new owners of the house and their intentions regarding renting; the timeline of the gas leak and other issues being discovered and continuation of Airbnb operations; whether she had intentions of asking the town about zoning when signing up on the Airbnb platform; size of the house and lot; parking arrangements; public utilities; etc.

Mr. Hadaway opened the public hearing at 7:47 PM and the following individuals addressed the Board:

- Joe Rider from 507 Hall Street, said that he was the next-door neighbor and spoke about the Halloween incident and having to install cameras at this property, as his family was not comfortable with not knowing who is staying next door on any given day. He did note that there were no other incidents since Halloween but reiterated that they are in a very close proximity to the property and are quite uneasy about the occupants as they do not know who

43 these people are. Mr. Rider said that people often pull into their driveway thinking it is the
44 Airbnb. Mr. Rider said that the agreement all the neighbors have for using the grassy area
45 owned by Amoskeag for parking is only verbal and nobody would want to ruin that.

46 - Jordan Legacy from 505 Hall Street agreed with the previous speaker that they were also
47 uneasy about not knowing their neighbors as they constantly change. She said that on that
48 Halloween night the people were running from the police through her backyard.

49 - Maryjane Coronis apologized for the Halloween incident and said that this was not and
50 Airbnb renter at the time. She also said that she understands that this is not what anyone
51 would want for their neighborhood, and neither did she.

52 Mr. Ives asked Ms. Coronis if she had other Airbnb properties and she confirmed that she had one in
53 Grafton. Mr. Ives asked her about the acreage of that lot and she said it was about .3 acres but was not
54 in the middle of the town.

55 - Marilyn Dennison, said that they have lived there for almost 60 years and that they are also
56 very nervous about not knowing who is going to be their neighbor. She said that they were
57 told that the owner’s daughter will be living there, which turned not to be the case. She also
58 noted that there were only seven houses on that road and that it was a tight neighborhood. Ms.
59 Dennison added that there were a lot of people on the property that Halloween night and that
60 she did not agree that this should be an Airbnb rental. She also said that there is a very big
61 intersection nearby and traffic is bad and the streetlight is gone, and that she in general is not
62 in support of this variance.

63 Having nobody else there to address the Board, Chair Hadaway closed the public hearing at 8:00 PM.
64 Board discussion ensued about the parcel being zoned ‘industrial’ and the residential use being
65 grandfathered, which will be intensified by the addition of short-term rentals. Members discussed the
66 abutter concerns with the constant change of renters; the lot being very small and lack of any buffers
67 from the neighbors, as opposed to the previously granted similar permission to a very large house on
68 24 acres; the house being on Concord water and possible issues if the use changes; and possible
69 conditions, should the Board vote to grant the relief.

70 Then the Board reviewed the criteria in the Zoning Ordinance Article 13.02.B.2 for the authorization of a
71 variance and by a roll call vote:

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73 a. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
74 Unnecessary hardship means that, owing to special conditions of the property that distinguish it
75 from other properties in the area:

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77 not met: _____ 0:4
78 RI, TR, SB, MO (not met)

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81 b. Authorization of a variance will not be contrary to the public interest

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83 not met: _____ 0:4
84 RI, TR, SB, MO (not met)

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87 c. The spirit of this Ordinance shall be observed, and substantial justice done in the authorization of
88 a variance:

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90 not met: _____ 0:4
91 RI, TR, SB, MO (not met)

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- d. No diminution of in the value of surrounding properties would be suffered as a result of the authorization of the ordinance.

not met: _____ 1:3
SB (met)
RI, TR, MO (not met)

Mr. Buckley made a motion to deny the variance to maintain a boarding house/short term rental use at the property located at 509 Hall Street as requested in the application #102-21V for the following reasons:

- *legitimate concerns of the neighbors for the constant change in those who are renting the property;*
- *apparent occasion where the property had a boisterous and somewhat out of control event;*

Mr. Reynolds duly seconded.

Mr. Ives suggested a friendly amendment to note one more reason for denial which is the size and location of the property and its proximity to the neighbors.

Mr. Buckley agreed and added the following to the reasons for denial:

- *this type of use is inappropriate given the size of the property and the close proximity of the adjacent abutters.*

Mr. Reynolds duly seconded the amended motion and a roll call vote was taken: Mr. Ives – yes; Mr. Reynolds – yes; Mr. Buckley – yes; Mr. O’Neil – yes. Motion carried with a 4:0 vote in favor.

- 1. Application #103-21S for a Special Exception to allow storage of equipment/supplies at the property for off-premise business under Art. 5.11.A3 (Accessory Uses). Applicant Andrew H. Sullivan, Esq. Property owned by Eric and Catherine Cooke. Located at 54 Woodhill Road, Block 3, Lot 6-B in the RU District. Zoning Ordinance Articles: 5.11A3 Table of Accessory Uses; 13.02.C – Granting of Special Exceptions.**
- 2. Application #104-21S for a Special Exception to allow a Cottage Industry at the property under Art. 5.11.A2 Table of Accessory Uses and Art. 7.07 Cottage Industry. Applicant Andrew H. Sullivan, Esq. Property owned by Eric and Catherine Cooke. Located at 54 Woodhill Road, Block 3, Lot 6-B in the RU District. Zoning Ordinance Articles: 5.11.A2 Table of Accessory Uses; 7.07 – Cottage Industry; 13.02.C – Granting of Special Exceptions.**
- 3. Application #105-21V for a Variance to allow a waiver of the 3-employee cap requirement under Art. 7.07D for a Cottage Industry. Applicant Andrew H. Sullivan, Esq. Property owned by Eric and Catherine Cooke. Located at 54 Woodhill Road, Block 3, Lot 6-B in the RU District. Zoning Ordinance Articles: 7.07D – Cottage Industry; 13.02.B – Authorization of Variances.**

Mr. Hadaway read the item into the record. Mr. Ives recused himself from the discussion. Attorney Andrew Sullivan introduced himself as the representative of Eric and Catherine Cooke, who are the owners of the property and the business at 54 Woodhill Road. He explained the reason for submitting three applications at once and presented the facts that are similar for all three applications. Mr. Sullivan said that he would like to begin with the application 103-21S for a special exception to store equipment associated with an off-site business and described the facts as follows:

- Owners reside on the property and use a detached garage to store two box trucks (which are under the gross weight of 16,000 lbs each) which are used by the business employees and are only parked at the property. The third truck is parked behind the garage and is not visible from the street. Mr. Cooke also stores small pipes and fittings in the garage that his employees use for work. They come in the morning, load their trucks and leave, then come back in the afternoon and park the trucks and go home. There is no work taking place on the property, aside from Mr. Cooke doing some paperwork himself. Deliveries of parts used to be done in bigger trucks, and Mr. Cooke made sure that this was changed to only pickup trucks and it is

141 only done a couple times a week. He also took down his business sign. There are four people
142 Mr. Cook employs, although none of them actually do any work at the property.

143 Mr. Sullivan then went over each Special Exception criterion.

144 Discussion ensued about the zoning language of an off-premise occupation versus the business that is
145 actually run at the property and how it is not quite comparable. Members discussed a previous case for a
146 special exception for the same type of use granted and how it was more suitable for the definition of the
147 occupation as the owner was only storing his truck that he used to drive and deliver parts to his job sites,
148 which were trucks on the road. After this discussion members took a poll on whether moving on to the
149 next set of applications would be preferred: Mr. Reynolds – yes; Mr. Buckley – yes; Mr. O’Neil – yes;
150 Mr. Hadaway – yes.

151 Attorney Sullivan requested that Application #103-21S be officially withdrawn.

152 He then went over the applications 105-21V and 104-21S and said that he felt that the variance should be
153 reviewed first, and it would determine if the special exception criteria are all met.

154 He reiterated the facts presented earlier, went over the variance criteria, and concluded that the variance is
155 requested for the requirement of having only three employees for a cottage industry, whereas his client
156 employs four people.

157 Mr. Buckley spoke about the special exception criteria established by the zoning and that he did not
158 believe that the Zoning Board would have the authority to waive any such criteria. In his opinion if one or
159 more of those established by the town criteria have not been met, the applicant should be asking for the
160 variance on the actual use of the property, as opposed to the variance on the actual criteria.

161 Mr. Sullivan responded that he believed that the special exception criteria are the zoning ordinance, and
162 the Zoning Board has the power to waive any part of it.

163 Mr. Buckley disagreed and said that he believes that the Town Meeting has authorized the ZBA to grant
164 variances and to grant special exceptions with a set of criteria, and that he is not comfortable with the
165 Board waiving any set criteria for the special exception.

166 Mr. Hadaway opened the public hearing at 8:50 PM.

167 - Barbara Lawler from 48 Woodhill Road spoke about her initial concerns when the Cooke
168 family moved in and started building the garage; however, they were nothing but very
169 respectful and conscientious as new neighbors, and she has not seen any issues with them
170 running the business. The employees are very quiet when they pick up and drop off the trucks
171 and they only take a few minutes each day and there is no junk laying around. She added that
172 she cannot speak for the zoning requirements, but she would like to note that the relationship
173 with their new neighbors has been wonderful and they always react quickly and with respect.

174 Having nobody else there to address the Board, Chair Hadaway closed the public hearing and opened the
175 floor to the Board discussion.

176 Mr. Buckley spoke about his previous comments that the Board would have to decide to act on waiving a
177 special exception criterion for cottage industry that there will be more than three employees there with the
178 understanding that none of them actually perform any work at the property. He also noted that there was
179 one complaint submitted by an abutter about the tractor trailer deliveries, which he believes Attorney
180 Sullivan addressed by saying that Mr. Cooke had stopped that.

181 Mr. Hadaway spoke about the site visit to the property and that he was impressed that it was not possible
182 to see from the street that there was any business on the property. He added that he does not see how three
183 or four employees picking up and dropping off their work trucks would be an issue.

184 Mr. Buckley made a motion to grant the variance to allow cottage industry by modifying by variance that
185 the applicant be allowed 4(four) persons, who are not occupants, to be employed by the business with an
186 implication that they work off-site.

187 Mr. Reynolds duly seconded.

188 Then the members went over the variance criteria one by one and by roll call voted that each criterion was
189 “Met” with a 4:0 vote for each (voting yes for each by Mr. Reynolds, Mr. Buckley, Mr. O’Neil and Mr.
190 Hadaway)

191 *Mr. Buckley made a motion to grant the variance as requested in the Application 105-21V to permit a*
192 *cottage industry under Section 7.07 of the Zoning Ordinance and in particular, notwithstanding*
193 *paragraph D, permit the applicant to have 4 (four) employees, employed mostly off-site from the*
194 *premises in the business of the company that is located there named E. Cooke Plumbing and Heating,*
195 *LLC. Mr. Reynolds duly seconded and motion passed with a 4:0 roll call vote in favor: Mr. Reynolds*
196 *– yes; Mr. Buckley – yes; Mr. O’Neil – yes, Mr. Hadaway – yes.*

197 Attorney Sullivan then presented the details of the last application #104-21S for a special exception to
198 allow cottage industry. He reiterated the facts and went over the special exception criteria, which in
199 his opinion were all met, given the variance that has just been granted.

200 Mr. Hadaway opened the public hearing at 9:08 PM and closed it at the same time due to having
201 nobody there to address the Board.

202 Then the members went over the special exception criteria one by one and by roll call voted that each
203 criterion was “Met” with a 4:0 vote for each (voting yes for each by Mr. Reynolds, Mr. Buckley, Mr.
204 O’Neil and Mr. Hadaway).

205 *Mr. Buckley made a motion to grant the Special Exception to allow cottage industry under Section*
206 *7.07 of the Zoning Ordinance for the property located at 54 Woodhill Road as set forth the in the*
207 *Application #104-21S. Mr. Reynolds duly seconded and motion passed with a 4:0 roll call vote in*
208 *favor: Mr. Reynolds – yes; Mr. Buckley – yes; Mr. O’Neil – yes, Mr. Hadaway – yes.*

209 Mr. Taylor asked Chair Hadaway if the applicant could receive the check for the withdrawn
210 application back as it has not been cashed due to uncertainty of which application would be acted
211 upon.

212 *Mr. Buckley made a motion to return one check to the applicant for the withdrawn application. Mr.*
213 *Reynolds duly seconded and motion passed with a 4:0 roll call vote in favor: Mr. Reynolds – yes; Mr.*
214 *Buckley – yes; Mr. O’Neil – yes, Mr. Hadaway – yes.*

215 **NEW BUSINESS**

216 **June ZBA schedule review**

217 Members discussed a possible date for a new meeting due to staffing shortages on the scheduled date
218 of June 15. Members agreed to reschedule ZBA regular June meeting from June 15th to June 29th.

219 **Election of officers**

220 Due to the fact that the Board of Selectmen has not yet finished the reappointment process, it was
221 decided to defer the discussion until the meeting in May.

222

223 **REVIEW OF MINUTES: 01/19/2021**

224 January 19, 2021 draft minutes were reviewed, and no changes were made. *Mr. Buckley made a*
225 *motion to approve the minutes as presented. Mr. Ives duly seconded and motion passed 5:0 by a roll*
226 *call vote: Mr. Ives – yes; Mr. Reynolds – yes; Mr. Buckley – yes, Mr. O’Neil – yes; Mr. Hadaway –*
227 *yes.*

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229 Meeting adjourned at 9:20 PM.

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232 Respectfully submitted,

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235 Bob Ives, Vice Chair