

**CANDIA ZONING BOARD OF ADJUSTMENT**  
**MEETING MINUTES OF**  
**March 22, 2022**  
**APPROVED**

ZBA Members Present: Bob Petrin, Chairman; Judith Szot, V-Chair; Boyd Chivers; Mark Raumikaitis; Ron Howe; Anthony Steinmetz, Alt.

ZBA Members Absent: none

Audience Present: Dan Chism, Terri & Jim George (applicant), Josh & Christine Spero (applicant), Israel Piedra (Spero Attorney), Dan & Sarah Yarrington (Spero -potential new owners), Karrye Berglund & her mom Susan Krecklow (Spero -abutter), Judi Lindsey (Chism/George -abutter), Kevin Gagne (Building Inspector) and town residents.

\*Bob Petrin, Chair called the meeting to order at approx. 7:00pm immediately followed by the Pledge of Allegiance.

**Case #22-003:**

**Applicant:** James & Terri George and Daniel & Shannon Chism, P.O. Box 836, Candia, NH 03034; Owner(s): same; Property Location: 858 North Road, Candia, NH 03034; Map 403 Lot 8; For a Special Exception under Article V Section 5.02A(2): Table of Use Regulations: Type of Land Use -Residential and a Variance under Article XV Section 15.04(E): Specific Special Exception Uses: Accessory Dwelling Units.

**Intent:** *to allow the construction of an accessory dwelling unit with an increased square footage area above the maximum 750 sq ft requirement.*

B. Petrin starts by confirming that the applicants are present, D. Chism is via zoom and Jim & Terri George are here in person and asks them to tell the Board about the project.

T. George starts by saying they don't want to change the footprint of the plan but include a kitchen in the space already there. B. Petrin confirm this is the space with the vaulted ceiling and there is a rule about the requirement of having a ceiling over the bathroom and the applicants decided to continue that ceiling across the whole section (over bathroom & bedroom), making an open area above those rooms. The applicant's plans are to keep the space open to have the vaulted ceilings throughout but not have that loft/mezzanine area be living space. T. George states that they will never have any stairs that lead up to the space, only have some type of ladder to get up and clean there but that's it. T. George notes that they thought the Town followed the ANSI standards (she reads some info. to the Board on this), so that's what they followed for the plans and did not include that space in the square footage. When K. Gagne (BI) came out to their house to inspect, they were notified the vaulted area would have to be included and it was over their 750sf allowable space for the ADU. T. George says you won't be climbing up any stairs to get up there and J. George says there is no room for any stairs.

B. Petrin asks about the flooring in that space and T. George notes that it's not flooring, rather the ceiling over the rooms below, it's the tongue and groove that you put up for the ceiling.

B. Chivers says, so you have no intention of occupying it and the applicants confirm that and say no. He then asks how many square feet is below of this area and the applicants say approx. 644sf. B. Chivers asks so why would they (Building Dept?) insist you include the 2<sup>nd</sup> floor and the applicant says because the heat can go in there and it's open, it's considered heated living space. B. Chivers says but you have no access. T. George says they would get a ladder to get up there and keep it clean and stuff and the bathroom has to be vented as well.

J. Szot as if the space is open or if there are any walls or railings there and the applicant says no, J. George says there is nothing, they are keeping it open for ventilation. The contractor that sold them the kit (sips panels), says they need to keep the whole thing circulating through it.

B. Petrin says the nature of that tongue and groove, is that 4x8 sheets of plywood or planked and the applicant say planked, then B. Petrin asks for that thickness and J. George says 2 inch.

B. Petrin notes that they are under the 750sf, and J. Szot says with the downstairs. He then says he's not clear if they need to include the above space and B. Chivers agrees and notes they did state there will never be stairs for access. T. George says if you look at the plans there is no room to put stairs anywhere. J. Szot notes that a small circular set of stairs there and doesn't take as much space to get up there. She says the things

is the thought the applicant says there is no possibility now, someone in the future could come in and change it and now there is a loft bedroom up there and an extra 300sq of living space.

T. George states that she understands but this is their dream home, and their daughter and son-in-law will be taking care of them here and they have no intentions of leaving.

B. Petrin asks about windows and other ventilation besides the bathroom and the applicants says there is none other than that.

B. Chivers notes that if the approval is granted, they can always stipulate that future occupancy is prohibited on that floor.

B. Petrin asks if K. Gagne (BI) has any comments, and he says yes. K. Gagne states that he looked and the plans and space and to answer Judy's concern about the stairs, if they were to go through the trouble of trying to get some spiral staircase, there is an egress door in the living room that comes in that would block any access, there is a closet there that they would have to lose and also an egress door from the connecting mud room. For that space, for them to do something like that, they'd be blocking their living room and kitchen areas and those 2 egress doors. Looking at this space, it could be living space so we included it, but it could just be for aesthetics, and he recommends that the Board approve this, and if they want to put a condition on it that it can never be used as a living space.

R. Howe says that he would suggest that it can't ever be used as a storage space. It could be a real temptation to put a ladder up there and suddenly boxes upon boxes get piled up there and can become a fire hazard. He notes that he understands what they are trying to do but it's still a concern.

B. Petrin asks about the proposed electricity in the space and the applicants note that there are a couple light sockets and a fan to circulate to air around the home. B. Petrin asks if there will be any extra lighting situation and the applicant note that they would add holiday decorations but nothing more. R. Howe notes that they may want to add railings or something up there to break up that space.

B. Petrin asks if there are any further questions/comments from the Board and T. Steinmetz asks if the applicants currently live there now at 858 and the applicant confirms they are in campers right now while they build, T. Steinmetz asks if they lived in Weare NH at 37 Forest Rd., and the applicant confirms this and then he asks if they lived in Candia on 37 Forest Rd. and the applicant asks where that is and does not know of such an address here in town. T. Steinmetz says their tax bills are screwed up.

B. Petrin asks if there are any further questions/comments from the Board or audience and Judi Lindsey (abutter) is present and says she has no problem with this project.

The Board briefly discusses the design, and they determine that the open space should not be included in the square footage and thus the variance request is not needed for this case. The Board will only vote to approve the case based on the special exception request and note a possible stipulation that it can never be used as living space and B. Chivers also notes that per the Cl-6 Road policy they signed before building, it says they are only allowed to have one single family home only. He suggests a stipulation that the applicant be required to obtain approval by the BOS for the ADU as well.

**\*B. Petrin closes meeting to the public at 7:14pm**

B. Petrin requests that B. Chivers read through the criteria to meet the terms of Special Exception Uses, 15.04E, Accessory Dwelling Unit and the Board will vote on each as they are read out. **All agree.**

### **Section 15.04E – Accessory Dwelling Units**

*Any single family dwelling unit in the residential or mixed use districts may be converted or constructed to provide for one accessory dwelling unit subject to conformance with Section 15.02, Special Exception Standards and any additional requirements imposed by the Board of Adjustment under Section 15.03, Special Exception Conditions and subject to the following restrictions:*

- 1. There shall be no more than one accessory dwelling unit for any single family dwelling;*
- 2. There shall be no more than two bedrooms in the accessory dwelling unit;*
- 3. Adequate sewer and water service shall be provided. One septic system shall serve the entire property and the adequacy of the system shall be certified by a licensed septic installer;*

4. *There shall be a maximum of 750 square feet for the accessory dwelling unit;*
5. *On-site parking for one additional vehicle shall be provided;*
6. *All existing set back requirements shall be met;*
7. *The accessory unit shall be within or attached to the main dwelling unit;*
8. *Architectural enhancements will be employed for the purpose of maintaining aesthetic continuity with the principal dwelling unit resulting in both units appearing as a single family dwelling unit;*
9. *Either the primary or the accessory dwelling unit shall be occupied by the owner of the property;*
10. *The current State Building and Fire Codes for two family dwellings shall apply.*

#### **Section 15.02 – Special Exception Standards**

1. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
2. *No detriment to property value in the vicinity or change in the neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other material;*
3. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
4. *No excessive demand on municipal services, including but not limited to water, sewer, waste disposal, police and fire protection, and schools;*
5. *No significant increase of storm water runoff onto adjacent property or streets.*

#### **Section 15.03 – Special Exception Conditions**

1. *Front, side, or rear yard in excess of the minimum requirements of this Ordinance;*
2. *Screening of the premises from the street or adjacent property by walls, fences, other devices;*
3. *Modification of the exterior features of buildings or other structures;*
4. *Limitations on the size of buildings or other structures;*
5. *Limitations on the number of occupants and methods and times of operation;*
6. *Grading of the premises for proper drainage;*
7. *Regulation of design of access drives, sidewalks, and other traffic features;*
8. *Off-street parking and unloading spaces in excess of the minimum requirements of this Ordinance;*
9. *Regulation of the number, size, and lighting of signs more stringent than requirements of this Ordinance.*

**In this instance, the Board votes based on the Special Exception Standards and to make sure all the conditions are met instead of the 5 criteria.**

B. Petrin suggests a motion be put forth to **approve** the Special Exception. **All were in favor.**

B. Chivers **motioned** to grant the Special Exception for the relief under Section 5.02A(2) to construct an accessory dwelling unit at 858 North Road (map/lot: 403-8) with the conditions that the mezzanine space shall never be used for living or occupancy purposes and that the applicant shall obtain approval from the BOS to have an ADU on the property since the CI-6 Road Policy they signed states that only one single family home is allowed. M. Raumikaitis **seconded**. J. Szot **-No. All others were in favor. (4-1) Motion passed.**

#### **Case #22-004:**

**Applicant:** Joshua & Christine Spero, 205 Tower Hill Road, Candia, NH 03034; Owner(s): same; Property Location: same; Map 411 Lot 2; For a Special Exception under Article V Section 5.02(A-5): Table of Use Regulations: Type of Land Use -Residential.

**Intent:** *to allow Airbnb short-term rental accommodations at the property year-round.*

B. Petrin starts by confirming that the applicants are present, and they are in person and asks them to tell the Board about the project.

I. Piedra starts by introducing himself as the attorney and representative for the Spero's. The attorney states that the intent of this project is to use the property for short-term rentals, and it's permitted by special

exception in the ordinance. Specifically, they intend to use the property for VRBO/Airbnb type rentals for families, group of friends, etc. The attorney notes that the beautiful property promotes relaxation and quiet enjoyment. There will be no expansion of the footprint and the category of use will remain residential and not expanding the category of use, just a different type in that category. They feel that the proposed use is modest and compatible with the community and the historical use of the property. He goes on to talk about the history of the property, noting there are 3 main buildings on the property that are relevant here. These buildings are the main house at almost 3,000sf, a garage and a barn. The garage and the barn both have finished space on the 2<sup>nd</sup> floor and were finished by the previous owner of the property and were finished without pulling the proper building permits from the town. He states that he wants to emphasize this was a previous owner and his clients did not know about this when they bought the property and it was advertised as lawful, finished space. B. Petrin asks what year the applicants bought the property, and the attorney says 2016. B. Petrin confirms with the applicant in the audience that they bought the property in 2016 and did not make any changes to date. Attorney Piedra goes on to say that is relevant here because it is something his clients are extremely motivated to do whatever the Town wants to resolve the issues on the property. They have had contractors at the property to access the work done and have prepared building/permit applications. He states they have been instructed by the town to wait to submit those until after this hearing and the Board gives a decision so the intended use of the property can be defined. They understand if the special exception is approved, the spaces can't be used until they're permitted and they expect that to be a condition of approval. He says he wants to be clear that they are making this request under the short-term rental accommodation, which is allowed by special exception and not for an accessory dwelling unit. This is to be used for short-term rentals only. He says he can answer any questions and if none, he'd like to address the different elements of the special exception ordinance.

B. Petrin says to clarify the ordinance says 184 days max and J. Szot says that is continuous. T. Steinmetz says that's 6 months and J. Szot says yes, but that's 1 person staying 6 months, they could conceivably rent every unit every day 365 days a year. If they don't stay there longer than 185 days, someone comes for a weekend or a week....Attorney Piedra says that's his interpretation but not the intent. J. Szot asks then what is the intent, and the attorney says the intent is to have short-term rentals occasionally or more, certainly probably not 365 days a week. The owners don't anticipate that, but it would be allowed under that provision of the ordinance to have 184 consecutive days for a particular person.

T. Steinmetz asks how many guests would accommodate if it's all the way the applicant wants it? The attorney says he wants to keep in mind that the property and house are both very large and would say they would contemplate having no more than 12 guests in a party or group, and again the intent would be, frankly one of the things his clients have thought about is business people who wanted an extended period of time, 1 or 2 people, families or birthday parties, something like that and it's not anticipated to be a large group every time.

R. Howe asks if he means groups of 12 in each of these 3 function areas? Attorney Piedra says when he says 12, he is specifically thinking of the main house, which has 4 bedrooms.

R. Howe then asks if the owners will be living in the house and the attorney says not full time, at least not now. He goes on to say the folks who plan to buy the house, the Yarrington family, who are here and are part of this process. They intend to use this home as their retirement home eventually and live in Londonderry currently. They plan to use the property some of the time but not all the time.

B. Chivers asks the attorney who he is actually speaking for and Attorney Piedra states that the applicant is the current owners, the Spero's. B. Chivers says and you are asking for a special exception that will run forever with the property, but his client doesn't intend to live there. He states that the Board has a letter indicating that Mr. & Mrs. Yarrington are going to buy this and will buy it once they get all the approvals in place, so shouldn't we be asking Mr. & Mrs. Yarrington what the long-term plan for this property is? The attorney says they are here if the Board wants to ask them. He states that he represents both parties and this application was made in the Spero's name because they are the current property owner, and he was instructed that was the most proper way to proceed. B. Chivers states that he would like to hear what the long-term intentions of whoever of this property is going to be, not what Mr. & Mrs. Spero intend to do for the next 2 weeks or until they can sell it. Attorney Piedra says he would like to clarify that what he has told the Board thus far is the Yarrington's plan. They are his clients, and he has discussed it with them.

B. Chivers asks the Yarrington's if they intend to live in this property and Mrs. Yarrington says when they retire. Attorney Piedra says he thinks it's part of the time until they retire and then full time. B. Chivers asks how long that would be until they retire, and Mrs. Yarrington says that depends on how well the business goes. B. Chivers notes that they have no intention to be full time residents of the property and the attorney

confirms this as well. Attorney Piedra says he thinks it's a relevant question though he's not sure it implicates any of the special exception requirements so he understands why he would want to ask that. B. Chivers says the attorney did originally say that the use of the property wouldn't change, and it would still be a residential use of the property, but if the owner doesn't live there, they have it rented out on Airbnb or whatever platform they use, it's hard to call that a residential use of a property if they are not living there and there's a commercial intent. Attorney Piedra says he doesn't know that he agrees with that. He says the ordinance itself has a use matrix, which he's aware of, and this use is listed under residential use, a short-term rental accommodation. B. Chivers says that is so the property is going to be occupied by the owner, that is what residential use means. He goes on to say this should be considered under the commercial section 5.02 of the ordinance and B. Petrin says, with transient guests and no homeowner on site. T. Steinmetz also notes no manager either or and oversight whatsoever, just guests. B. Chivers states that it changes the character of the whole project when you don't have the owners living there, you're proposing a different scale. It's not just a lady renting out a bedroom upstairs to try and make a couple dollars to pay some taxes. You're talking about people who are trying to start basically a hotel campus in the residential district in this town. Attorney Piedra says he doesn't agree. A couple things, respectfully....one is that he doesn't think the ordinance makes any of the distinctions he just made as far as defining what a short-term rental is. It says short-term rental is rooming house, boarding house and says all those things Boyd just said could be considered more commercial, but they are not by the ordinance, they are listed as residential. As far as the owner being there, he doesn't think that has any basis in the ordinance. A 2 family apartment doesn't have an owner living there, that's a residential use obviously and that what we would relate this to more than a hotel or motel or whatever. We are not having different guests in each room, you're having one group of people inhabiting a unit the same way someone would if they had a 6 month lease and that would certainly be permissible.

M. Raumikaitis asks the attorney so the other building on the property, other than the main house, the garage. It doesn't show the proposed use but shows a bar area as opposed to being labeled as a kitchen. You've talked about 12 occupants in the main house, what's the intention for the proposed garage? Attorney Piedra says it would be subject to the ability to be use as part of the Airbnb rental. There are 2 bedrooms there and it doesn't have, what he would consider a complete kitchen, it has a sink and a fridge, doesn't have a stove or oven, has a bathroom and it would be...people could stay there overnight, like a guesthouse. B. Petrin asks how many people that would satisfy, as they are trying to get a full number of guests per structure. Attorney Piedra says he would think that 2 people per bedroom for that unit would be proper. B. Chivers asks to clarify how many bedrooms are there in the garage space and M. Raumikaitis notes there are 2 proposed so that would be 4 people for that space and 16 total so far. R. Howe says what about the barn and Attorney Piedra says that has no bedrooms.

B. Chivers states that the tax map shows there is a 522 sf cabin on this site someplace. Do you have any intension to use that? The owners say they do not know what that is and B. Chivers states they are paying taxes on it. K. Gagne states that is actually a shed on the property, that may be outside the setbacks but needs confirmation that still. He says it was noted on the new septic design, but we don't have anything on that right now. The owners say there is a small pool house on the property as well so it may be that space as well. J. Szot asks about the bonus room over the garage and the owners note that this is a utility room for the water heater, etc.

B. Chivers says the Board acknowledges that at least 16 guests could occupy the space at once and the attorney confirms this.

B. Petrin asks if there are min/max term or limits that they have, and the attorney says it set by the property owner and doesn't think there are any built in limits by the website.

B. Petrin asks about the septic systems for the property. The current existing system is a 4 bedroom design and for the main house only as this is the size of the home. R. Howe asks about the other buildings and what are the systems for those.

J. Szot asks about the potential specific upgrades and changes that are stated in the paperwork. Attorney Piedra says he thinks that language was included because of the understanding that it needs to be up to code before it can be used. He says there is no intention of changing the footprint.

R. Howe asks what's to stop if we approve this, taking the garage and adding that and having another living space. He says it seems out of control to him. Attorney Piedra says he thinks a Building Inspector would be skeptical about expanding the living space further. R. Howe says he might be but if the Board has approved 3 living spaces, why not 4?

J. Szot notes the space in the garage on the lower level and what is referred to as a weight room and asks if those rooms will be used for rentals and Attorney Piedra says no, and if that's a concern, that would be an appropriate condition to specify the footprint, as it exists can't be expanded to more residential space. K. Gagne says the proposed septic system for the space over the garage is for only approved for a 2 bedroom guest house. J. Szot says so that other room or extra bonus space cannot be used, and K. Gagne says that other room can not be a bedroom and no closets. The applicant notes that 1 of the closets is a utility closet so that's not used as a regular closet.

M. Raumikaitis asks about the new septic design for the garage area and confirms with the Building Inspector and applicant that this is the proposed design for the garage area only.

J. Szot asks if that garage space will be rented individually or as a whole and the attorney says, some of both probably.

Attorney Piedra asks to say a few more comments and says he senses some trepidation but respectfully he thinks some of it may be concerns about a policy that's on the books that allows this. The ordinance was amended, and it allows short-term rental accommodations by special exception. The only things that are to be considered in deciding whether that is to be granted are the things in the ordinance. There's clearly no hazard for fire explosion or toxic materials from this, they are not materially changing the type of use so that it impacts property values, no buildings are being constructed, it will remain consistent with the historical use of the property with people living on the property, it going to be maintained to a high standard because you're going to have guests and that's what you have to do to have guests rent your property on Airbnb, there's going to be rules, security deposits and guarantees, there's not going to be a substantial increase in traffic, there's no demand on municipal service at all, no students attending or schools, not going to be any increase in storm water runoff, no new buildings, no impervious surfaces. That's all the Board can consider, and he thinks they clearly meet those standards.

T. Steinmetz notes that they skipped over noise, but you get a bunch of people together and create noise, who's responsible for the noise if there's no manager or anybody at the facility to oversee it. Are the other guests supposed to call the police and then the police come or what if there's a fire, there's a couple things he skipped over? Attorney Piedra says understood. He goes on to say a couple things, 1 is all those concerns could happen if a large family is living there and they have a party or a large family is living there and they have kids, normal residential concerns that could happen at any property and there will be safeguards in place to mitigate against those. Rules about noise, security deposits or guarantees. He also states that the property owner is not going to be like an absentee landlord that lives in a different state like often happens with these Airbnb's. They're going to be in Londonderry, close by, and probably get there if there's an issue at the same rate that a commercial property manager would who lives offsite and probably more responsive because it's their property in their community and they have an interest in having good relationships with neighbors. He says the ordinance talks about, it's not just you might have a little bit more noise, it has to be some significant impact on some neighboring properties. We're talking about a 9.4 acre lot, very rural. He understands the concern but doesn't think there's any significant basis for saying that failed that ordinance requirement the way it's written.

R. Howe asks how far the nearest neighbor is from the and Attorney Piedra notes is approx. 600 feet from them on the same side. The abutter in question (Karrye Berglund) is present at the meeting tonight and confirms this.

M. Raumikaitis says he appreciates the attorney's argument about the residential use and the special exception works for that. Where he's coming from is that he sees 2 buildings on the property that are going to be used for this purpose and then a residential use in this town, it would either be a 2-family or an ADU. In this case, those 2 buildings don't meet either one of those requirements. He says he's looking at it and saying ok if we were looking at any other piece of property in town and it was a single home on that lot that met all the rules for a single family home, and we wanted a special exception for that and you'd made your presentation, it meets the residential definition as 1 home or 1 building. The problem he has is the 2 buildings because no other residential property in town would have 2 buildings because it would either be 2 separate buildings on a lot, which is not allowed or it would be a 2-family or ADU, so he has a problem with the 2<sup>nd</sup> building on the lot. Attorney Piedra says the first thing is that they don't believe it is a dwelling unit because it doesn't have a full kitchen. M. Raumikaitis asks if he can rebut as he goes and it's ok with Attorney Piedra, so M. Raumikaitis says he did indicate the existing use was not going to change and the existing drawings from the 2016 did show it as a kitchen and he did previously mention that people have been living there. Attorney Piedra notes no one has been living there (garage space) since his clients bought the property in 2016 and M.

Raumikaitis said but he did state that previously had been used as an occupancy, illegally or what, so we are in effect changing the use. It was purchased as a dwelling unit because it was a dwelling unit because it was advertised as a dwelling unit, maybe incorrectly in 2016, he won't argue that and notes that the applicant's may have explored that on their own many times, but we are in effect changing the use of it. He comes back to the 2nd building (garage space), we are changing it's use. We are changing it from an illegal use to a different use. If we were talking about 1 building, any piece of property in town, then our ordinance fits it perfectly.

B. Chivers says M. Raumikaitis brings up a good point, under the zoning ordinance there's only 1 residential dwelling per lot of record and in this case, you have multiple buildings on 1 lot of record that are being used for residential use.

Attorney Piedra asks if it's true that there are no properties in Candia that have a guest house that's not rented out separately? B. Petrin says not that he knows of, and the attorney says because that's how he sees this, it's common. M. Raumikaitis says it may be happening, but he can't really comment one way or the other because we don't know every property in town, but they are suggesting we are going to take an illegal residential and change its use. We are not here to discuss every other property in town, were looking at this property. Attorney Piedra says he's just suggesting that it's not impossible for such a legal property to exist. He thinks you can have a guesthouse without it being an ADU. M. Raumikaitis says it may be, but when was it constructed, we're a small town and over the years passed who knows what the rules were and we're taking a situation that is 2016 and there's a certain point and now were changing it in 2022, it is the 2<sup>nd</sup> building that bothers him. R. Howe notes that it's not just a 2<sup>nd</sup> building but really a 3<sup>rd</sup> building.

J. Szot states the current owners have known since 2018 or 2019 that the ADU space was illegally constructed and have received letters from the Building Inspector that those buildings were illegal, so now were 5 years later and now were going to pass them onto someone else and they're going to use them as a residence when they are not legally allowed and they are not permitted. We can talk about the house because it's permitted but the other spaces are not permitted.

Attorney Piedra says that's a good way to look at it and what would happen in this situation is that the ZBA would approve a use and the BI would decide whether that building got built. He doesn't think it's the ZBA purview to make the decision about whether the building should be built and B. Petrin says only the use.

B. Petrin says the attorney started his presentation off by saying that a condition could be that it's not used until it's lawful and the attorney says exactly and again, he hears the concerns and repeats that the zoning ordinance allows for short-term rental accommodations and doesn't say it has to be in 1 building. M. Raumikaitis says in residential, and again there are other ordinances that don't allow multiple buildings on 1 lot or if there was a situation where you had multiple units on a lot, if it was an ADU it would be connected, if it was a 2-family it would be connected. We are changing the existing the illegal use into some new use so we wouldn't be having this conversation if it was a single building, it's right there in the ordinance, but the 2<sup>nd</sup> building is what he is having a hard time with. Attorney Piedra says he appreciates that and wants to clarify that it was used as an ADU. The previous owners rented it out to another family, they had kids and he thinks they went to school, and they had their own mailing address. That's not what they are asking for, so he appreciates the Boards concern, they are not asking that an illegal thing suddenly become legal the same way it was before, they are asking for a different use. He says yes, it's related, but it's a short-term rental, it cannot be rented out long-term to a different family, cannot be rented out for more than X number of days, they can't send their kids to school here and those are all reasons why there's a distinction between what we're asking for and what it was used for before. He thinks that's permissible under the ordinance, under these factors, we meet those factors.

J. Szot says it can't be used for long-term use because it can't have a kitchen. She asks about the bar area in the garage space on the plan and it's noted that there is a stove on the plan, but Attorney Piedra says there is no stove. M. Raumikaitis notes that there was a stove in 2016 but the new drawings show no stove and it's been relabeled from kitchen to bar area. Attorney Piedra says the stove was removed actually at Kevin's (BI) recommendation when the home was listed.

K. Gagne asks the Board not to focus on the violations but what they are looking for and as the Building Inspector, he will work with the owners to make sure everything is compliant. There are things that he needs to address with the proposed plan over the garage, there are definitions for a dwelling unit and just a dwelling in the Residential Code (IRC). Dwelling unit is with a kitchen and a dwelling can be without a kitchen but there both places where someone is going to spend the night.

J. Szot says the question she has about this bar area starts with the huge counterspace, is all that counterspace staying? Attorney Piedra says yeah, well so, just to reiterate what Kevin (BI) is saying, if this is

approved in the way it's been presented to the Board, that will be a bar area and it will be Kevin decision at that point; is it too much like a kitchen? If so, you need to take stuff out. That's his domain after you (the Board) approve the use. He goes on to say right now we need to imagine this is a blank space, we haven't built it yet. When it gets "built", Kevin's the one that will make the decision to make sure that this is complied with and so you folks can rest easy. J. Szot says, except that it already is and he's imagining something that already is. She says the thing is with all this counter, suddenly you have this nice big toaster oven and nice big microwave, and it becomes a kitchen. Attorney Piedra says he thinks that's something the Building Inspector would need to determine, and he disagrees with her.

J. Szot says she has some questions about the barn and that she understands there is a full bathroom in the barn that says a tack area but it's actually a bathroom. Attorney Piedra says there was a toilet and sink in there but have been disconnected and won't be re-connected until proper approvals are received from the Building Inspector. J. Szot asks what that means, and the attorney says plumbing permits, tying it into the septic correctly which it currently isn't and why it was disconnected.

M. Raumikaitis says he believes there's an unknown septic system for the garage as well and that's why we have the new design and Attorney Piedra says correct.

J. Szot says we know there is no septic (for the barn space), in order for this bathroom to be used, will anything else be put in there, will there be a shower in there also? They talked about upgrades so are they going to upgrade it so that the guests can shower when they are in there or will they have to go to the main house to shower? Attorney Piedra says there are no bedrooms in there (barn space) so there's not a shower contemplated no. J. Szot asks if there will be any other changes made to the barn. She notes the arcade room, the TV/theatre room, expensive video equipment and wants to know if those things are intended to come out or stay and the attorney says it's intended to stay so the guests and family can use them. She asks who's using the rooms in the barn and the attorney says everyone will be able to use them. B. Petrin says but there would be no sleeping there and there would be no overnight accommodations, is that correct, and the attorney confirms this to be true. J. Szot asks if they would be used as meeting rooms and the attorney says they could be. He thinks they would be used in appropriate ways for rooms of that type to be used, for a theatre, for meetings and for playing video games. Sarah Yarrington (potential buyer) states that they would be putting arcade equipment back in there like they had before, it would be like video games and a movie theatre and be used for those uses. J. Szot asks if any of these rooms in the barn be used for meetings and S. Yarrington says in the case if they had a church group come to stay, then they could potential use that to meet if they wanted to all meet in there, they could do that. She notes that her church has a retreat every year and the women all go off and they all have their retreat somewhere where they can enjoy each other and do their stuff. Dan Yarrington (potential buyer) says there's a pool on the property, but no one sleeps there right, there's an arcade on the property, we use it for entertainment. So, the pool's entertainment, the arcade's entertainment, the theatre's entertainment, and that's what those venues are for. There's also stables but presently they are not planning to keep animals there, but we could. That unit, that's the barn, would be used, it would be rented, it would be part of that rental, maybe a separate piece you have to rent or something, but it would be used for events. Youth group wants to come and have a game night there and play in the arcade, that would be a contemplated use, make sense?

B. Petrin asks if there are any questions/comments from the abutters and Susan Krecklow (abutter -201 Tower Hill Rd.) says yes, and her concern is that this is turning into a commercial venue not a residential venue, where you have game rooms you have a pool, you have a fitness center, you have a big barn that can be used to put on events which is going to greatly impact our peaceful enjoyment of our property. Her daughter, Karrye Berglund, who actually owns the home (abutter -201 Tower Hill Rd.) says she would agree with her mother and also due to the fact that for 20 years prior to moving to this area, they ran an event and catering center on the seacoast in Dover and they understand what it takes to run something of that nature properly and be contained properly within the community. Their facility in Dover happened to be grandfathered, it's been a gathering place for over 200 years. To portray that this will be utilized for a particular kind of renter, it's really hard to control even if the intent, even if someone says they are a church group and we're going to have a prayer group for a weekend. Without someone there to properly manage it as a commercial enterprise, that is extremely hard to control. Their property abuts the Spero's, and she says they are a little less than 600 feet to the main house, so they do hear the traffic, they hear the dogs, they used to hear the donkey and the llama and the chicken, which all of that is stuff having moved to the country, they had full expectation. To says that they are opposed to what they deem a commercial enterprise not a residential, quiet Airbnb, especially now her perspective is extended a bit more, but she tries to play devil's advocate and doesn't want to burst anyone's commercial endeavors



or how they want to build their kingdom if you will. But hearing today about there's the possibility they could rent this house to one group and this house to another group, it accelerates her anxiety of the prospect of something like this occurring. She says Tower Hill in general is a very delicate atmosphere. It's the watershed for the greater Manchester area. We are in mud season and that could be very interesting as well if there's a more commercial kind of endeavor that's happening. So yes, they are very much opposed because she thinks honestly, because they do live there permanently and are primary residents, they would end up being default property managers whether they agreed to it or not.

R. Howe asks the Chair if this has been run by the Town Attorney and B. Petrin says he was going to suggest a continuance of this case so the Board would have the benefit of legal counsel on this. R. Howe says this is not something that has to happen tomorrow, and the Board needs a clearer picture of all the things brought up and then come back. The Board agrees this would be a good idea. B. Petrin says there are a couple of main issues that he wants to outline: Is it a commercial venture in a residential area? Are we allowed to have 2 buildings there that are going to house people, 2 separate structures? The rest of it is straight forward because if the Board approves it, nothing can happen until the Building Inspector makes it lawful. There are some checks and balances, but they need to also make sure the Board is not setting a precedent and that is where their legal counsel comes in.

Attorney Piedra says he wants to say frankly, and he hopes the town would agree, that his clients are very motivated to do what makes this work for the town while still, they have property rights as property owners, and he thinks this is an allowable use under the ordinance. He understands the concerns with abutters and its common with any similar type of application and they need to be balanced against the property owner's rights. B. Petrin says he wants folks to have reasonable use of their property. This Board is not here to make life hard or deny reasonable use, provided it's reasonable use. So, they have some questions on their mind and they would like to postpone this and continue the meeting until next month on 4/26/22.

Karrye Berglund (abutter -201 Tower Hill Rd.) says she receives a letter from the Yarrington's about a month ago about being prospective buyer and was very surprised when she saw this meeting was primarily under the current owners, knowing the property had been on the market for some time. The property being sold was certainly an expectation but then to see this being proposed by the current owners, and to have the letter from the Yarrington's with their intent. She also wants to put forth that she googled the Yarrington's, and they currently own a gaming company in Manchester. So, her commentary around commercialization, is founded in the fact that she can see with that property one could very easily move their operation to this property. They currently have space in Manchester for that so that is really where she started thinking this was not going to be an occasional Airbnb application or their primary residence. Their letter talks about their enjoyment, it says nothing about retirement or living there permanently at any day but really talking about the applications they will use it for their gatherings and none of them were your Airbnb just spending the night as a businessperson, it was about groups like church groups, family reunions and things of that nature. The Board has a copy of that letter for review as well.

J. Szot **motioned** to continue this case to the next scheduled meeting date of April 26, 2022. M. Raunikaitis **seconded**. **All were in favor. Motion passed.**

The Board talks about a potential site visit but the applicants are ultimately uncomfortable with people on their property due to this being their full time home and having their small children present. The Board agrees not to do a site visit, but the owner offers the Board extra pictures or drone video that has been taken if they want that for review.

### **Minutes -January 25, 2022:**

B. Chivers **motioned** to approve the minutes as presented. B. Petrin **seconded**. **All others were in favor. Motion passed.**

### **Other Business:**

- **Nominations for Chair & Vice Chair:**

- B. Chivers **motioned** to nominate Bob Petrin for Chair. J. Szot **seconded**. B. Petrin **abstained**. **All others were in favor. Motion passed.**
- B. Chivers **motioned** to nominate Judith Szot for V-Chair. B. Petrin **seconded**. J. Szot **abstained**. **All others were in favor. Motion passed.**

- J. Szot presented her Letter of Interest to the Board for vote to recommend her to the BOS for approval to serve on the ZBA for another 3-year term.
  - B. Petrin **motioned** to approve the recommendation to the BOS for re-appointment of Judith Szot. B. Chivers **seconded**. **All others were in favor. Motion passed.**
- T. Steinmetz is also up for his position as alternate and was advised that if he intends to continue, his Letter of Interest to the Board is due in May.

**MOTION:**

B. Chivers **motioned** to adjourn the ZBA meeting at approximately 8:23pm. J. Szot **seconded**. **All were in favor. Motion passed.**

Respectfully submitted,  
Lisa Galica  
Land Use Office Coordinator  
cc: file