

CITY OF RUTLAND, VERMONT
Development Review Board Minutes
Wednesday September 11, 2019

Development Review Board Members: Stephanie A. Lorentz, Al Paul, Jim Pell, Steve Wilk and Mike McClallen. Members present: Lorentz, Paul, Pell and Wilk.

Also present: Barbara Spaulding (acting Clerk for first hearing) and Zoning Administrator Tara Kelly.

At 6 PM Acting Chair Lorentz called to order the Public Hearing to consider an Appeal of Administrative Zoning permit for 2 Exeter Road as a residential care home.

Chair Lorentz called the hearing to order and explained the DRB hearing process. Anyone wishing to participate in the hearing was given a chance to swear in. In attendance for this hearing were the applicants, Katherine Wyman and her husband John, and Appellants George & Diane Ciavola of 5 Exeter Road.

Public notice had been provided by the City's Zoning Office in accordance with State requirements. There were 30 additional members of the public in attendance. A copy of the participant sign-in sheet is attached.

Chair Lorentz asked the applicants to review their plans which will be followed by questions from the DRB and then questions or comments from the public.

The following testimony was offered by the applicants: Katherine and John Wyman would like to establish an 8-person residential care home within their existing house at 2 Exeter Road. She has been a nurse at RRMC for the past 5 years and in leadership for 3 years working with the elderly. She works on the 5th floor at the hospital and with long-term patients. She is aware of a need for residential care homes in the community. State Statute allows for a residential care facility of 8 persons or less in any single family home, regardless of the zoning district within which it is located.

The residents will each have their own bedroom. Currently the house has 4 bedrooms upstairs. The plan is to add 4 bedrooms downstairs by renovating the existing attached garage and dining room. There are two living rooms that would remain and the kitchen is large enough to accommodate all 8 residents for meals per the State's regulations.

One caregiver has to be there 24-hours a day and a manager will be in the home at least 32 hours a week.

There is parking available for 4 vehicles in the driveway. The residents will not be permitted to have vehicles. Visiting hours will be from 8 am to 8 pm and parking will be permitted in the driveway.

The hope would be to purchase a handicap accessible van to transport residents for medical appointments. Currently the owners will use their personal vehicle to provide transportation to medical appointments.

Ms. Wyman will be the manager and nurse and expects to be at the house in excess of 32 hours per week to start. Medications will be administered under her supervision as the manager/owner.

The plan is to in- take elderly without a history of aggressive dementia. It will not be a drug or alcohol rehab or mental health facility. Patients will be accepted through an application process that will include physician and family input. No mental health exam will be necessary as they will rely on doctor's information, diagnosis and list of medications. There will be an open house followed by a waiting list.

Currently the house has two full bathrooms and 2 more would be added, including one that has a walk-in/roll-in shower for ADA accessibility.

Upstairs clients will have to be able to climb stairs. Per regulations, a fire escape will be added to the right side of the house to provide a second egress from the second floor. This, and the changes to windows and doors on the garage, will be the only exterior changes to the building.

Chair Lorentz asked how large are the bedrooms? Ms. Wyman said the State requires 100 sq. ft. per bedroom. The large master bedroom suite on the second floor could potentially house an independent husband and wife, however the total number of residents would still be limited to 8 or less.

Pell asked if there was room for guest vehicles if all patients received visitors at the same time. John suggested the cars could park on the edge of the road which was large enough to accommodate two-way traffic. Ms. Wyman offered to add two parking spaces to the driveway and said they were flexible with the amount of land on the property.

Paul asked if the patients would have access to outside. Ms. Wyman said there is a screened back porch and patients could go out for walks. There was no plan to build anything on the additional lots other than a garden and perhaps some walking paths.

George Ciavola, appellant, introduced himself and his wife Diane, 5 Exeter Road. He also introduced William Alsop who has lived at 1 Exeter Road for 50 years. He proceeded to discuss their concerns with the applicants' intentions.

Exeter Road is a small street and there are concerns with people parking on the road and blocking access for safety and rescue vehicles. There is a locked gate at the end of Exeter Road that leads to Country Grove Estates. The fire department has a key and only fire and emergency vehicles are permitted to use that portion of the road.

Mr. Ciavola is concerned with the impact of a residential care facility in the neighborhood. He said that allowing a residential care facility in a single-family residential zone is mandated by the State. He is concerned about the broad definition of a disability contains in that statute and fears what will happen if the Wymans create a facility and sell in the future. He is dismayed by the fact the City simply copied state statute and wished there was a way to add additional provisions. He cited the City's Master Plan noting it calls for the preservation of neighborhoods and states economic development should not hinder the preservation of neighborhoods; safe and efficient movement of vehicular and pedestrian traffic; preserve quality of traditional single family neighborhoods which are important to Rutland's character. Feels the Plan is being changed without input via this type of Zoning decision.

Chair Lorentz explained that Zoning Bylaws are the mechanism by which specific State regulations are governed and our bylaws must fit within those regulations. The Vermont Supreme Court limited residential care facility to 8 patients or less in SFR in an attempt to allow the neighborhoods to be maintained. She noted there are other residential care homes within the City that go unnoticed when run properly. Mr. Ciavola said there are 10 licensed facilities in the City and only 1 in a SFR district. Concern about residential care homes infiltrating single family districts. In 2018 there was a change in State regulations so it no longer requires a minimum of 1,000 ft. between facilities. The appellant understood that the licensing board determines what happens inside the building but the DRB can look at parking, lighting and traffic.

Mr. Ciavola is concerned the parking will be insufficient for up to 12 cars per day. Ms. Wyman said they are willing to make adjustments to add parking. She feels the fact the house is the 1st one on the street should limit overall traffic impacts to the rest of the street. Mr. Ciavola said the line of sight is limited for vehicles turning onto Field Ave from Exeter Road. He stated anything that interferes with visibility, would add to this problem.

Mr. Ciavola said parking could be a problem with the number of cars for workers, visitors, service providers etc; safety issues with regard to fire department being able to access the gate when cars are parked on the road; and preservation of the quiet neighborhood. Lights and signage also need to be addressed.

Ms. Wyman stated that the only sign would be on the existing lantern post used by Fucci Co. and no lights would be added to the property. The existing house lights are the only lighting planned.

Dan Brown, Unit 48 Country Grove, President Country Grove Condominium Association spoke next. He clarified that Act 250 required the emergency exit onto Exeter be sufficient for the fire department. He is speaking on behalf of residents of Country Grove. There is no minimum for multiple residential care facilities on the same street and they question why the house on Exeter was chosen for this use. He feels that due to the condition of the house and cost of bringing the home to code it is not suitable for the proposed facility. He feels the stairs are too steep without proper landings. We believe the additional lots were a big factor in their decision to purchase. He believes they may have plans for future development of those lots. City regulations, by copying the State laws, gave no consideration to quiet neighborhoods that have been established for decades. This is a for-profit operation and the owner will not live there. The zoning permit information is misleading, it says there will be no change to footprint but the business plan states that 4 bedrooms will be added. Field Avenue is so narrow a person needs to pull over is a wide pickup truck is coming the other way. Exeter Road is narrow and nearly a one-way road. If parking is allowed on the side of the road, a person backing out of the driveway would not be able to complete the maneuver safely. With the increase in traffic for staff, food service providers, ambulances etc. Mr. Brown feels this is a disaster waiting to happen. There is concern for clients being mobile outside. There are no restrictions on the type of people who will live at 2 Exeter. This is not acceptable to people who want a quiet neighborhood. Country Grove is a 3 minute walk away and we do not want the liability of them walking there. Concerned that potential clients are both on Medicare and private insurance and there aren't clear parameters on who would be accepted other than they will be elderly. The qualifications for the proposed manager are extensive and there are discrepancies in the business plan between the manager versus support staff which could be 18 year old caregivers that can be hired. The legislature has given no consideration to the damage that can be done to established neighborhoods and to the de-valuation of property values. He asked the DRB members to consider how they would feel if someone bought a house in their neighborhood and intended to put in this type of

use. This proposal would help a few people but will, in his opinion, cause devastation to 3 homes on Exeter and 41 homes in Country Grove. Need to consider if this location is best for this operation or if there is an alternate use that does not upset the neighborhood.

Ms. Wyman rebutted that their purchase of the property was subject to inspections and the home is perfectly livable as is. The necessary inspections were done by Fire and State. The house was expensive but the neighborhood was chosen for the quiet. Regarding future plans there is no plan to add to lots but this current proposal consideration does not require any speculation about the future. All employees will be drug tested and need references. Two more parking spaces can be added to the property on either side of the house. They are flexible about where those are positioned if the neighbors have an opinion about that. They will ensure there is turning radius added to the driveway so no one needs to turn around within the road.

Chair Lorentz confirmed there are currently 4 parking spaces and the applicant is willing to add 2 more spaces. Ms. Wyman does not believe there will be a need for more than these parking spaces. John added that the other lots could be used for a parking lot if that would make the neighborhood feel more comfortable. Ms. Wyman suggested adding spaces to the right of the garage or add to the right of the existing driveway. Mr. Wyman added that the existing tree line between the house and Field Avenue. There was a debate about how much space is available here and whether or not added parking would work. Mr. Ciavola said trees do not currently obstruct the visibility for traffic turning onto Field Ave.

Jim Reynolds, 78 Field Ave. – Jim asked about signage and lighting. Ms. Wyman said the existing lighted sign post (previously used by Fucci) will be used for a 2x2 ft. maximum sign to advertise “Summer Gardens.” The current lighting is typical for residential uses. Mr. Reynolds was wondering if a sign is necessary. Ms. Wyman said the sign would be for identification only, not on-site advertising.

Lighting was discussed and Ms. Wyman confirmed the lighting is no different than a residence.

Tom Layden, Unit 42 Country Grove – Asked if the owner would need to refinance the mortgage from a primary residence to a commercial use. Ms. Wyman responded that no change can be made until the zoning issue is resolved. The house was purchased in October and she lives there part-time. It has been used as an Airbnb but that did not require a change to mortgage.

Dr. John Sussman, Unit 66 Country Grove - Exeter Road is only 75-100 yards long and Field Avenue is one of the busiest connectors from Route 7 to the golf club and restaurant. Where Exeter Road comes out there is a steep hill and there are no shoulders on the road. In his opinion, walking there is taking your life into your hands. He stated drivers cannot see oncoming traffic on the hill. Therefore, he feels clients cannot safely walk on Field Avenue and Exeter Road is too narrow for that purpose.

Muriel Brown, Unit 48 Country Grove – She is familiar with the inside of the house and has concerns that the stairs are steep and too narrow for a wheelchair let alone a rescue stretcher to the upstairs bedrooms. She is concerned there are so many unknowns regarding the details of the facility and the future of the additional lots. Parking is her major concern. She is also concerned the applicants are taking on a project that is too complicated and expensive for them. Chair Lorentz said that the State has a rigorous process for licensing the house but those issues are not for this board.

Cookie Mac, 61 Field Avenue – She said she walks her dog up and down Field Avenue and the speed of traffic is lethal. She has witnessed the problems for 30 years on Field Avenue and the turn onto Exeter presents a difficult traffic situation.

Israel Mac, 61 Field Avenue – He suggests that any new parking needs to be setback from the City right-of-way. He asked if the applicants would be willing to restrict any future sale of the other lots so that the properties could not be used for any additional residential care homes in the future. Chair Lorentz clarified the DRB can't look into future and require it. But, the applicant could agree to a stipulation as part of the application or otherwise if they wanted to do so.

Jean Ray, 73 Field Avenue – Shares concerns for traffic speeds and lack of shoulder along Field Avenue. Suggested there needs to be some safety measures in place with regard to traffic such as adding a mirror. She also discussed the back side of the house being exceptionally dark. She feels lights may be needed for the residents. She would prefer any added lights outside be positions so they would not shine into her home.

Chair Lorentz discussed the procedure saying the Board has 45 days to make a decision. Every one signed in will get a copy of the decision and if you don't like it, you can appeal within 30 days to the Environmental Court.

Tara asked if with so many open questions would it make more sense to leave the hearing open to allow anyone present to submit additional evidence for the DRB's consideration.

Chair Lorentz suggested the applicant meet with the neighbors to see if they can be made more comfortable with the project. The hearing could be recessed to a date and time certain to give the applicant time to meet with the neighbors.

Robert Ide, Unit 27 Country Grove – Asked if a site visit is something that is normal to the process. Chair Lorentz said that is possible, but this is a small community and the Board is familiar with the lay of the land there so they did not schedule a site visit this time around.

Chair Lorentz recessed the hearing until 6 pm Wednesday October 2.

Respectfully submitted, Barbara Spaulding

At 7:20 PM Acting Chair Lorentz called to order the Public Hearing to consider a Variance request for 123 Spruce Street to allow a painting business to operate out of this location.

Chair Lorentz called the hearing to order and explained the DRB hearing process. Anyone wishing to participate in the hearing was given a chance to swear in. In attendance for this hearing was the applicant, Glenn Stearns and one member of public, Ray Vignoe of 121 Spruce Street.

Mr. Stearns presented proof that public notice has been provided in accordance with State requirements. He then described his proposed use of the property. The building was primarily used for warehousing and storage in the past. It has sat unattended to for a number of years. He has been working on the roof, the yard, upgrading doors and beginning to renovate the interior. Currently, he uses the building to store work materials for his painting business and as a staging area for his crew. He'd like to put an office in and also use the space for small painting jobs of things such as trim, cabinets

etc. The State Division of Fire Safety has reviewed the extent of this use and he does not need a special room due to the low VOC nature of the paints he uses. He is taking steps to properly store any of the products that require such storage to prevent hazards. He does not buy in bulk but store around 30 gallons of paint, thinners and primers.

He is planning a series of improvements to the exterior of the building such as painting and siding. He is also creating the ability to access the rear of the yard to improve it in terms of how well it is kept (brush removal etc).

He understands that using the building for an office and shop, including storage of equipment, materials and company vehicles, is a commercial / industrial use sandwiched between 2 residential properties. Because of the Zoning on this side of the street, a Variance is needed. He is taking care to ensure that his use of the property is respectful of neighbors.

He is updating lighting on the building. Lights will be LED, they would come on at night, and they would be downcast with no light trespass onto neighbors' properties. He is not planning any large signage, but plans to reuse the existing awning for that purpose.

Mr. Vignoe testified that he has lived next to the property for a long time and watched various uses there. Mr. Stearns use of the property has been a big improvement over the recent past. He asked about parking and hoped most of it would be on-site versus on the road. Mr. Stearns testified that once the site work is completed, there will be space inside the building and within the driveway to allow his workers and any company vehicles to be on-site. Mr. Vignoe states he supports that plan, but would prefer not to have vehicles parked along his property all day. Mr. Vignoe stated he supports the overall proposal as described.

Chair Lorentz explained the decision and appeal process. She adjourned the hearing at 7:34 PM.

Respectfully submitted, Tara Kelly