
YARMOUTH GENERAL BOARD OF APPEALS MINUTES

November 2, 2020

| I. ROLL CALL OF MEMBERS | PRESENT | ABSENT |
|--------------------------------|----------------|---------------|
| Jennifer Peters | X | |
| Tom Marjerison | X | |
| Phil Ahrens | X | |
| Craig Wolff | X | |
| Samuel Carter | X | |

OTHERS

Nicholas Ciarimboli, Code Enforcement Officer

Alex Jaegerman, Planning Director

Wendy L. Simmons, Administrative Assistant, Recording Secretary

II. PUBLIC HEARING

There were 6 +/- people from the public in attendance.

Jennifer Peters called the meeting to order at 7:15 PM.

III. OLD BUSINESS

1. Administrative Appeal of Planning Director Zoning Determination under Chapter 701, Article VII.B.2.a; Rebecca Rundquist, Appellant, Re: Approval to Use Out-Building as a Bedroom at 53 West Elm St., MDR Zone, Janice Cooper, Owner; Map 41 -Lot 71.

Administrative Appeal of zoning determination by Planning Director that the out-building on property owned by Janice Cooper at 53 West Elm Street may be used as a sleeping space (bedroom), and that such use may occur concurrently with short-term rental of the subject property. Ms. Rundquist is the abutting property owner and asks the General Board of Appeals to reverse the Planning Director zoning determination. Under Chapter 701, Article VII.B.2.a the General Board of Appeals has jurisdiction to hear and decide appeals of such zoning determination.

Chair Peters summarized the meeting of 10/26, where the General Board of Appeals heard from the both parties involved in the application and the public. The question at hand is the approval of use of the accessory structure as a sleeping room.

Additional information was received from both parties. She requested a brief summary from each party.

Sandra Guay, Attorney for the applicant

The question is not can the accessory structure be used as a bedroom; but can it be used as a bedroom when the main house is being rented as a short term rental? Short term rentals are not expressly permitted in the Town's Ordinance which makes them prohibited. By renting the main house short term and using the accessory structure as a bedroom it violates the definition of single family dwelling. By using the main house as a short-term rental, it better fits the definition of a motel. There is not enough parking to accommodate the use of the main house as a short-term rental.

Janice Cooper, 53 West Main St., Owner

The email from Bill Longley, former CEO was taken out of context and pertains to the use of the outbuilding as an ADU and without a Certificate of Occupancy. She has since obtained a Certificate of Occupancy and is not using it as an ADU; but as a sleeping room. Parking is not regulated for single family dwellings and is irrelevant.

Chair Peters opened to public comment

No Comments

Public comment closed

Jennifer Peters believes the Board's role is not to make a determination on short-term rentals; but defining what the accessory structure can be used for. Also, if something is not expressly permitted does that mean it's not allowed.

Phil Ahrens questioned if J. Cooper could rent out part of her home if she were living in the house? S. Guay – Not unless she were sharing common space, meals, etc. with guests and acting as one family unit. PA – if she were not on the property at all? S. Guay – No because it's not a regulated use in the ordinance.

The Board asked Alex for a summary of the document he wrote. AJ – He was responding to an email from Rebecca Rundquist specifically asking about the use of the accessory structure. Now a single housekeeping unit is in question. He did not make a determination on short-term rentals. JP – Whether the ordinance allows or does not allow short-term rentals was not the question put before the Planning Director.

Sam Carter thinks the appellants question was answered and the Board should not be making a determination on short-term rentals. The Planning Director answered 2 questions; can it be used as a bedroom during a short-term rental and is it a legally habitable bedroom? TM agrees the Board cannot take a stance on short-term rentals.

PA is concerned about the limited parking available and the neighbors concerns around safety when cars are coming and going.

Tom Marjerison questioned if a group of 5 unrelated people living together, sharing a residence would violate the ordinance. S. Guay – No because they're still all living together as a cohesive unit, sharing rent and responsibilities. They do not have to be blood related to be operating as a single family unit.

The Board questioned if J. Cooper used/shared the main house at all when it was rented? Did she use the kitchen or common space? J. Cooper – No it is a private rental. She only stays on the property to keep an eye on renters. They are more inclined to abide by rules if an owner is present.

The Board discussed a way to permit the use of the accessory building as a bedroom while the main house is rented out while also considering the definition of a single family unit. If she is to continue to use the accessory building as a sleeping room she must also have access to the main house.

The Board discussed whether the Planning Director made an error in his determination. It was concluded he did not make an error based on the question that was asked by the applicant.

The following motion was made:

There was no error in the zoning determination regarding the use of the outbuilding with the following proviso; while the host/owner may be present during a short-term rental of part of their property that is only permissible if the property retains the characteristics of a single family detached dwelling. The renter and owner must have reasonable shared access to the dwelling.

Such motion moved by Craig Wolff, seconded by Tom Marjerison voted 5 in favor, 0 opposed. Vote taken by roll call.

The Board further discussed short-term rentals and that this determination did not address them. They agreed short-term rentals should be considered by Town Council. The Rental Dwelling Ordinance does not address short-term rentals and there are no regulations around them. Jennifer Peters will write a brief recommendation to Town Council regarding the difficulty in hearing this case based on current ordinances and request they consider short-term rentals.

IV. OTHER BUSINESS

None

V. ADJOURNMENT

Without objection the meeting adjourned at 9:30 PM

Respectfully submitted:

Wendy L. Simmons, Administrative Assistant, Recording Secretary