



TOWN OF HUDSON

Zoning Board of Adjustment



Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6008 • Fax: 603-594-1142

MEETING MINUTES – July 11, 2024 – approved

The Hudson Zoning Board of Adjustment will hold a public meeting on Thursday, July 11, 2024, at 7:00 PM in the Hills Memorial Library building located at 18 Library St., Hudson, NH.

There was be an Attorney-Client Session, pursuant to RSA 91-A:2.I.(b) (not open to the public) beginning at 6:15 PM (*time amended*). The regular meeting will begin immediately after the Attorney-Client Session.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

Chairman Daddario called the meeting to order at 7:11 PM, apologized for the delay, noted that the Board held a conference with Town Counsel prior to the start of this meeting and advised the audience that the decision before the Board at this meeting is to decide whether the decision of the Code Enforcement Officer was in error when he issued the Cease and Desist Notice of Violation letter dated May 8, 2024 or whether the Board concurred and would have made the same determination. Mr. Daddario outlined the format of the meeting noting that the Board would first hear from the Property Owner's representative and open the meeting to hear from the Public. Mr. Daddario stressed that all communication be directed to the Board. Mr. Daddario stated that Selectmen Dumont is seated at the Board table and would be able to engage in the conversation and that, because he is a Selectmen, has no vote on matters before the ZBA.

III. ATTENDANCE

IV. SEATING OF ALTERNATES

Clerk Dion called the attendance. Members present were Gary Daddario (Regular/Chair), Tristan Dion (Regular/Clerk), Tim Lanphear (Regular), Zachary McDough (Alternate) and Normand Martin (Regular/Vice Chair)). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Excused was Dean Sakati (Regular). Alternate McDonough was welcomed to the Board and was appointed to vote. All Members present voted.

V. PUBLIC HEARING OF SCHEDULED APPLICATION BEFORE THE BOARD:

1. **Case 165-021 (07-11-2024):** Brendan Burke, Manager for Keystone Estates, LLC, 343R High St., Hingham, MA requests an Appeal from an Administrative Decision for 12-14 Gambia St., Hudson, NH. The applicant is appealing a

Code Enforcement – Notice of Violation Cease & Desist letter dated May 8, 2024 which cites a non-permitted use of a rooming/boarding house in the Town Residence (TR) Zone and requires a variance from the Zoning Board of Adjustment and if approved, site plan approval from the Planning Board. [Map 165, Lot 021, Sublot-000; Zoned Town Residence (TR); HZO Article V: Permitted Uses; §334-20, Allowed uses provided in tables and §334-21, Table of Permitted Principal Uses and HZO Article III: General Regulations; §334-16.1, Site plan approval]

Mr. Sullivan read the Case into the record and noted that In-house Comments have been received from the Town Engineer, Inspectional Services/Fire Department and the Associate Town Planner. Mr. Daddario noted that issues pertaining to the Planning Board are not before the ZBA and that neither is the Variance and emphasized that the only issue before the ZBA at this meeting is the Appeal from the Zoning Administrator and for the Board to decide whether they would have made the same determination based on the evidence presented.

Atty. Andrew J. Tine, of 18 Maple Avenue, Barrington, RI, introduced himself as representing the Property Owner, Keystone Estates, LLC. Also seated at the table was Scott Landry of Keystone Estates.

Atty. Tine stated that Keystone Estates rents the property to Jeffrey House who then rents to seven (7) individuals who share the entire house and are living there as a family each sharing in the responsibility of maintaining the house in this single family home. Atty. Tine stated that it is not transitional housing, that it is a Sober House that is there for individuals to recover from substance abuse and noted that there is no treatment provided on site and added that it is no different than seven (7) buddies going to college living together and should be no different for these seven (7) individuals living together in recovery. Atty. Tine stated that there is no definition of “family” or “single housekeeping unit” or “rooming or lodging house” and if the Zoning Administrator’s decision is not overruled, then his client would be forced to look for Federal intervention.

Mr. Martin asked if the recovery house is registered and Atty. Tine responded that it is not and that they cannot be required to register as registering is just voluntary. Mr. Martin referenced the email dated 6/4/2024 from NH-DHHS (State of NH Department of Health and Human Services) that confirmed that there are no recovery houses registered in Hudson and asked Atty. Tine how it could be considered discriminatory if it is not registered and added that the Zoning Ordinance (ZO) allows for Assisted Living if it gets registered and licensed by the State. Atty. Tine stated that the NH Core is a six-month process to certify a Sober House and noted that there are no medical treatments provided on site. Mr. Martin asked if there was a manager on site. Atty. Tine confirmed that there was a manager on site.

Mr. Dumont asked if there was a housing agreement and if so to please provide a copy to the Zoning Administrator. Atty. Tine confirmed and agreed. Mr. Dumont asked if members pay rent. Atty. Tine responded that they do, \$225.00 per week which includes all utilities but not food. Mr. Dumont asked how food and food shopping was handled and Atty. Tine stated that that is an individual’s decision. Mr. Dumont asked

if there were any future goals for the property and Atty. Tine responded that there are no changes proposed.

Mr. Dion asked if there is a manager on site and whether he pays rent too. Atty. Tine confirmed that there is a manager on site and that he does not pay rent. Mr. Dion inquired about the chores of maintaining the household and Atty. Tine responded that that obligation is part of the rental agreements and includes tasks, both inside and outside. Mr. Dion asked if the house really needs a manager to which Atty. Tine responded that it does not. In response to whether the landowner lives there, Atty. Tine confirmed that no one from Keystone Estates lives there. Mr. Dion deduced that Keystone Estates then bought the property with the intention to rent.

Mr. Lanphear asked if there was a Rule Book for the household, whether rents are subsidized and who checks on the manager. Atty. Tine responded that there is no Rule Book, just a rental agreement and that to his knowledge the rents are not subsidized. Scott Landry stated that there exists a chain of command to handle disputes.

Mr. Daddario questioned the maximum number of tenants, whether seven (7) included or excluded the house manager and whether seven (7) is the maximum occupancy. Atty. Tine confirmed that the total is seven (7) for the household, which includes the house manager and added that this is a "family unit". Mr. Dion questioned whether the house is safe for seven (7) people to reside there, noted that according to the Property Card, there is 2,400 SF of living area which would equate to 342.865 SF per person for seven (7) people to share three (3) bedrooms and asked if the rental agreement included this sharing. Mr. Daddario asked that a copy of the agreement to reside at the house, a copy of the Rules to live at the house and a tenancy agreement be supplied to the Town.

Mr. Dumont asked and received confirmation that the Lease Agreement is between the Property Owner, Keystone Estates, and Jeffrey House and that the tenant agreement for those who reside at the house is with Jeffrey House, that rent is paid to Jeffrey House, that if the rent is not paid the lawyers get involved before eviction, that the home is restricted to just those in recovery, that there is a smoking area designated out back, and that currently there are only two (2) cars parked in the driveway as it is not unusual for a tenant to have lost their driver's license.

Mr. Dion asked if the tenants hold jobs. Atty. Tine stated that they typically do hold jobs. Mr. Dion asked how they get to work? Atty. Tine responded that the Sober House does not provide transportation and that services such as Uber or Lift are commonly used. Mr. Dion asked if the house manager has an outside job in addition to being the house manager. Atty. Tine confirmed that the house manager holds an outside job. Mr. Sullivan asked when the tenants work if they are required to be in counseling every day from 9 AM to 3 PM and where counseling is held.

Mr. Sullivan stated that Fire Safety is a real concern. Atty. Tine stated that he spoke to the State Fire Marshall and was informed that no special requirements are necessary and added that, if need be, they would pursue a variance from the State Fire Marshall.

Mr. Dion asked if visitors – whether family or friends – are allowed. Atty. Tine stated that family and friends are allowed to visit but overnight visits are not allowed. Mr. Dion asked if there is a limit to the actual number of visitors allowed and whether it is included in the house rules and how is it managed. Atty. Tine responded that it is managed similar to any family, through discussion and acceptance. Mr. Dion surmised that it then becomes a house rule.

Mr. Lanphear asked if a handicap person could be accommodated. Atty. Tine responded that they could not as there are no ADA features. Mr. Lanphear asked and received confirmation from Atty. Tine that Keystone Estates, LLC, bought the property and rents it to Jeffrey House who then rents to Sober House individuals and concluded that Keystone Estates is renting to a business.

Mr. Martin stated that when starting a business, any business, like a Recovery House, one calls and checks with the Town to find out what would be required before one sets up shop, and a call to the State would also be wise to discover that the State requires a Registry. Mr. Sullivan stated that approximately five (5) months ago someone did call the Town to inquire and was specifically informed of what needs to happen, a variance from ZBA and site plan from the Planning Board and life safety inspection. Mr. Martin stated that the Town is not being discriminatory and that the Town is not violating Atty. Tine's client.

Mr. Dion stated that the property was bought by Keystone Estates LLC, a commercial entity, who rents it to Jeffrey House, another commercial entity, who then is serviced by Sober House, another commercial entity, for potential tenants. Mr. Dion noted that Atty. Tine represents the property owner, Keystone Estates LLC.

Mr. Dion questioned the average stay of the tenants – and is it measured in weeks, months and/or years. Scott Landry responded by saying that his best guess would be approximately one (1) year but it is variable and dependent upon each individual and because of that, the lease is paid weekly. Mr. McDonough asked what the minimum occupancy would be as well as the maximum occupancy. Atty. Tine did not answer except to state that there are currently seven (7) individuals there now.

Discussion continued. Mr. Daddario summed it up by stating that two (2) different wavelengths are emerging – a business use versus a residential use under the guise of a recovery discrimination use – and noted that what is before the Board is to consider testimony to determine if they support the Zoning Administrator's decision.

Meeting opened to public comment. Mr. Daddario restated the guidelines – that all comments are to be directed to the Board and that there is no need to repeat any comments but it can be stated whether you agree or do not with a prior speaker. The following individuals addressed the Board:

- (1) Jose Urrutia, 9 Campbello Street, stated that he is opposed to having a business in the neighborhood, noted that there are many children in the neighborhood, including his grandchildren who often come visit, and like all children they like to play outside and ride their bikes and questioned whether any of the residents have criminal backgrounds or are sexual predators.

Mr. Dumont asked how many people live in his house, how many bedrooms and bathrooms he has and how many cars there are. Mr. Urrutia responded that two people live there, that he has four bedrooms and two and a half bathrooms and there are two vehicles.

- (2) Shara Katsos, 7 Campbello Street, stated that she has concerns, that her professional career has dedicated over twenty five years to homelessness, recognizes the need for permanent housing with services, with case management, clinical therapy and does not feel that any of it is provided to the tenants and is concerned for the fifteen (15) children under the age of thirteen (13) in the neighborhood who play in neighboring yards, the dead-end street and congregate on the cul-de-sac – and in order to continue this, they must pass the house numerous times and as residents, we don't know who lives there and residents appear to be moving in and out frequently. This appears to be an agency looking to make a profit and not caring for their residents, nor the town regulations or their surrounding neighbors. The ADA is to be used to protect individuals with disabilities, not as a bullying tactic for an agency to make a profit.

In response to Mr. Dumont questions, her household has three people, with three bedrooms, two and a half bathrooms and two vehicles.

Mr. Dumont asked if the seven (7) individuals residing are the same seven (7) people since inception. Atty. Tine introduced Mitch Cabral, the manager of the property and Mr. Cabral stated that a few individuals have come and gone, that since inception there have been a total of eleven (11) individuals through the house. Mr. Dion asked if seven (7) has been consistent. Mr. Cabral responded that seven is not consistent and added that there is no waiting list for additional residents. Mr. Dion asked if it was advertised or did it rely on word of mouth advertisement. Mr. Cabral responded that it is by word of mouth.

- (3) Richard Suter, 12 Campbello Street, stated that he abuts the property, that he has respect for recovery, noted that there are places that offer help, like Fairview which is an Assisted Living center, and stated that this place does not qualify for assisted living, that it is not an ADU either, that it alters the character of the neighborhood and noted that the police have already been call to the residency.

In response to Board questions, two people, three bedrooms and six vehicles.

Atty. Tine stated that this is not and ADU or Assisted Living.

- (4) Alyssa Cabezas, 11 Campbello Street, questioned the Attorney's statement that there are only 7 residents on site because last week when the police were called there were 11 people there. Ms. Cabezas noted that there has been no police in the neighborhood for more than a couple of years and expressed concern that the "manager" is not on the property especially during their 'meandering' time

In response to Board questions, 3 people, 3 bedrooms, 2 bathrooms, 3 vehicles

Mr. Daddario noted that the last two speakers have made reference to emergency vehicles coming to the residence and asked Atty. Tine if he wished to address. Atty. Tine responded that he was aware that the police came when one person was speeding but he is unaware of a second police encounter or ambulance to the residence.

Mr. Dillon asked what the sexual orientation was of the residents. Atty. Tine responded that the residents are adult males.

- (5) Jeffrey Hudgins, 12 Kenyan Street, stated that he is angry with the disingenuous of Atty. Tine, that he has pictures of the female resident, that Jeffrey's House is a leasing boarding house, that they are asking for 'forgiveness' instead of 'permission', that his wife runs a daycare business and had to come before the Board to ask for permission, that these people need to realize that there are two levels of registration and once registered with the State they can get services and questioned if the residents are Massachusetts residents or NH residents and noted that if any of the residents are sex offenders, they are not registered.

In response to Board questions, 3 people, 3 bedrooms, 3 vehicles

- (6) Ms. Brennan, 13 Gambia Street, stated that she seconds the statements made by Alyssa Cabezas, noted that the altercation that occurred and involved the police was with her, that she has three sons, ages 13, 10 & 3, that she was met with hostility and discrimination and even had her sexuality questioned and stated that the aggression stopped when he realized that he was being filmed, that there are 9 residents there not 7, that all the cars that come there have Massachusetts license plates, and that there is no supervision there from 9 am – 3 pm

In response to Board questions, 5 people, 3 dogs, 4 3 bedrooms, 1 bathroom, 2 vehicles, 1 motorcycle

Mr. Dion asked if she had noticed any activity at the property. Ms. Brennan stated that the vehicles are all gone in the morning, that the residents hang out doing nothing, that there is only one guy attending to the property, that usually there are 2-3 cars there and today there was 5 cars

- (7) Will Jubinville Jr., 10 Gambia Street, stated that he is an alcoholic, that he sobered up without a sober house so it is possible, and concurred with Ms. Brennan that there is one guy there who takes care of the property and the others just meander around.

In response to Board questions, 1 person, 3 bedrooms, 1 bathroom, 2 vehicles and 1 pickup

- (8) Brian Bright, 26 Campbello Street, stated that he agrees with what his neighbors have already said, that he has three children and they were quite surprised when they started this business without having received any notice

In response to Board questions, 5 people, 2 bedrooms, 2 bathrooms, 5 vehicles

(9) Brian Cabral, 8 Gambia Street, stated that it is absolutely a business and they are not in a business zone

In response to Board questions, 4 people, 4 bedrooms, 2.5 bathrooms, 4 vehicles

(10) Gabrielle McNulty, 8 Campbello Street, stated that she is a licensed social worker, that she checked out Jeffrey's House's website and it is a business and, in her opinion, they should go through the ZBA for it

In response to Board questions, 4 people, 5 bedrooms, 2.5 bathrooms, 4 vehicles

(11) John Colby, 11 Kenyon Street, stated that the applicant is trying to say that it's a family living there, but it is not, it is long term rental and on a week-to-week basis so it's more of a boarding house and they need to come before the Boards for it, that he volunteers at a Recovery Home in Lowell, Mass. and knows that the residents tend to be targets which raises even more concern for safety of his 5 children

In response to Board questions, 9 people, 4 bedrooms, 2 bathrooms, 4 vehicles

Board took a break at 9:50 PM. Meeting called back to order at 9:57 PM.

Mr. Daddario asked Atty. Tine if he wished to respond to any of the testimony and Atty. Tine declined.

Mr. Daddario stated that during the break, Abutter Ms. Brennan 13 Gambia Stated that she misspoke the number of bedrooms.

Ms. Brennan addressed the Board and stated that her home has 3 bedrooms.

Atty. Tine stated that the property is owned by a LLC but that does not make it a commercial use and that Jeffrey's House is a NH LLC.

Mr. Dion asked the age range of the tenants. Atty. Tine responded that they must be adults, that they do not have children or teen tenants.

Mr. Lanphear asked and received confirmation that it is a "for profit" endeavor.

Public testimony closed at 10:04 PM

Mr. Dion stated that the Board needs to see the lease agreements. Mr. Martin stated that that is not before the Board, that what is before the Board is to decide whether to uphold the Zoning Administrator's decision to issue a Cease & Desist order or not.

Mr. Martin made the motion to uphold the Zoning Administrator's decision to issue a Cease & Desist order. Motion seconded by Mr. Lanphear.

Mr. Daddario temporarily rescinded the motion as an email was received from an abutter that, as is the Board's custom, should be read into the record. Mr. Martin read the email dated 7/3/2024 from Nicole & Derek Horn, 9 Gambia Street that

opposed the installation of a Sober House. In brief, the email stated that they support sobriety but are opposed to its location in the middle of a residential neighborhood with families and children where the children play outside, people walk their dogs without any worry that a resident in the sober house could relapse for all to see and that they have lived in this neighborhood since 1998 and never worried about their safety but now they have had to install new locks with cameras on their doors. The character and safety of the neighborhood has suffered with their presence.

Mr. Martin re-made his motion to support the Zoning Administrator's decision to issue a Cease and Desist Order. Mr. Lanphear re-seconded the motion.

Mr. Martin spoke to his motion stating that it is in the TR Zone that has traditionally small lots and that a lack of definition in the Zoning Ordinance does not mean it's a discrepancy because it is not and is one of the reasons variances exist.

Mr. Lanphear spoke to his second and stated that he agreed with Mr. Martin.

Mr. Dion voted to uphold the Zoning Administrator's decision and stated that it does not fit into a "family unit", that it does not match the rest of the neighborhood, that the residents are all adult males and are transitory, that they are not building a home here and all appear to be from Massachusetts.

Mr. McDonough voted to uphold the Zoning Administrator's decision as it is not a single family unit, it is more of a boarding house.

Mr. Daddario voted to uphold the Zoning Administrator's decision as the use needs to be reviewed by the ZBA and the PB (Planning Board), and that the existence of seven people with seven separate lease agreements is a business.

Vote was 5:0 to uphold the Zoning Administrator's 5/8/2024 Notice of Violation Cease and Desist letter.

Mr. Daddario stated that there exists two (2) options, either appeal the Board's decision within the 30-day Appeal period or submit a variance application to the Zoning Board.

Atty. Tine asked if the Board would consider a reasonable accommodation. Mr. Daddario responded that is not before the Board at this time.

VI. REQUEST FOR REHEARING: None

No requests were presented for Board consideration.

VII. OTHER BUSINESS:

No other business was presented for Board consideration.

VIII. ADJOURNMENT:

Motion made by Mr. Martin, seconded by Mr. Lanphear and unanimously voted to adjourn the meeting. The 7/11/2024 ZBA meeting adjourned at 10.21 PM.

Respectfully submitted,

Gary M. Daddario, ZBA Chairman