**Board of Adjustment**

**Canterbury, NH**

**Minutes of Continued Hearing**

**16 August 2023**

**Case No 2023-6 Two Special Exceptions**

Present were: Chairman Joe Halla, Jim Wieck, Web Stout, Calvin Todd, and Lisa Carlson (Alternate).

Chairman Halla advised those present **McKerley Properties, LLC** is seeking two special exceptions regarding the

constructing of a new building and having an Accessory Dwelling Unit in it if approved. The application involves Tax Map 267, Lot 44 located on Riverland Road in the Commercial zone. The proposed uses state “An office establishment in the commercial district with over 5,000 square feet of floor area” and “an attached Accessory

Dwelling Unit to a business above the office space inside the proposed building on Lot 44”. The application references Article 5.3 and Article 18.3, Section (1)(A). Chairman Halla gave a detailed explanation as to the conduct of the hearing procedure.

Tim Bernier introduced himself advising he is working with MDM Properties saying they are here tonight requesting two special exceptions, the first being the establishment of a commercial building over 5,000 square feet. They are proposing a commercial building of 6,750 square feet located on Lot 44. The building style and use is exactly as the one to the right and the one out back. He referenced an enlarged map depicting the area.

This one from a layout standpoint is very similar to the others. They decided to share the two-way entrance which allows them to have it slightly larger and not have separate driveways. The parking lot will again be out front and feature angled parking to save some room out back. The layout works out really well for water retention. They have a sufficient pond out back for water runoff, noting the soil there is good for runoff.

Tim then went through the special exception criteria:

1. The granting of the permit would be in the public interest. It is located in the commercial zone for the town. There are the same commercial uses in the area that have been very successful, noting Dugout Properties, which is a landscaping business with a building that is over 5,000 square feet and a sawmill business. So, it is all surrounded by commercial uses and then you have the railroad tracks on the other side and interstate 93. It seems to fit very well with the zoning ordinance, is permitted in that zoning district.
2. The proposed use would not adversely affect the property values in the district. It is surrounded by commercial uses, almost identical commercial uses. It is generally quiet there during the day. The existing unit are contractors who keep their equipment and supplies and who leave going to jobs sites.
3. The specific site is an appropriate location for the proposed use. It’s in the commercial zone, soils are great, it accommodates all the necessary factors, three sides of the building will have full access. It’s a relatively flat site.
4. The proposed use would not adversely affect the health and safety of the residents and others in the area and would not be detrimental to the use or development of adjacent or neighboring properties.

It is in the commercial zone, railroad tracks and highway. There is easy access to get out now with the new rotary.

1. The proposed use would not constitute a nuisance because of offensive noise, vibration, smoke, dust, odors, heat, glare, or unsightliness. MDM Properties is a landscape company so it would be kind of an

**Case No. 2023-6 cont’d 2**

 embarrassment if the properties were not kept up. They are beautifully landscaped as is their neighbor

 Dumpster Depot. This is not manufacturing. If anything wanted to come in with noisy machinery, they

 would go back to the Planning Board.

1. The granting of the permit would be in the spirit of the ordinance. Commercial zone, commercial use. Many times people come in and use a unit as “incubator space”. If they are successful, they may wish to expand and rent more units in proximity.
2. The proposed use would not constitute a hazard because of traffic, hazardous materials or other conditions. Again, it is mostly contractors with the exception of the yoga instructor.

Every one of these units has a small office space out front to house a bookkeeper, office manager, payroll. Tim noted they got the same variance for that building which is slightly larger than this one on Lot 46 out back.

Chairman Halla asked to have his memory refreshed, what’s in the other building now. In the building right next to it is the office of the McKerleys, they have a business that does detailing of vehicles, a contractor in one unit.

One of their employees lives in the apartment. Web asked if they had spoken with the fire department on any of this. The fire department has been involved as well as the building inspector. Lisa asked where is Wardell Holdings in this? They are the current owner of the property, there is a purchase and sale agreement pending approval of these two special exceptions.

Chairman Halla asked if there were any other questions from Board members. There being none, Mr. Bernier went on to say the second special exception request for an Accessory Dwelling Unit. Above the office space there is a mezzanine. In the other building they created an Accessory Dwelling Unit (ADU) which is permitted and is used for workers, special workforce staffing. Dugout Properties has been using theirs for years for this purpose. So, they want to construct a two-bedroom apartment for workers that are associated with the business. Special exceptions were previously granted for their other buildings for this same use. It is a secluded area and it’s nice to have someone living there. So, from a security standpoint it’s good to have someone there at night. Jim asked it would be one apartment over those units. Correct. It will be less than 1,000 square feet.

This was granted before and Tim went quickly through the criteria:

1. ADUs are allowed in commercial space with a special exception.
2. You wouldn’t even really know it is there if you drove by.
3. It is zoned commercial; it’s a commercial building and the occupants will be associated with the businesses contained within the building.
4. There would be no conflict of interest in this use. Nothing to suggest it would be problematic.
5. It is a quiet area; it would be fully contained within the building.
6. It fits with the commercial zone and other uses in the area.
7. Actually, saving traffic because living there. It reduces traffic.

Mr. Bernier advised this concluded his presentation. Chairman Halla asked if there were any questions. He asked are these 5 units basically storage units for commercial people. Mr. McKerley concurred. They are not going to be fabricating anything in them. Mr. McKerley advised manufacturing would fall under a different zone. It is not an allowed use. A brief discussion about the brewery that did not end up coming was reviewed. One of the units contains a detailing business for vehicles. Chairman Halla asked if anyone wished to speak in favor. No one spoke. No abutters present. He asked if anyone wished to speak in opposition. Again, no one spoke. He asked if the applicant had anything to add. Nothing further was offered. There were no further questions from Board members. The testimony portion of the hearing was closed.

**Case No. 2023-6 cont’d 3**

Jim made a motion to **GRANT** Case No. 2023-6, two special exceptions in the commercial zone including a commercial development larger than 5,000 square feet and also attached an Accessory Dwelling Unit to the business above a couple of the units in the commercial building for the following reasons:

1. That granting the permits would be in the public interest. They are allowed uses with special exceptions in that zone.
2. That the proposed use would not adversely affect the property values in the district. Special exceptions have been granted there for similar usages in that area.
3. That the specific site is an appropriate location for the proposed use. It is zoned accordingly for those uses with a special exception.
4. That the proposed use would not adversely affect the health and safety of the residents and others in

the area and would not be detrimental to the use or development of adjacent or neighboring properties.

It would be contained within that property, the types of uses there would be commercial, not manufacturing, so there is really no effect on anything neighboring.

1. That the proposed use would not constitute a nuisance because of offensive noise, vibration, smoke, dust, odors, heat, glare, or unsightliness. Again, this will be contained within the proposed buildings, so it should have no effect on the adjacent properties.
2. That granting of the permit would be in the spirit of this ordinance. Again, it is in the commercial zone appropriately zoned for these special exceptions.
3. That the proposed use would not constitute a hazard because of traffic, hazardous materials or other

conditions. No hazardous materials have been proposed, traffic and access to the property is appropriate.

Chairman Halla seconded the motion. The Board vote was a unanimous decision to **GRANT** the two special exceptions. Chairman Halla explained the thirty-day appeal process.

Respectfully submitted,

Lisa Carlson, Clerk

Board of Adjustment