

1 TOWN OF ESSEX ZONING BOARD OF ADJUSTMENT
2 DRAFT MEETING MINUTES
3 SEPTEMBER 2, 2021
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5 **Note: This meeting was held in-person and virtually on Microsoft Teams.**

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7 **ZONING BOARD OF ADJUSTMENT (ZBA) MEMBERS PRESENT:**

8 **In-Person:** Nick Martin, Chair; Michael Plageman, Vice Chair; Hubert Norton and Tom
9 Yandow.

10 **Virtual:** Justin St. James.

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12 **OTHERS PRESENT:**

13 **In-Person:** Sharon Kelley, Zoning Administrator; and Jason Baron, applicant.
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15 Chairman Martin called the hearing to order at 6:01 p.m. and noted that the meeting was being held in-
16 person and virtually; He took roll-call for ZBA members present; He read the Covid meeting procedure
17 into the record; and provided the public oath.
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19 **AGENDA ITEM 1: UNSPECIFIED USE: Jason & Nicole Baron: Proposal to operate an AirBnB**
20 **located at 37 Pinecrest Drive in Medium Density Residential (R2) Zone. Tax Map 69, Parcel 13.**
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22 **Board Member Plageman MOVED and Board Member Yandow SECONDED a MOTION to**
23 **open the Fact Finding/Public Hearing. The MOTION passed 5-0.**
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25 Sharon Kelley read the warning and stated that this is another standard Unspecified Use application and
26 the Zoning Regulations do not have any specific conditions for same. She reported that she informed
27 the Planning Commission of this application and, they did not have any comments.
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29 Jason Baron stated that he and his wife bought the property 2-3 months ago under the guise to operate an
30 AirBnB. He stated the plan was to use the existing accessory dwelling as a part-time AirBnB and a
31 guest house for his visiting family and friends. He stated that he will operate within the rules and
32 permission granted. He concluded by stating that it made sense to operate the AirBnB to help offset the
33 cost of living.
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35 Board Member Plageman asked for clarification regarding Finding 9(3), Page 2, wherein it stated that
36 “The house and property will be used as a guesthouse and periodic short term AirBnb.” Baron replied
37 that “house” should be replaced with “accessory apartment” and the main house will just be used for his
38 family.
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40 Board Member Norton asked if the applicant had any concerns with the Fire Chief’s comments. Baron
41 replied “No.” He stated that he has investment property in Winooski and has experience with the rental
42 requirements. He stated that he planned to put up a white board with pertinent and emergency
43 information within the AirBnB.
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45 Chairman Martin asked if the parking for the AirBnB and primary residence would be the same. Baron
46 described the AirBnB has two spaces towards the southeast on the parcel. He noted that the house
47 parking is separate from the AirBnB. Martin asked if two parking spaces were reserved for guests.
48 Baron replied, “yes.”
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50 There were no one from the public present.
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52 **Board Member Norton MOVED and Vice-Chair Plagemen SECONDED a MOTION to close the**
53 **Fact Finding/Public Hearing. The MOTION passed 5-0.**

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55 **Board Member Norton MOVED and Board Member Justin St. James SECONDED a**
56 **MOTION to approve the application for a Variance at 157 Sand Hill Road, subject to the**
57 **following Findings and Conditions:**

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59 **FINDINGS:**

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61 1) The landowners are Jason & Nicole Baron. The parcel under review is located at 37
62 Pinecrest Drive in the Town of Essex, Chittenden County, State of Vermont. This is an
63 approximate .62-acre lot with 71 ft. +/- of frontage. The lot is serviced by town water and
64 private septic. The parcel is located in the Medium Density Residential (R2) Zoning District.
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66 2) The proposal is to use the existing Accessory Apartment located on the second floor of the
67 existing garage as an AirBnB.
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69 3) Staff provided an ortho view of the parcel. The applicant provided a hand-drawn floor plan
70 of the existing accessory apartment, and photographs of the house and garage.
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72 4) Pursuant to state statute a ‘Notice of Hearing’ was provided to the applicant for posting on
73 the property.
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75 5) The abutting property owners were notified of this meeting by certified mail.
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77 6) The following permits were issued for this property:
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79 • On August 8, 1986, the ZBA approved a variance to erect a garage within 7.5 feet of
80 the easterly sideline.
81 • On August 19, 1986, Zoning Permit #169-1966, was issued to construct the
82 accessory apartment;
83 • On June 17, 1986, Zoning Permit #103-1986 was issued for an addition and remodel
84 to the house;
85 • On April 28, 1995, Zoning Permit #53-1995 was issued for the deck and accessory
86 apartment. Certificate of Occupancy took place on 4/15/1999; and
87 • On March 10, 2021, State Waste Water Permit #WW-4-5532 was issued for a
88 replacement system, consisting of a 2-bedroom house and 1-bedroom accessory
89 apartment.
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91 7) The applicants were mailed a copy of this Staff Report prior to the meeting.
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93 8) At the 8/26/2021 Planning Commission meeting, the Zoning Administrator informed the
94 Planning Commission of this unspecified use application. No comments were provided.
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96 9) Mr. Baron provided the following written comments pertaining to Zoning Regulation
97 Section 5.7-Conditional Use:

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1. *No new demands for community services or facilities will be needed. Road maintenance, police and emergency services, which have been provided since the purchase of the property will remain the only town services used.*
2. *Character of the area affected: The area, which is zoned R2 will not be affected in any way. Road frontage and land use will be the same as when property was sold in June of 2021.*
3. *Effect of traffic on roads and highways in the vicinity: No projected change/impact on the traffic of Pinecrest Drive by the current proposed AirBnb is expected since the house and property continue to be the same in size and use. Future use will most likely be less than the previous long-term rental. The house and property will be used as a guesthouse and periodic short term AirBnb.*
4. *Bylaws and ordinances: No violation of existing bylaws and ordinances noted.*
5. *Conformance with Town Plan and Community Character: No changes in conformance or impact on community character is projected.*

Regarding Finding 9, the Zoning Board noted that the Accessory Apartment will be used as a guest house and short term AirBnB.

10) Jason Baron was in attendance for the hearing and made the following comments:

- He and his wife bought the property 2-3 months ago under the guise to operate an AirBnB;
- The plan is to use the existing accessory dwelling as a part-time AirBnB and a guest house for his visiting family and friends;
- They will operate within the state rules and ZBA approval if granted;
- It made sense to operate the existing Accessory Apartment as an AirBnB to help offset the cost of living; and
- They will install a white board to mark important information, such as address, wifi, and emergency numbers.

11) There were no one from the public in attendance.

12) In an email dated 7/27/2021, the Recreation Director said, *P&R has no comments to this application.*

13) In an email dated 7/27/2021, the Fire Chief said,

The applicant will need to check with the State Fire Marshall to ensure compliance with any requirement they have. In addition, I would request the following:

- *Maintain working smoke detectors in the residence;*
- *Maintain fire extinguishers in the residence; and*
- *Please ensure that guests are provided with the physical street address in case of emergency and they call 911 from their own cell phone.*

14) On 7/27/2027, the Police Chief advised to use his previous comments:

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Essex PD would request that the owners must notify Airbnb renters and they are required to follow all applicable state laws, local ordinances, rules and regulations. For example; Noise regulations, Winter Parking Ban, Burning regulations, firearms regulations, Animal regulations (all dogs must have tags and current rabies vaccinations, dogs on leash off owner's property, etc.

Finally emergency contact names and phone numbers for the Airbnb owners so if there are problems with renters we know who to contact about the property. (Fires, medical emergencies, etc.)

15) In an email dated 7/27/2021, Aaron Martin, PW Director stated,
Public works takes no exception to this application.

16) Pursuant to Section 5.7 of the Zoning Regulations, **the Zoning Board** finds the following:

- a. There will be no adverse effect on the capacity of the existing or planned community facilities;
- b. There will be no adverse effect on the character of the area/neighborhood affected;
- c. There will be no adverse effect on traffic on roads and highways in the vicinity;
- d. The proposed use will be in compliance with the bylaws now in effect;
- e. The proposed use will not adversely affect utilization of renewable energy resources;
- f. The proposed use is in conformance with the Town Plan;
- g. The proposed use does not require site plan review; and
- h. The proposed use is in conformance with community character.

CONDITIONS:

- 1) The landowner shall confirm and/or post the E911 numbers on the house and the apartment.
- 2) The landowners shall adhere to all state and local laws, rules & regulations and ordinances as in Findings above and shall inform all Airbnb renters of same.
- 3) The landowners shall provide their emergency contact information directly to the Police Chief.
- 4) All conditions from previous approvals shall remain in effect except as modified herein.

The MOTION passed 5-0.

AGENDA ITEM 4: MINUTES: July 1, 2021 & May 6, 2021:

Vice-Chair Plageman MOVED and Board Member Yandow SECONDED a MOTION to approve the 7/1/21 minutes, with minor grammatical changes. The MOTION passed 4-0-1 (St. James abstained as he was not present for this meeting.)

190 **Vice-Chair Plageman MOVED and Board Member Norton SECONDED a MOTION to**
191 **approve the 5/6/21 minutes, with the following change:**

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193 Delete Lines 69-71 and replace with: Board Member Plageman asked, “The second question
194 Matt, if you would, what is the distance from the front of the garage to the back of the house?
195 Do you have that measurement? Bogaczyk answered, “I’m trying to process. I have a rough
196 idea of what that is. I do, I’m sorry, I’m processing it really quickly here. So, the house, the
197 addition is 60, uh, the back of the addition would be 66, 64’ from the road; and the garage is
198 roughly, where the garage is proposed is 140, 138. So call it, um, about (interrupted)” Plageman
199 said, “about 80’. Sound like about 80’. 66 less the 140.” Bogaczyk said, “about 70’, yup.”
200 Plageman said, “OK.” Bogaczyk said, “Roughly.” Plageman said, “OK.”
201 Line 121: Correct the word “continuous” to “continuance.” **The MOTION passed 5-0.**

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203 **OTHER BUSINESS:**

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205 Kelley reported that the Planning Commission will be doing a “quick” first round of Zoning
206 Regulation amendments, primarily to capture statutory updates, however they PC will be going
207 right back for an in-depth update. She asked the ZBA to be informed and to let her know if they
208 have any concerns that they would like addressed. The ZBA asked if cannabis was going to be
209 regulated in Essex. Kelley reported that the Select Board first had to decide if cannabis was
210 going to be permitted in Essex, and if so, then regulations and/or an ordinance would be created.
211 The ZBA asked to be kept abreast of this matter.

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213 The meeting adjourned at 6:59 p.m.

ZONING BOARD OF ADJUSTMENT

By:

_____, Chair
Nick Martin

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