ZONING BOARD OF ADJUSTMENT

STAFF REPORT

August 1, 2019

Proposal: The applicant is proposing an AirBnB located at 91 Lost Nation Road.

History: A single-family house was constructed in 1978. A building permit was issued on 12/17/18, to tear the building down and rebuild the house. The landowners also own the abutting lot.

PROPOSED FINDINGS:

1) The landowners, Allan & Ann Ramsey reside at 93 Lost Nation Road, Essex Jct., VT.

The property is located at 91 Lost Nation Road, in the Town of Essex, Chittenden County, State of Vermont. This is a 3-acre lot with approximately 250 ft. of frontage and is serviced by private septic and private water. The applicant provided a State Guidance Document, dated 11/14/2007, regarding the use of the existing septic. The majority of the lot is located in the Agricultural-Residential (AR) Zone, with a small portion of Floodplain (C2) Zone located in northeast corner of the back of the lot.

The proposal, as described the landowner is as follows,

Current owners plan to remove the present building and replace it with a similar one bedroom house on the footprint of the original house bought in 1984. The current plan is to list the house with Airbnb and for personal use to host family and friends. No long term rental is planned at this time. The current septic system and driveway will remain the same. Power lines and power provided by GMP will remain the same. Parking for 2 cars (maximum) on the property will remain the same. 91 and 93 Lost Nation have a town approved shared driveway. The house will accommodate a maximum of four people. There will be a two dog limit per stay. Dog(s) must stay with their owners at all times and be supervised anywhere on the property. Dogs must be on leash if walking outside of property or on the road. No other types of pets/animals will be permitted.

2) The application is being reviewed under the Town of Essex Outside the Village of Essex Junction Official Zoning Regulations, Article II, Section 2.3(C)(3) Unspecified Use and Article V, Section 5.7 Conditional Use.

3) Section 2.3(C)(3)-Unspecified Use reads,

In the event that a particular use is not set forth in the Use Chart as defined in Section 8.1, but is, in the opinion of the Board of Adjustment, consistent with the philosophy as set forth in these Regulations for the district in which it is proposed and of similar impact in terms of
the potential for intrusion on abutting properties, the Board of Adjustment may allow the use as a conditional use after public hearing, duly noticed. In such an event, notice shall be sent to the Planning Commission of such hearing, and the Planning Commission may submit its written or oral recommendations to the Board of Adjustment relative to the proposed use. A use which is philosophically not consistent with the purpose of the district, or which is judged to have a more significant impact on abutting properties than uses normally allowed in the district, as set forth in these Regulations, shall not be allowed under this Section.

At the 7/25/19 Planning Commission meeting, the Zoning Administrator informed the Planning Commission of the unspecified use application. The Zoning Administrator reported that on 7/25/19, she received a verbal legal opinion wherein the town attorney advised that an unspecified use application was appropriate as the Town currently regulates Bed & Breakfast.

The Planning Commission was concerned that this use could be opening “Pandora’s Box”, noting that other communities are struggling with this use. Commissioner Raphael noted that there are several residents that have posted AirBnB’s. Commissioner Raphael wants to make sure that this use is handled consistently across Essex.

5) The applicant submitted an Ariel Map, and hand-drawn plans entitled:
   “Allen & Ann Ramsey
   91 Lost Nation Road
   Essex Junction, VT 05452”

6) Pursuant to state statute a ‘Notice of Hearing’ was provided to the applicant for posting on the property.

7) The abutting property owners were notified of this meeting by certified mail.

8) The applicants were mailed a copy of this Staff Report prior to the meeting.

9) ________________________ spoke on behalf of this application. No one from the public commented on this application OR _______ provided the following comments on this application.

10) Public Works verbalized to the Zoning Administrator that they take no exception with the application, however they would check the existing curbcut to verify if improvements are needed. This will be captured at the time of inspection of the new house.

11) The Recreation Director did not provide comments on this application.
12) In an email dated 11/12/19, the Fire Chief said,

*The Fire Department would be interested in possibly using the current building for training purposes prior to its removal if timing permits.*

*For the new building and proposed use: The Fire Department would request that it be clearly marked with the street address out at the road edge from either direction. Also, I would recommend the owners post the physical street address inside the home for all renters to easily locate in the case of emergency. Many people might use their personal cellular phones to call 911, and posting the physical location will aid us in response.*

13) In an email dated 11/12/19, the Police Chief said,

*Some EPD request because this is a strictly rental*

1. *If there is any alarm system is must ring and be monitored by an alarm monitoring company*
2. *Owner name and contact (phone/email) for alarm issues filed with EPD and alarm company*
3. *Even if there is no alarm the owner should contact the police department and register their name/contact numbers in case there was an emergency/issue with the renters so we could contact the homeowner’s to let them know of the problem. (Speak with Chief when you call)*
4. *If dogs are allowed that the dogs must have current rabies vaccination (copy of written documentation with them) unless dog is less than six months old who do not require vaccination*
5. *Dog must wear a collar and tag’s at all times with current contact information for owner on tag.*
6. *They must follow any state or local dog regulations, i.e. leash law, picking up after pet’s off private property, dogs running at large*

14) Pursuant to Section 5.7 (Conditional Use) of the Zoning Regulations, the Zoning Board reviewed the applicant’s written responses to this criteria, as follows:

**(a) Capacity of existing or planned community facilities:**

*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.*
(b) Character of the area affected:

Character of the area affected: The area, which is zoned agricultural/residential will not be affected in any way. Road frontage and land use will be the same as when property was sold in 1984.

(c) Traffic on roads and highways in the vicinity:

Effect on traffic on roads and highways in the vicinity: No projected change/impact on the traffic of Lost Nation Road 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 guest house and periodic short term AirBnb.

(d) Bylaws and ordinances in effect:

No violation of existing bylaws and ordinances noted.

(e) Utilization of renewable energy resources:

No changes in conformance or impact on community character is projected.

15) 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.

PROPOSED CONDITIONS:

1. The applicant shall adhere to any improvements that may be required of the curbcut review.
2. The applicant shall inform the Fire Chief on a decision to use the building as training prior to demolition.
3. The applicant shall contact the State Dept. of Fire & Safety and secure any permits that are required of a rental property.

4. The applicant shall secure both a Town and State Certificate of Occupancy inspection.

5. For E-911 purposes, the house shall be clearly marked with reflective house numbering, as well as on a post by the roadside. The house number shall be visible from both directions.

6. The physical street address shall be marked inside the home for emergency purposes.

7. The applicant shall confirm that any alarm system rings and is monitored by an alarm monitoring company.

8. The landowner shall register its emergency contact information to Police Chief Rick Garey.

9. Prior to renting, all clients shall provide current rabies certification to the landowner unless the dog is less than six months old.

10. Dogs shall wear a collar, including rabies and contact information tags at all times while on the premises.

11. Clients shall follow any state or local dog regulation as noted in Finding 13 above.

12. The applicant shall inform all renters of the State noise laws.

13. The applicant shall maintain the building and property, including but not limited to trash/recycle removal.

14. By acceptance of the conditions of this approval without appeal, the applicant confirms and agrees for himself and all assigns and successors in interest that the conditions of this approval shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the applicant and all assigns and successors in interest.