

**TOWN OF NEW BOSTON  
NEW BOSTON ZONING BOARD OF ADJUSTMENT  
Minutes of 2018**

**September 18, 2018**

The meeting was called to order at 6:57 p.m. by Zoning Board of Adjustment Chairman David Craig. Present were regular members Greg Mattison, Ken Clinton, Doug Martin, Anthony Olivier and Alternate Members Michael Dahlberg and Wayne Charest. Also present was Zoning Board Clerk Nadine Scholes and Planning Coordinator Shannon Silver.

The Chairman welcomed the new Alternate Board Members, Michael Dahlberg and Wayne Charest.

The Chairman noted that the minutes of the July 17, 2018, and August 21, 2018, hearings would need to be approved with or without changes.

Ken Clinton **MOVED** to approve the Zoning Board of Adjustment meeting minutes, of July 17, 2018, as written. Greg Mattison seconded the motion and it **PASSED** unanimously.

Greg Mattison **MOVED** to approve the Zoning Board of Adjustment meeting minutes, of August 18, 2018, as written. Ken Clinton seconded the motion and it **PASSED** unanimously.

**MICHAEL J., Jr., & SHAYNA L. CHASE**

Application for Special Exception - Lodging House

Location: 127 Butterfield Mill Road

Tax/Map Lot #10/12

Residential-Agricultural "R-A" District

Present in the audience were Michael J. Chase, Jr., Shayna L. Chase, Ted Fountain, abutters Buckner Creel, Kathleen P. Nichols, Don Roach and Leslie Roach.

Greg Mattison abstained himself as a voting member.

The Chairman read the public hearing notice and invited the applicants to explain the application submitted for a lodging house.

Michael Chase noted that he and his wife purchased the home back in 2015, as their forever home. Mr. Chase noted that the home is a large farm house and 251 years old. They have made some improvements to the property, including updating the well, adding solar panels and renovating the barn into an office/studio space.

Mr. Chase explained that about a year and half ago he was offered a job in Maryland and they decided moved the whole family to Maryland but wanted to keep their

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home in New Boston to come back to eventually but would use as a vacation home. Since they spent so much time away from the home, they decided to look into advertising the home as a short term type rental which would help retain the home and allow them to keep improving the property. Up to 13 guests could rent out the 7-bedroom house and would be ideal for family gatherings or larger group getaways.

The Chairman asked the applicants to describe the property and the abutting properties proximity. Mr. Chase noted that the property is a total of 32 acres, which 30 acres is in New Boston and the other 2 acres is in Lyndeborough. There is 10 acres with the house and on the other side of Butterfield Mill Road was the 22 acres that is in conservation. The abutting properties were mostly forest but the one residential abutter was across the river and on a different road.

The Chairman asked if the 2 acres in Lyndeborough was on a separate deed or on the same deed. Mr. Chase believed it was on the same deed. The Chairman asked the Planning Coordinator if the abutting properties in Lyndeborough were sent notice of the hearing. The Planning Coordinator verified that the property in Lyndeborough was owned by the Chase's but that was a separate lot all together, known as Tax Map/Lot #10/9, and the requirement is to notify direct abutters only.

The Chairman asked the applicants to describe how the process worked on these rental websites, what types of renters they get and how could they verify it was not a 22 year old looking to have a drinking party with all his friends for the weekend.

Mr. & Mrs. Chase explained that they advertise the rental online using websites such as AirBnb, VRBO, Home Away etc., specifying details including when the rental would be available, price per night, number of rooms/bathrooms, guest limits and what amenities are available to renters. The home being larger is usually rented to a group of people or families and is available for a short term period, between 2 to 7 days during the peak season, but never more than 30 days during the off seasons. The website handles verifying the renters information, making the reservation and the payment transaction between the property owner and the renter. He noted that the website can serve as means of communication with the renter and vice versa. The renters are not only verified by the website but they also can be reviewed if they have ever rented using that website. If they do not have any reviews you can assume they are first time users/renters and the applicants explained they generally do not like renting to someone without credentials or reviews.

The Chairman asked what would be considered the peak and off season. Mr. Chase said generally the peak season would be from May to October and off season would be November to April. Doug Martin noted that the application indicated the applicants are seeking 'approval for a special exception to use the property for lodging in the main and barn/guest houses. The main house and barn/guest house are available for

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lodging for a maximum of 7 days for peak season (May – October). 30 days off season (November – April) per stay. A maximum of 13 guests will be permitted to stay in the main house and 4 guest maximum in the barn/guest house.'

The Chairman questioned if there would be an on-site property manager and how would the applicants prevent the younger crowds from renting the house to have a party. Mr. Chase noted that his mother lives close by in Vermont and is handling the property management at this time. She is available by phone for the guests to contact if they have any questions or concerns during their stay but she also meets all guests upon arrival, gives them a tour. Additionally, Ted Fountain, who is a friend of the family, is available for any urgent or emergency type situations and he is only 10 minutes down the road. In regards to preventing a party from taking place, Mr. Chase explained that he controlled who is able to rent the property and able to deny someone if he felt they would disrespect his home. He explained that the rental is more price driven for a large group or family wanting to get together or away for the weekend, the price is \$500-\$1000 per night, and a 2 night minimum, not typically a rental that would attract a younger group looking for somewhere to have a bash. He noted that there are sensors installed on all the doors and windows, if a door were left open or if the temperature inside drops under a certain degree he is sent a notification with the ability to check if any sensors are showing something is not normal.

The Chairman asked if the Board had any questions or concerns.

Ken Clinton questioned if he understood correctly that the lodging house had been operating at some degree prior to applying for the Special Exception. Mrs. Chase explained that before they initially started renting the house out over a year ago, she had called the Town Hall to check what would be needed for approvals to use this house as a short term rental. She stated that she was told that use would not be considered as a Lodging House or Bed & Breakfast because they would not be serving food to guests and the Town would not require any kind of approval to rent out their property but was instructed to check with the State. The State was only concerned with collecting the appropriate rooms and meals tax. Mr. Chase noted that they became aware that they would need to get an approval from the Town when the fire department had answered a call for a defective fire detector while the home was being rented by a group of people. The Fire Inspector had called Mr. Chase to ask what was going on with all the people staying in the house and he explained what they had been doing with the property. The Fire Inspector told him that he would need to go through the process to get approvals from the Town and the Fire Department would require commercial sprinkler and fire alarm systems to be installed to meet NFPA Fire Code requirements. Mr. Chase said that before he spent the money on installing the required fire safety systems to be compliant, he wanted to make sure he could get the approval needed from the Town.

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The Planning Coordinator verified that the Fire Inspector came to explain the situation to her and she subsequently had discussions with the applicants on the plans for the property and what approvals would be needed from the Town. She explained that this Airbnb situation was not uncommon and was a nation wide enforcement crisis and there were many of these rentals available in the area. She explained that the Chase's situation was a bit grander in the scheme of things because of the size of the house and how many guests would be occupying the house. There are items that would need to be restricted or limited with the site plan approval, i.e. parking, fire safety, etc.

Doug Martin asked who had determined this to be considered a lodging house. The Planning Coordinator explained that would be the only use they would fall under that is currently allowed in the R-A District in the Zoning Ordinance and what was defined in the Fire Code. The Chairman noted that he was stuck on what 'individual kitchen facilities' meant in the definition for a lodging house. The Planning Coordinator noted that was an interpretation and she would interpret that as kitchen facilities were in each individual room if it were a motel/hotel. Doug Martin said he had concerns with what the threshold would be for triggers of requiring an approval for all rental properties and the Zoning Board setting precedence with approving this application. Michael Dalhberg noted that the current definition for a lodging house specifies a dwelling that is rented to 'three or more guests', that could be considered the threshold for requiring an approval to operate a rental. The Planning Coordinator noted that the Chase's situation was different then the yearly leased type rentals because the house would be rented on a short term basis to different groups of people. The nature of this type of operation could potentially impact the neighborhood and should require approvals to limit the use. She noted that after the Special Exception is granted from the Zoning Board, the next step required the applicants to submit an application for a Non-Residential Site Plan Review with the Planning Board. She explained that the Planning Board would review the site plan to specify any necessary conditions or limitations, parking, traffic and safety. She continued that the Planning Board is aware and had some discussions already to address short term rentals in Zoning and what could be the thresholds for requiring the Town's approval to operate a rental of this nature.

The Chairman noted that the applicants had not disagreed or argued the fact that the use should not be considered a lodging house. They have applied for the Special Exception and met the criteria required, plus they have stated they are willing to comply the operation within the limits and restrictions. He does not believe the Board would need to question the use to be determined as something different at this point.

The Chairman opened for public comments.

Abutters, Don and Leslie Roach, 52 Sharpe Road, noted that they did not have any issues to report at this point but said they do have concerns that the lodging house would not be controlled and that could grow into creating problems such as excessive noise. Mrs. Roach also questioned who would they contact if there were an issue in the

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future, should they call the police? Mr. Chase explained that he could provide contact information for his mother and Mr. Fountain and would encourage they call if there are any issues that arise while there are guests occupying the house but he would do his due diligence to verify renters beforehand.

The Chairman questioned how many times has the house been rented since the applicants started advertising it online. Mr. Chase said that since last December, there has been around 45 different groups of people. The group size varied between 8 and 13 people and some had family reunions or other gatherings on the property. They have never had an issue with the renters disrespecting the house or the property.

The Chairman confirmed that Mr. & Mrs. Roach still testified that they have had no issues to report knowing that the house had been rented often to large groups over the past year. They replied they had no issues to date; they only are concerned with the potential of it growing and not being controlled.

Abutters, Kathleen Nichols and Buck Creel noted that they own a vacant lot of land on Butterfield Mill Road that was in current use but eventually do plan to build a home on the lot and move here from Massachusetts. Ms. Nichols noted they have cleaned up garbage left behind from the public using the trails and the campers along the river. They were concerned that the guests of the lodging house would not have respect for the land and only add to these issues that already exist.

Ms. Nichols questioned if the Special Exception were granted and the property were sold, would the approval go with the sale or would the new owners need to come back for another approval. The Chairman believed the Special Exception would be transferred to the new owner if the property were sold. The Planning Coordinator agreed but explained that the new owner would need to agree and sign a statement that they would adhere to the existing site plan on file.

Mr. Creel and Ms. Nichols believed this use would be difficult to control and would like to see some limits and restrictions for the use. They expressed their biggest concern would be that the property would not have any on-site management during guests stay. This would mean that the guests are free to do whatever they want and believed this would not be in line with the idea behind Conservation and the PLC preserving the land in this area.

Mr. Chase noted that the property across the street was in current use and the general public is permitted to use that for recreational use. It would be difficult for him to monitor property that is also used by the general public. The Chairman asked if motorized vehicles or any other off road vehicles were allowed on the property across the street. Mr. Chase said he did not believe motorized vehicles are allowed. The land is restricted and monitored by the PLC and Conservation Commission.

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The Chairman questioned if anyone had their property values evaluated because he would be concerned about the lodging house possibly having a negative impact on the value of the surrounding properties. The abutters had not researched if their property would be affected by the use. Mr. Chase noted that since he purchased the home he had increased the value of his property with the improvements completed. He noted that he planned on improving the property even further but he does not believe there should be any evidence found that the use of his property would impact the value of the his neighbors properties.

The Chairman said that with the abutters concerns and the fact he would like some assurance that the use would not diminish the abutting properties values he suggested the applicants discuss with the abutters how to restrict the use and what safe guards would be necessary to make this work without disrupting the neighborhood. He continued that the hearing tonight could be used as a work session and adjourned to have time to discuss and get opinions or estimates on the property values.

Mr. Chase said that he would be willing to discuss the abutters concerns and believed 30 days would be sufficient to do so.

David Craig **MOVED** to adjourn and continue the hearing in 30 days to allow the applicants time to resolve some of the abutters concerns and get opinions on abutting property values. Anthony Olivier seconded the motion and it **PASSED** unanimously.

The Planning Coordinator explained that the owners/abutters would not be re-noticed for the adjourned hearing and would be scheduled to continue on October 16, 2018, at 7:00 p.m.

Doug Martin **MOVED** to adjourn the meeting at 8:30 p.m. Greg Mattison seconded the motion and it **PASSED** unanimously.

Respectfully submitted,  
Nadine Scholes, Zoning Board Clerk

Minutes Approved: 02/19/19