

Town of Durham
Narrative in Support of
Special Exception Request

Scott and Karen Letourneau (Owner/Applicants)
26 Newmarket Road Durham, NH 03824
Tax Map 6, Lot 9-5

Introduction

Scott and Karen Letourneau (the “Applicants”) are the owners of the property located at 26 Newmarket Road, shown on Tax Map 6 as Lot 9-5 (the “Property”). The Property is located in the Residential B Zoning District (the “RB Zoning District”). In addition, the Property is in the Historic Overlay District (the “HOD District”). The Applicants, at the July 14, 2020 Meeting of the Board, received a Variance to construct an accessory apartment, and this construction is in progress. The Applicants seek to obtain the flexibility to be allowed to offer either short-term or long-term rental of the apartment. Therefore, a Special Exception pursuant to Article XII.1 Section 175-53 via Article VIII Section 175-26(A), to allow the category of use: short-term rental is required.

Special Exception Request

The Applicants request a Special Exception pursuant to Section 175-53 of the Ordinance to allow the category of use: short-term rental. In order to obtain this category of use, the Applicants must satisfy the criteria for a Special Exception outlined in Section 175-26 of the Ordinance.

Special Exception Criteria

#1. That the use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation from the kind and nature of other uses in the vicinity or by reason of obvious and adverse violation of the character of the neighborhood

The requested use should not be an “undue variation from the kind and nature of other uses in the vicinity” as there are a number of non-residential business and commercial enterprises (an attorney’s office at 24 Newmarket Road, a veterinary hospital and pet boarding business at 31 Newmarket Road, a medical office building at 44 Newmarket Road, and multi-unit apartment building at 9 Tavern Way) all in the immediate vicinity. These categories of use are widely varied, but are not detrimental to the character and enjoyment of the neighborhood. All of these property owners applied for and received the necessary Variances and/or Special Exceptions required to operate in the Residence B zone. With respect to “obvious and adverse violation of the character of the neighborhood”: The operation of a short-term rental, if operated responsibly, should be indistinguishable from a responsibly operated long-term rental

by the neighbors and general public. Further, there are numerous other rules and regulations governing the operation of a short-term rental in the Town of Durham specifically created to preserve the neighborhood character and minimize any detriment to the neighbors and the rest of the Town residents. These include requiring that the site of the short-term rental be the property owner's primary residence, requiring that the property owner or a family member be on site overnight when the property is rented; prohibiting recreational vehicles, trailers, tents, or other temporary shelters to be used by the renters in conjunction with the short-term rental;

and limitations on signage among other regulations. The Applicants plan to adhere to all pertinent restrictions and regulations promulgated by the Town. Notably, these restrictions do not apply to the occupants of a long-term rental. As an example of how just one long-term rental can be operated in a way that is indeed detrimental to character and enjoyment of a neighborhood, the Applicants would like to direct the Board's attention to the long-term rental at 14 Newmarket road where a formerly stately and historic home has been allowed to deteriorate into an eyesore with peeling paint, sagging railings, and with mattresses and other garbage strewn about both the front and back yards. Music is regularly broadcast from the property during warm weather months and can be heard across the Mill Pond and beyond, disturbing many neighbors' peace and right to quiet enjoyment of their own properties. This example is raised to highlight the point that the likelihood of detrimental and/or disruptive activity and behavior on a property is more closely linked to the character and sense of responsibility of the property owner/landlord and to the quality of the tenant than to whether the tenant stay two nights, two weeks, or two years.

The Applicants are proud to be property owners in the Historic Overlay District and will not allow use or activity that is detrimental to the character, appearance, or enjoyment of the neighborhood by the public or Applicants' surrounding neighbors, or that is detrimental to their own property value. Further, an abutting property (28 Newmarket Road) has had a special exception for use as a short-term rental for several years with no apparent detrimental effects.

#2: That the use will not be injurious or noxious and thus detrimental to the neighborhood by any of the causes stated in Part B. Zoning Districts (See Table of Contents) of this chapter.

The proposed category of use should not be injurious or noxious and thus detrimental to the neighborhood by any of the causes stated in Part B of the Ordinance. Please see above response to criterion #1 and summary below

#3. That the use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life or property, unsanitary or unhealthful emissions or waste disposal, excessive noise, or comparable adverse causes, impacts, or conditions.

With the exception of excessive noise, none of the conditions listed in Criteria #3 should be expected to be associated with short-term rental category of use per se, as opposed to long-term rental category of use, which does not require Special Exception. There is no reason to believe that a short-term rental category of use would be associated with an undue risk to life or property, unsanitary or unhealthful emissions or waste disposal, or other comparable adverse causes, impacts, or conditions any more than a long-term rental category of use. The only

difference between short- and long-term rentals with respect to these conditions is how frequently the occupants change. With respect to the possibility of undue traffic congestion or hazards, the number of occupants and the fact that they will be limited to a maximum of two vehicles is not different between short- and long-term rental. The apartment has one bedroom and is only 14' x 42', or 588 square feet in size. There simply is not enough room to host any sort of significant party. The potential issue of excessive noise will be addressed in the Summary below.

Summary

The Applicants have more than 18 months of experience owning and managing a home listed as a short-term rental on Airbnb.

https://www.airbnb.com/rooms/36833060?source_impression_id=p3_1565105759_kewZe%2BxB53TanxzN

The Applicants are acutely aware of and sensitive to the potential deleterious effects of a poorly supervised and irresponsibly run short-term rental.

In addition, the Applicants' existing Airbnb rental is in a neighborhood with 5' side lot line setbacks, meaning that the neighboring houses are a mere 10' apart in places. For this reason, the Applicants are already extremely sensitive to the potential impacts to neighbors with respect to noise and other disturbances. The Applicants would plan to utilize the same strict "Quiet Time" and "No Parties" rules as are in place at their current rental, and run a similarly "tight ship". The Applicants have excellent relationships with their Durham neighbors and do not want to jeopardize those relationships.

The Applicants simply would like to an opportunity to begin to recoup the substantial investment in upgrades to their property and be able to offer a convenient, walkable, and private short-term lodging option to tourists, parents of UNH students, and other visitors to the area,

until such time as one of their aging parents might utilize the space.

Conclusion

In conclusion, the Applicants have met the full criteria for granting the Special Exception category of use requested. Accordingly, the Applicants respectfully request that the Board approve the application.

Dated January 19, 2021

Respectfully submitted,



Scott and Karen Letourneau