

**Board of Adjustment
Canterbury, NH
Minutes of Meeting
August 2024**

Case No. 2024-4 Special Exception-Short Term Rental

Present were: Chairman Jim Wieck, Sean O'Brien, Christopher Evans, Lisa Carlson (Alternate).

Web Stout and Calvin Todd were excused absences. Also present was Gail Ober, newly hired Land Use person.

Chairman Wieck called the meeting to order at 7 PM advising there are three regular and one alternate voting member present. Alvin Todd and Web Stout are excused absences. He gave a detailed explanation as to the conduct of the hearing procedure.

Mr. Rogowsky introduced himself and advised his wife, Marcia Rogowsky got called away on business. They live at 611 Shaker Road. From his dock he can see the property they recently bought which is 11 Robin Shore Drive. He is actively involved in the Friends of Lyford Pond trying to save the dam. He is a member of the road committee also in Sherwood Forest. He tries to be a good community member. What they are basically trying to do, the was falling down, in kind of tough repair. They asked for a showing, actually knew who they were from across the pond, they said as long as you meet the one clause that everybody else has, they would accept their offer because they knew they would protect the property, and they have a record of doing that by being good neighbors in this community. Before they bought that I paid dues for the Sherwood Forest Association as a land abutter because I wanted the community to be successful. I wanted to be a good neighbor. I'm the only person who has ever done that. It's in the records, I try to be a good person. So, the reason we bought this house is I think you know if you are on water there are very limited things that you can do to your property to expand. I have had a few things done in which I followed the town's procedure and got permits. It would have been easier to buy another house than to expand a house on the water with a limited hundred-foot area. So, what we did was we bought that. We don't have an area for family or friends to stay comfortably, so we bought that. But we also wanted to have the opportunity, to be honest, to augment some of the costs that we might have to incur to go through this. I did approach most of my neighbors that I can talk to and they were in favor of working with us. They are actually glad that we are there. We couldn't even get insurance for the place because it was in disrepair. We had to maintain, upgrade a lot of the process before we could get insurance. We've helped the town, and the local association clear out culverts and get it safe for drainage. We have taken away all the brush. I've opened up for safety reasons for the town for fire access protection with the road crew. I've cleaned on both sides of Robin Shore Drive. I'm actually doing Sherwood Forest Drive so you can get safely with plow equipment, fire equipment and maintain it. So, what we're asking is that you let us do a Short-Term Rental upon occasion. I am not sure how much that would happen, but we would like to have the opportunity to augment our investment. We are fully invested in this area. We bought here to retire here. We are not quite at retirement age, but we are close. I would not let somebody that lived where I can yell at them cause a negative issue, because my neighbors could yell at me across. It's not like I'm buying a house that's 10,000 miles away. I can see the property from my house and

most of the people that are there know who I am and actually come over and see me and say hi to me when I'm working on the area. Chris asked to see the plot, what the layout is. Mr. Rogowsky explained he has a double plot which is on the peninsula. He has no neighbors on 3 ½ sides. The only neighbor that he has that has a house is across the He reviewed the plot plan with Chris explaining the building in question is an already existing one. Most of his property is encased in woods. The property is approximately ¾ of an acre. Jim stated so you would not be living at the property that you are talking about and having the short-term rental. Mr. Rogowsky responded, to be honest, no, but he does go over there regularly because he gets sun on that side of the pond, and he does not get it on his side of the pond. He probably will not be living there, but he is there daily working on the property, but is he living there, no. Jim, so is the primary purpose of the property as a dwelling or is it a short-term rental? Mr. Rogowsky stated in our application I think we stated it would be used majority wise for family, for our kids who grew up here now live out west to come here. They come for vacations, his mother lives in Florida. Jim asked would the principle use of the property be for your family. Mr. Rogowsky that's correct, yes. Jim said for the record we would need to know to what extent you will be utilizing it as a short-term rental. He knows they don't know for certain, but we need to have some kind of aon it, so if you can give some kind of estimation of the time it would be used as a short-term rental. Mr. Rogowsky responded he thinks it would be more summer related because of the pond. If he could get a long-term rental or get his kids to come home and stay through the winter, they would be using it. But the draw is being on the water on three sides. It wouldn't be a draw at other times of the year. Jim asked him to put a number of months on it for the record. Mr. Rogowsky replied May through September would be the most. Chris said he wants to be clear, that would be as a short-term rental and not for family? Mr. Rogowsky replied I can have family and friends there any time. Chris restated what percentage of time during the May through September would for family and friends and what percentage for short-term rental? Mr. Rogowsky said he honestly does not have a straight answer. He would say truthfully a little bit more family in the summer, in the winter it would probably not be very much at all. He clarified the May through September is the summer draw. If a snow mobile or a skier wants to come, he is not going to say no. But there are plenty of other options. There's two people in the local area that have Air B&B's. There's one on New Pond which is kind of in our community which is a mile away and then there's something about three miles away. There's only two available from what I looked up in a ten-mile area of where I live. So, it's not overcrowded. Jim asked so have you completed the inspections, fire, code enforcement? Mr. Rogowsky replied all of that has been done. They only major thing we were requested to do is we need a bigger sign for the fire department. The fire department said they want a more visible sign. He also cleared the access which had never been done. There was a lot of debris, blow down. Chris asked about the sign, the address. New 911 standards required bigger numbers and letters, Mr. Rogowsky advised. Jim asked will all the parking be on the property. It will. There is easily room for 5 cars. In their advertisement it will say it is designed for no more than two people. It is not going to be a party place. It is set up as a romantic, private, getaway. We don't want loud people, we're not loud people. That's not what we're looking for, nor are our neighbors. We want it to be very small. Chris said you said a minimum of two people....Mr. Rogowsky restated a maximum of two people, two adults. Jim stated for the record a maximum of four people. Jim advised there are certain conditions for a special exception that are in the ordinances. Chris said he covered it in the application. Jim said for the record we need to go through those. So if you have your application with you, if you can go through those for the record on the second page of the application items one

the house, they have made the neighborhood look better and their neighbors feel that way as well. He thinks they have helped increase the property values locally because they've cleaned up and their property now does not look like an eye sore on the area. It's also safer than it was. They have also improved the drainage. Their neighbors have joined in with the works. They being there is not just benefiting them, it's helping the community. They are getting rid of thirty years of deterioration. They upgraded the water system so everything going through to the septic is better. They had the well cleaned, biosized, made sure that was done. Jim said what you're saying it's in the public interest. Mr. Rogowsky concurred. The public is getting something out of this as well as we are. I was trying to answer number two. In the area that they are in they probably have more privacy and more land than anybody else. He thinks they are the only ones with a double lot. They are the only ones who are really not on the water. The original association was created in 1965. They were all there. We were set back so they have a little less environmental impact. He already addressed number four by drainage and making sure wastewater is contained. As far as the nuisance and noise he thinks he has already addressed that. It would be hard for people to hear us because we are isolated in that area. The only thing as far as noise is road noise from Shaker Road. You can sometimes hear things from one end of the pond to the other. There is no public beach area. He has an entrance to the water, but he does not have a 100-foot open beach area, so the people on the other side of the pond, which is basically me and one other guy would have not much of an issue. He thinks he answered the board's questions on the spirit. Traffic and hazard conditions and how the neighbors have expressed their appreciation have been posted on the association website.

Chairman Wieck thanked Mr. Rogowsky for going through his criteria responses. He asked if anyone was present who wished to speak in favor. There being no one present to do so He asked if anyone wished to speak in opposition. Again, no one was present to do so. He asked Mr. Rogowsky if he had anything to add to his testimony. Mr. Rogowsky advised his wife is a lifelong New Hampshire resident. She grew up in the area. They moved back to the area to take care of her parents who resided in Tilton. He came here to the Nashua area 35 years ago. He reviewed their process for obtaining the properties they now own. They are vested in this area. He is asking the board to please grant this application.

Sean said he wanted to clarify it seemed like you were trying to put an interval of time in which you could rent, like a six-month maximum or something like that? In the ordinance it states.....Jim spoke saying the primary use of the property shall be as a family,,,,,Sean concurred, right. So, I feel like you are trying to say it's a primary residence, but it just says in principle you shall be a single-family home. Jim concurred; it will be used by the family. Sean agreed, but asked why couldn't he rent it all year? I think he should be able to rent it all year. Jim replied, not as a Short-Term Rental. There are other mechanisms....he could have it as an apartment just as there are others in Canterbury. The application is for a Short-Term Rental. It's pretty specific in here, the principle use of the property has to be a single-family home. Sean agreed, which it is. Jim agreed, he thinks he met that criteria, which he says largely while it may not be occupied all the time, but it's available to his family as a home, as part of his home. Chris asked Sean, "am I understanding you are thinking that it should be a twelve-month rental possibility." Sean clarified that it could be a Short-Term Rental all year. He does not understand why he could only do it seasonally or for a period of six months. Jim clarified he is not interested in season or when, he is just interested that we can with straight face, it passes that test that it is primarily a single-family home. If it's rented all the time, it's not a single-family home. Extended, extensive dialogue took place about the wording and interpretation of single-family home, rental meanings, short-term rental interpretation by the board

members. The board reviewed the wording of the ordinance (found on page 8 of the ordinances). Mr. Rogowsky meets the criteria for the application, so this is not of concern this evening. Chris asked if the board was going to place a condition on the decision. Extensive discussion ensued about what the appropriate amount of time should be under these conditions. It was decided the board could say in aggregate less than half the year. It will be used as a Short-Term Rental in aggregate for less than half the year. Chris made a motion to approve this application because the applicant has convinced the Board he meets the criteria for the following reasons:

1. That granting the permit would be in the public interest.
2. That the proposed use would not adversely affect the property values in the district.
3. That the specific site is an appropriate location for the proposed use.
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.
5. That the proposed use would not constitute a nuisance because of offensive noise, vibration, smoke, dust, odors, heat, glare, or unsightliness.
6. That granting of the permit would be in the spirit of this ordinance.
7. That the proposed use would not constitute a hazard because of traffic, hazardous materials or other conditions.

The applicant agrees that the rental period will not exceed six months in aggregate of use during any calendar year.

Sean seconded the motion. The Board vote was a unanimous decision to **GRANT** the special exception. Chairman Wieck explained the thirty-day appeal process.

The minutes of Case No. 2024-3 were unanimously approved as written.

Respectfully submitted,

Lisa Carlson, Clerk
Board of Adjustment