

JOINT ARCHITECTURAL BOARD/PLAN COMMISSION MINUTES
MONDAY, SEPTEMBER 18, 2017
7:00 PM
BOARD ROOM
MUNICIPAL BUILDING, 210 COTTONWOOD AVE.

Present: David deCourcy-Bower, Tim Hallquist, Jeff Pfannerstill, James Schneeberger, Randy Swenson, Jack Wenstrom and Tim Fenner

Others Present: Administrator Cox, Building Inspector/Zoning Administrator Hussinger and Clerk Igl

Roll Call

1. Motion (deCourcy-Bower/Swenson) to approve the Jt. Architectural Board/Plan Commission Minutes of August 21, 2017. Carried (7-0).
2. Items related to a request for a Conditional Use for operation of a Bed & Breakfast for Steven & Elisa Filipp, 450 Park Ct.
 - a. **PUBLIC HEARING** for the consideration of a Conditional Use Permit request.

The Public Hearing was opened at 7:05 p.m. President Pfannerstill explained the Public Hearing process stating that the public may make statements to the Board regarding the matter regarding the request.

The applicants provided a summary of the request stating that they offer occasional use of their spare bedroom through AirBNB. Mrs. Filipp stated that they never rent when they will not be present overnight. She stated that they only book with guests that have verified identities and background checks conducted by AirBNB. She stated that they feel they operate responsibly, practice good judgment, they are contributing value to the community and that this use of their property does not impact the neighborhood or property values. Mr. Filipp stated that an email sent by Mr. King stated that the Filipp's home was designed specifically for this type of business including a private entrance. Mr. Filipp stated for the record that these statements are not true.

Commissioner Fenner explained to the residents present that this is their opportunity to speak on this matter. He stated that once the public hearing is closed, there is no further opportunity for public comment. At that point, the discussion takes place at table with the board considering all relevant information.

Tim Opalewski, 402 Park Ct., asked how much experience the Filipp's have in running a business. Mr. Filipp stated that there are new to this type of business but have run a business previously.

Chris Tump, 446 Park Ct., stated concerns about safety for children with guests coming into the neighborhood. He stated that he believes this business will have a significant impact on their home and the community. He stated that he believes there is a difference in the clientele of guests staying at a bed and breakfast versus those staying at an AirBNB. He stated that a bed and breakfast often has a professional innkeeper. He stated that AirBNB guests are transient individuals coming into a neighborhood and stay in a spare bedroom. He suggested that if the village wants to fill a gap in lodging, the board should appropriately zone a space for such activity.

It was stated that attorneys for the homeowners association (HOA) have reviewed this issue and based on their review have stated that any ruling of the Village related to this use would trump the HOA. At the time the HOA was set up, AirBNB was not a consideration.

Mr. Tump commented that the regulations for a bed and breakfast in the Village's code requires a parking area and fencing, and asked whether there are circumstances in which those requirements could be waived.

Mr. Opalewski asked whether the Plan Commission members understand what AirBNB is and whether there are any other bed and breakfasts operating in Hartland. President Pfannerstill responded that the group is aware of AirBNB and that there are no bed and breakfasts operating in the Village.

Andrew Shoaf, 406 Park Ct., asked if the Village's parking code will apply including requirements for a specific number of spaces and delineation of spaces. Administrator Cox stated that a total of four compliant off-street parking spaces will be required and that standard pavement regulations related to the residential code will apply. Mrs. Filipp stated that they limit guests to one car.

Mr. Tump stated that he believes that granting this Conditional Use Permit request will set a precedence in the Village and will impact all residents. He raised concerns that individuals will purchase properties throughout the Village with this use in mind.

Julie Radtke, representative of Miller-Marriott, stated that the homeowner's association will no longer be managed by the developer after 12/31/17.

Gordon King, 457 Park Ct., stated that the development was not designed for this purpose; it was intended to be single family residential.

Mr. Shoaf raised concerns for the safety of small children if the conditional use permit is granted.

Mrs. Filipp stated that this use of their property is only occasional with 12 or 13 guests throughout the summer. She stated that they did not expect to have difficulty doing what they think is right for them on their private property.

Jayne King, 457 Park Ct., stated that AirBNB was not an issue when the development was created as it was a new concept. She stated that the state is starting to consider legislation

to regulate this activity including registering and paying taxes, and she commented that perhaps the activity could cease until the state has rules in place.

The Public Hearing was closed at 7:39 p.m.

b. Consideration of a motion to recommend approval of a Conditional Use Permit

Administrator Cox confirmed that action is not required at this meeting on this issue. He provided information from the Village Attorney related to the State contemplating enacting regulations for rentals for periods of time between 7 and 29 days. It provides that the Village would have the authority to institute a hotel/motel tax on a rental of between 7 and 29 days. The proposal does not seem to address rentals of less than 6 days.

Commissioner Fenner stated that throughout the discussion residents in the development have commented that they did not have notice. He commented that the restrictive covenants for the development did not expressly prohibit this activity. Had they done that, the covenants would trump the zoning code. Commissioner Fenner also stated that buyers should have looked at the Village's zoning code which specifically allows a bed and breakfast as a conditional use in the RS-4 single family residential district. In addition, he stated that he has not found any statistical analysis that indicates that this type of activity would have a negative impact on property values in the neighborhood. Commissioner Fenner suggested that perhaps this activity is more accurately defined as a tourist room which should be regulated if the Village is going to allow it.

Commissioner deCourcy-Bower commented that the Village has nothing in the code prohibiting this activity or regulating other rental uses such as long term rentals or rentals for specific events. Commissioner deCourcy-Bower clarified that the State does not plan to regulate any rentals for less than 7 days. He further stated that a bed and breakfast is typically in a neighborhood such as a historic district and that the Village's comprehensive plan includes opportunities for the Village to have bed and breakfasts. He stated that as there is currently no lodging available, visitors are sent outside the Village. He feels it is beneficial to instead draw visitors to the Village. It was stated that a bigger concern is that there is nothing in the code to regulate renting of a house or condo for longer periods of time.

Mrs. Filipp confirmed that continental breakfast items and coffee are made available to guests.

Commissioner Fenner recommended that the CUP include a provision that the permit would terminate if the Filipp's fail to have a state issued license for a bed and breakfast.

Motion (Fenner/deCourcy-Bower) to recommend to the Village Board issuance of the conditional use permit requested with the addition of the termination provisions discussed. Carried (7-0).

Administrator Cox provided a review of all conditions listed in the conditional use permit as well as termination clauses.

3. Adjourn

Motion (deCourcy-Bower/Wenstrom) to adjourn at 8:03 p.m.

Respectfully submitted,

Darlene Igl
Village Clerk