

Zoning Board of Sugar Hill
March 23, 2010

Members present: Janet Anderson, Peter Anderson, Sarah Pinney, Mike Hern, John Colony, Don Boissonneault, Amy Venezia

Guests: Robbie Hayward, Jim Keefe, Barbara Serafini

Chairman Mike Hern called the meeting to order at 5:30pm.

Case 10-01
Barbara Serafini
Special Exception

Mike explained that this is the continuation of the hearing from March 16th. The hearing from the public remained closed and the Board continued their discussion. Chairman Hern refreshed by presenting the following information:

1. The applicant, Barbara Serafini, along with Paul Hayward, have a proposed subdivision before the Sugar Hill Planning Board (see plan entitled "Major Subdivision, Land of Barbara Serafini, Paul Hayward" drawn by Harry J. Burgess and dated October 2009) which seeks to combine a 2.35-acre portion of Tax Map 219, Lot 57 with the lot directly across Sunset Hill Road, namely Tax Map 219, Lot 27.111 (approximately 13 acres), so that these properties would become one single lot located on both sides of Sunset Hill Road (referred to herein as the "street-straddling lot").

2. Both of the properties to be combined already have principal buildings. Map 219, Lot 57 contains The Homestead with 10 rentable units and owners= quarters and Map 219, Lot 27.111 contains the Annex with 9 rentable units. On Map 219, Lot 57 there is also a smaller accessory building which has no overnight use. This unit count is as stated by the applicant on the Application for a Zoning Board Decision.

3. Section 402 of the Ordinance states that there shall be only one principal building on a lot used for residential purposes, but permits this Board to grant a special exception to permit more than one principal building on a lot for non-residential land use, subject to the standards of Section 306 for Special Exceptions.

4. Such a special exception is necessary in this case, not because any new principal building is contemplated, but because the proposed new lot would encompass the two existing main buildings on what are currently two separate lots. While the Ordinance does not contain a definition of the term "principal building," a common-sense interpretation is that a "principal building" is one which is not accessory to some other main building under the Section 1602 definition of "Accessory Building Or Use." Under that definition, an "accessory building" must be "subordinate and customarily incidental to the main building or use on the same lot." Since the two main buildings involved here are currently on two different lots, it is clear that, by definition, neither one can be considered "accessory" to the other, and hence that the two buildings cannot be joined on one single lot without a special exception under Section 402.

5. Under the special exception standards (Section 306.1), in order to grant this request, the Board must find that the proposal will not adversely affect: (A) The character of the area in which the proposed use will be placed; (B) The highways and sidewalks or use thereof located in the area; or (C) Town services and facilities.

6. The evidence before the Board at this time does not indicate that the actual use of the two main buildings which are the subject of this decision will necessarily be changed from their current use, and hence the Board has no reason to anticipate any inherent adverse effects on any of the three parameters in Section 306.1. The Board will attach a condition to assure that the use does not change without further review. There is certainly the possibility that some more intense development or change of use of the proposed street-straddling lot could be made in the future which might raise a safety concern with vehicles or pedestrians. However such concerns could be addressed through the process of Site Plan Review whenever such change is proposed.

7. Nevertheless the Board believes that it would have an adverse impact on the character of the area, and would also be contrary to public policy, to create a street-straddling lot which could never in the future be re-subdivided along the street. For that reason, the Board will impose a condition that the separate land areas on either side of the road shall never be reduced below the minimum lot size for residential use. Thus, for example, if a future owner of this property wished to seek subdivision approval in order to separately convey what is now Tax Map 219, Lot 27.111, that might still be possible, although the 2.35-acre portion of the property remaining on the west would, in such circumstances, be limited to residential uses.

After a brief discussion, on a motion made by Mike Hern, seconded by Sarah Pinney it was moved to grant the requested special exception under Section 402 to permit the creation of a lot with two principal buildings on it, subject to the following conditions:

1. This special exception shall be effective only if the subdivision currently before the Sugar Hill Planning Board is granted
2. This decision should in no way be construed as expressing any opinion at all concerning the merits of the applicants' application before the Planning Board, or about the actual creation of the proposed street-straddling lot. Both subjects are under the jurisdiction of the Planning Board. The nub of this decision is

solely to remove any impediment to such approval which would otherwise arise from Section 402 of the Ordinance.

3. In order to assure compliance with Section 402, this Special Exception shall only be valid so long as all portions of the proposed street-straddling lot are devoted entirely to non-residential uses.
4. No future subdivision is permitted which would reduce the land area on either side of Sunset Hill Road (considering each side of the road separately) below the minimum lot size as set forth in Section 304.1 of the Ordinance.
5. The use of the two buildings shall be limited to the number of units of overnight accommodations currently in existence (as described in paragraph 2), and the number of units shall not be permitted to increase without further approval of this Board. There will be no overnight use of the fourth floor of the main building of the Homestead, nor of the smaller accessory building adjacent to the main building in it's entirely.

All members were in favor of this special exception. PASSED UNANIMOUSLY.

With no further business, on a motion made by Mike Hern, seconded by Sarah Pinney it was moved to adjourn. PASSED

Submitted by:
Amy Venezia