

Town of Milford
ZONING BOARD OF ADJUSTMENT
Select Board Meeting Room, Town Hall
OCTOBER 3, 2024
Public Hearings

Case 2024-16: 31 Union Square, LLC, VARIANCE

Members

Present: Andrea Kokko Chappell, Chair
Joan Dargie, Vice Chair
Rich Elliott, Member
Tracy Steel, Member
Michael Thornton, Alternate
Kevin Overby, Alternate

Not Present: Dan Sadkowski, Member

Non-Members

Present: David Freel, Select Board Representative

Not Present: Jane Hesketh, Recording Secretary, Community Development

MEETING AGENDA

1. Call to Order

2. Public Meetings:

a. Case #2024-16: **Variance** Request to allow for Increased Multi-Family Density at **31 & 37 Union Square, Map 26, Lots 184 & 184-1 the applicant, 31 Union Square, LLC**, for the properties located in the one building structure at both 31 & 37 Union Square, is proposing the two separate lots to be merged. The applicant is also requesting a needed Variance to approve one additional multi-family unit for each adjoining lot, through the elimination of the first floor 1,000 sq. feet of retained commercial space at 37 Union Square; while also proposing the elimination of approximately 1,200 square feet of remaining commercial space in 37 Union Square to facilitate the addition of one more multi-family unit in its first-floor area. The singular building lies on both lots, which is zoned Commercial (pursuant to Section 5.05.0) and also lies within the Oval Sub-District (Section 5.05.7). The newly proposed multi-family units for each lot will be on the first-floor level within the current commercially designated areas. A Variance is therefore required to allow for the two additionally-proposed multifamily dwelling units, pursuant to the Commercial (& its corresponding Residence "B") Zoning Regulations, providing for a maximum of five (5) total units per acre within the Commercial Zoning District.

3. Other Business: TBD

5. Next Meeting(s): October 17, 2024 & November 7, 2024

1 **MINUTES OF THE ZBA MEETING OCTOBER 3, 2024**

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4 **1. CALL TO ORDER**

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6 Chair Andrea Kokko Chappell opened the meeting at 6:00 pm. by welcoming everyone and introducing herself.

7
8 The Chair stated you may attend this meeting in person at the Milford Police Training Room.

9 If you would like to participate in the public meeting, please call this number from home: +1 646-558-8656 and
10 enter the Meeting ID: 851 6407 7601 and Password: 269952 or log in via www.zoom.com using the Meeting ID
11 and Password previously stated.

12
13 A digital copy of the meeting materials can be found on the Town website at:

14 <https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda>. We will be live streaming this
15 meeting on Granite Town Media, Government Channel 21, but will be on Zoom.

16 <http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2>.

17
18 Roll call attendance with all present at Milford Town Hall: Mike Thornton, Kevin Overby, Tracy Steel, Rich
19 Elliott, Joan Dargie, Andrea Kokko Chappell.

20
21 Chair explained the process for the case hearings. The Chair said a full agenda may not allow all cases to be heard
22 and at 10:00 p.m. the meeting will end. The Chair explained how the meeting would proceed for the cases that
23 may not be heard in that they would be continued or tabled to another agreed upon meeting; also explained was
24 the process for public notification.

25
26 Chair moved to the Public Hearings.

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30 **2. PUBLIC HEARINGS**

31
32 **a. Case #2024-16: Variance** was read into the record by the Chair.

33
34 Applicants came forward to make their presentation; Doug MacGuire from the Dubay Group (Civil
35 Engineering) along with the property owner Justin DeMontigny.

36
37 Doug MacGuire:

- 38 - Presented an overview of the property; 2 lots.
- 39 - Reminded the board about the case for 31 Union Square presented on June 6, 2024 requesting
40 modification of the building internally and externally.
- 41 - This request is now for 37 Union Square also owned by Justin DeMontigny. This was purchased to
42 facilitate better use of the space; it was difficult and there were limitations for renovations on half a
43 building.
- 44 - There has been difficulty finding a commercial tenant therefore, the renovations will be to a full
45 residential use property with an update to the façade to keep in line with the character of the Oval.
- 46 - Traffic and parking is secured with off street parking spaces as well as spaces on the property.
- 47 - Referred to photographic renderings (current vs proposal) which show the actual look of what will be
48 developed.
- 49 - This property was once residential with a farmer's porch.
- 50 - Currently there are 10 residential units. The variance is to request 12 units.

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52 Doug MacGuire then presented the Variance Criteria reading directly from the application. **Refer to**
53 **Memorandum of September 4, 2024; To Zoning Board From Doug MacGuire.**

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3 **2. PUBLIC HEARINGS**

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5 **a. Case #2024-16: Variance**

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7 Joan Dargie then asked about the previous case (2024-08) which was approved with the understanding there
8 would be a commercial space available on the first floor and the board was very specific about maintaining the
9 commercial unit on the first floor; the store front is important to maintaining the integrity of the downtown.
10 While it was not a condition, it was an important detail of the variance request.
11 This topic continued to be discussed.

12
13 Justin DeMontigny:

- 14 - At the time the other application was submitted, there was no intention to change the building to all
- 15 residential; owning only half a building it did not make sense to have the first floor on one side
- 16 residential and the other commercial.
- 17 - The commercial space has been marketed for a year without success.
- 18 - Idea was to be “the residence” on the Oval with off street parking on site.
- 19 - Tried to maintain the “look” of the Oval.
- 20 - Offered various issues concerning development; electrical, fire, etc.
- 21 - Explained getting the other side opened up provided additional opportunities.

22 Chair:

- 23 - Already have been given 4 additional units for a density increase.
- 24 - Does not want to diminish that this will improve the downtown district but stated the Master Plan is
- 25 used as a guide and then cited excerpts from the Master Plan:
- 26 *“We are to continue to improve the economic revitalization in the downtown of Milford by developing*
- 27 *and implementing site design standards that reinforce and protect the historical character and human*
- 28 *scale of the downtown which allows flexible mixed use creative redevelopment. Also to ensure the*
- 29 *downtown unique squared oval and adjacent neighborhoods remain commercial, social and a unique*
- 30 *hub of the town by preserving its unique character and promoting and enhancing the economic*
- 31 *vitality”.*
- 32 - The applicant has already been given a substantial mixed use and now owning two buildings there are
- 33 10 residential units and 2 commercial units.
- 34 - The goal of mixed use is to help offset; residential and commercial.
- 35 - Difficult to see what the hardship is because cost cannot be considered.
- 36 - Likes the project but only with the commercial spaces on the first floors.
- 37 - Believes it is vital to the downtown to maintain the commercial spaces.

38 M. Thornton emphasized the character of the Oval is important to the town.

39 Doug MacGuire noted that residential use is allowed in the Oval District without having commercial space. The
40 issue is about the density and not the mixed use.

41 J. Dargie:

- 42 - Pointed out that relief has already been given for density with the other application.
- 43 - There is no one encompassing ordinance for the downtown district so Community Development has
- 44 applied Resident B to the density requirement but that is not the only requirement; Master Plan and
- 45 character of the town.

46 Discussions continued about these points.

47 Mike Thornton noted the Planning Board is considering a guideline of 37 units per acre.

48 Chair pointed out that part of that guideline will be that the first floor cannot be residential space.

49 D. MacGuire added that the hardship as written is not citing the financial aspect.

50 Discussions continued.

51 Rich Elliott asked about the statement that no other properties on the oval can ever offer off street parking and
52 how is this statement justified.

53 Justin DeMontigny answered by saying the buildings have parking spaces on site.

54 Rich Elliot feels this is still hard to grasp in regards to the other buildings never being able to offer parking, and
55 also agrees with what has been stated about the hardship.

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4 **3. PUBLIC HEARINGS**

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6 **a. Case #2024-16**

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8 Chair asked if there were any further questions and there were none. The meeting was opened to the public

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10 **Public:**

11
12 Linda M. a resident stepped forward to state she is concerned about parking in the alley ways.

13
14 Scott Kimball via zoom expressed his concern about disruption to the character of the oval and noted there are a
15 number of parking spaces being added around the oval for the public.

16
17 Chair closed the public portion and moved to deliberations.

18
19 **Deliberations:**

20 **Variance Criteria per New Hampshire RSA 674:33.I:**

21 **1. This will not be contrary to the public interest.**

22 R. Elliott: cited the Master Plan in terms of the downtown and this goes against the public interest since
23 there will be no commercial space.

24 M. Thornton: agrees with R. Elliott. Also given that the landlord could change the use based on the
25 economic profit, this would be moving away from the Master Plan and not be in the best interest by not
26 leaving the commercial space on the first floor.

27 T. Steel: agrees with all comments; the Oval should remain as a vibrant downtown and allowing a full
28 residential use it would change the character of the Oval.

29 J. Dargie: this is contrary to the public interest. The Zoning Board looks at the character of the
30 neighborhood and uses the Master Plan as a guide.

31 A. Kokko Chappell: agrees with all comments.

32 **2. The spirit of the Ordinance is observed.**

33 M. Thornton: the spirit is not being observed; the downtown should be commercial to maintain the character
34 of the first floor.

35 T. Steel: agrees; need to maintain character as outlined in the Master Plan and keep spaces on the ground
36 floor commercial.

37 R. Elliott: agrees

38 J. Dargie: the spirit is not observed; also besides Residential B 5.04 there are other ordinances to consider
39 (5.05 and 5.05.7).

40 A. Kokko Chappell: the commercial section states *“provide areas for businesses and compatible residential*
41 *uses which constitute the commercial requirements of the town”*. Making the ground floor residential would
42 not be in the spirit of the ordinance.

43 **3. Substantial Justice is done.**

44 J. Dargie: would not do substantial justice and would be more detrimental to the public if granted.

45 T. Steel: agrees with J. Dargie.

46 M. Thornton: agrees and referred back to the previous case in which the applicant stated the commercial
47 space would remain.

48 R. Elliott: agrees.

49 A. Kokko Chappell: agrees.

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4 **3. PUBLIC HEARINGS**

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6 **a. Case #2024-16**

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8 **Deliberations:**

9 **Variance Criteria per New Hampshire RSA 674:33.I:**

10 **4. The Values of Surrounding Properties will not be diminished.**

11 T. Steel: it would make it more difficult for commercial properties; needs to be balanced with other mixed
12 uses.

13 M. Thornton: need to look at the true character of the Oval and how to maintain it; refer to the Master Plan.

14 J. Dargie: making commercial space residential would diminish values for the other commercial businesses.

15 A. Kokko Chappell: the building update is positive and adds to the Oval, but removing the commercial
16 aspect does not add value to the district.

17 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

18 M. Thornton: the Master Plan says there needs to be a mixed use in the downtown area; the owner was
19 aware of that when purchased and financial aspect cannot be considered.

20 There was some discussion about use vs density.

21 J. Dargie: does not find any special conditions of the building.

22 R. Elliott: agrees; mixed use area that has always been there.

23 T. Steel: agrees.

24 A. Kokko Chappell: density has already been approved with the previous application and the property can
25 be used as is.

26
27 Chair then noted no voting has happened yet.

28
29 Justin DeMontigny then offered another option before moving to voting:

- 30 - Create one smaller residential unit in the back of the first floor.
31 - Combine both commercial spaces on the first floor to a larger and more appealing commercial space
32 which will then maintain the mixed use requirement.

33 Chair noted the choices for the applicant:

- 34 - Can take an informal poll (straw poll) on this option and then the application can be modified
35 - Go to voting on the application at hand

36 D. MacGuire stated not to take a poll on the current application but a poll on the option presented;
37 reconfiguration of the first floor space for commercial use.

38 J. Dargie stated the application can be withdrawn but it is not fair to ask the board about a plan they have no
39 information on.

40 Discussion ensued about the approach to take.

41 D. MacGuire added that the biggest issue appears to be the elimination of the commercial store front and not the
42 density or parking. Adjustments can be made and then come back to see if the board is in agreement with that;
43 requested a one month continuance.

44 Discussions began on the continuance.

45 Chair:

- 46 - November 7th with a 4 member board.
47 - November 21st with a 5 member board.
48 - With a 4 member board there needs to be at least 3 in favor for the application to pass and a 5 member
49 board would need at least 4 in favor.

50 D. MacGuire stated they are comfortable with the 4 member board and would continue to November 7th.

51
52 Chair asked for a motion to **continue Case #2024-16 to the meeting of November 7, 2024**. R. Elliott made a
53 motion to continue Case #2024-16 and it was seconded by T. Steel. A vote was taken and all were in favor.
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1 **MINUTES OF THE ZBA MEETING OCTOBER 3, 2024**

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Motion to Adjourn

Chair asked for a motion to adjourn. R. Elliott made a motion to adjourn and it was seconded by T. Steel.
A vote was taken and all were in favor. Meeting adjourned.

Motion to Approve:

Seconded:

Signed

Date:
