



TOWN OF NEW LONDON, NEW HAMPSHIRE

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July 2, 2018

ZONING ADMINISTRATOR'S REVIEW

Submitted by: Nicole Gage

Application:

Name(s) Harry M. Snow, III – Owner/Applicant

Purpose: Six (6) variances are requested for 30, 33, 42, 54, 63 and 68 Cottage Lane from Article V, Sections A.1. and B.3. of the Zoning Ordinance to permit conversion of existing two-family dwellings to allow four-family dwellings, all within the existing footprints and buildings.

Zone: R-1 (Urban Residential) Zone

ID: Case #ZBA18-08, Parcel ID 085-015-000, 33 Cottage Ln.
Case #ZBA18-09, Parcel ID 085-016-000, 63 Cottage Ln.
Case #ZBA18-10, Parcel ID 085-018-000, 68 Cottage Ln.
Case #ZBA18-11, Parcel ID 085-019-000, 54 Cottage Ln.
Case #ZBA18-12, Parcel ID 085-020-000, 42 Cottage Ln.
Case #ZBA18-13, Parcel ID 085-021-000, 30 Cottage Ln.

1. OVERVIEW: Each unit was built in 2013 on individual lots as conforming 2-family buildings. Our Property Records indicate that each side has six (6) bedrooms, however the Town only permits no more than five (5) persons in each unit, based on our definition of "Family."
2. Summary of Past Land Use Decisions (SEE ATTACHED DOCUMENTATION):
 - a. July 25, 2012 – Administrative Appeal to the ZBA – The ZBA upheld the Selectmen's decision to deny a request to allow more than five persons to level in each unit at the Cottage Lane duplexes. *p. 8-19*
 - b. September 17, 2012 – ZBA denied a request for a rehearing of the above-noted appeal. *p. 2-7*
3. NOTE: If the variances are granted, Site Plan Review with the Planning Board is required for multi-family buildings.

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past Land Use
Decisions

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NOTICE OF DECISION

Zoning Board of Adjustment

RE: Motion for Rehearing Request Appeal of an Administrative Decision
Request by Harry M. Snow, III

DATE: September 17, 2012

LOCATION: Tax Map 085, Lots 019 & 020

The New London Zoning Board of Adjustment (ZBA) met on September 17, 2012 to consider a Motion for Rehearing pursuant to RSA 677:2 and RSA 677:3, as filed by Harry M. Snow, III. The applicant sought a rehearing of the ZBA decision of July 25, 2012 denying his Appeal of Administrative Decision. The ZBA DENIED the Motion for Rehearing.

Please be advised that per RSA 677:4 Appeal from Decision on Motion for Rehearing: Any person aggrieved by any order or decision of the zoning board of adjustment or any decision of the local legislative body may apply, by petition, to superior court within 30 days after the date upon which the board voted to deny the motion for rehearing. Please review the specific language included in RSA 677:4 for additional details and seek other professional advice as you deem appropriate.

Lucy A. St. John, AICP
Planning and Zoning Administrator
Town of New London

Board of Selectmen P: 603-526-4821 x 10 F: 603-526-9494	Town Administrator P: 603-526-4821 x 13 F: 603-526-9494	Town Clerk-Tax Collector P: 603-526-4821 x 11 F: 603-526-9494	Finance P: 603-526-4821 x 21 F: 603-526-9494	Assessing P: 603-526-4821 x 20 F: 603-526-9494
Planning/Zoning P: 603-526-4821 x 16 F: 603-526-9494	Fire Department P: 603-526-6073 F: 603-526-6079	Police Department P: 603-526-2626 F: 603-526-2782	Public Works P: 603-526-6337 F: 603-526-9662	Recreation P: 603-526-4821 x 14 F: 603-526-9494

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TOWN OF
NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD of ADJUSTMENT
DRAFT MEETING MINUTES
September 17, 2012

Members Present: Chair Bill Green, Courtland Cross, Laurie DiClerico, W. Michael Todd, Jeff Horten

REQUEST FOR: Re-Hearing from the July 16 and July 25, 2012 Hearing

Harry M. Snow, III

Tax Map: 085 Lots 019 & 020

Cottage Lane

New London, NH 03257

Chair Green called the meeting to order at 7:30pm. He said that the hearing had been noticed and was being recorded. He called the roll and explained the purpose of the hearing, which was for a request for a re-hearing of the appeal of an administrative decision. The Zoning Board will decide to either grant the re-hearing or deny the request. Discussion at the meeting will be amongst the board members only. They have to consider if, at the previous hearing, they made a mistake and will decide if they should grant a re-hearing. If a re-hearing is granted, abutters will be notified and they will schedule a time for a re-hearing.

Chair Green added that John Arnold, the applicant's attorney who was present at the meeting, had dropped off some information, which the board members had received and reviewed. He explained that while there may not have been a procedural error or mistake, they need to decide if their decision was based upon the definitions they were given for a "domestic servant" at the previous meeting. They had cited some examples from the 1800's and mid-1960's when the position of "domestic servant" was more common. Chair Green said that the question he has asked himself is if that is reliable information for the decision they rendered on July 25th. He wondered how the board felt about the decision they made on this matter in July, 2012.

Mr. Horten said that he read the documents provided by the petitioners and felt that, for him, it still came down to the same decision. There is no disagreement that they are talking about five or six unrelated people living in a dwelling. In the ordinance the sixth person who is allowed to reside in a dwelling is called a "domestic servant." Mr. Horten recalled that Michael Todd had given some definitions and examples of what a "domestic servant" was. In his mind, that position is "full-time." The new reference the petitioner is making to the position as being a "caretaker" is new verbiage. He still goes back to the ordinance, which refers to the sixth person being a "domestic servant." Mr. Horten opined that their job is to interpret the ordinance and he feels that a "domestic servant" is a full-time job. In disagreement with David Sauerwein, Dean of Students, Mr. Horten said that what they are asking the student to be is more of a Resident Assistant (RA) and, in his experience being an RA in the past, he recalled that it is only a 3-4 hour/week commitment.

In summary, Mr. Horten said that being a student is the full-time position and the student would be given a stipend to make sure the building is properly cared for. He did not believe that this position could be considered "full-time" by any means. He said that his mind hasn't changed and still feels the same as he did the last time they met about this issue. He encouraged the Town to re-write the ordinance to state that six unrelated people could live together and not specify that one of them had to be a "domestic servant."

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Mr. Cross felt that semantics was the hang-up in this situation. He respectfully disagreed with Mr. Horten and felt the work the people would be recruited to do would constitute it being a full-time job. He kept with the decision he made at the last hearing and thought the student could be considered a “domestic servant.”

Mr. Todd said that in making their decision to hear or not re-hear the case, they are limited to the information provided by the petitioner. There were attachments provided prior to that evening’s meeting, further describing certain topics covered in their prior deliberations. The standard for granting a re-hearing, according to case law, is that: a) there must be some compelling reason or evidence now available that was unavailable at the last hearing, b) that some dramatic change or circumstance has come about, or c) that there has been a technical error made on behalf of the Zoning Board of Appeals.

Mr. Todd explained that in an effort to decipher the language in the ordinance, they went to the dictionary and read the words. Semantics aside, they are charged to interpret the words in the ordinance. They have to go to other sources to interpret the text as it is given to them. He did not see any technical errors that were made in this case. The Zoning Board sought to find an explanation of what the definition of “domestic servant” was. They went back to times when the position was more common in an effort to find out what a “domestic servant” was and what they did. In the pleading, the applicant as cited various internet sources that talk about “domestic servants.” He noted “Exhibit E” in the information provided by the petitioner, which was a paragraph on upper servant staff. He submitted that the first paragraph included is taken verbatim from Beaton’s Manual which he had cited at the previous hearing.

Mr. Todd said his understanding of the definition of “domestic servant” has not changed. New Hampshire Practice Series states that a compelling reason must be made to grant a re-hearing, but that a re-hearing should not be granted because evidence, which *was* obtainable but was not produced due to the applicant’s lack of preparation, is now being made available. If the applicant was not as prepared as he should have been, they should not grant the re-hearing.

Mr. Todd opined that the argument could be made that the petitioner was not prepared at the prior hearings. He added that after the last hearing the building permit was pulled and it was found to have been issued six months prior. It says on the permit that the dwelling would be limited to five unrelated individuals. Therefore, the petitioner knew this detail when the permit was issued and yet he waited until sometime in August (just one month before the buildings were to be occupied), and sought an appeal of the administrative decision. He sought a meeting with Board of Selectmen and produced no written description of the “domestic servant” at that time. On the Monday after their meeting with the Selectmen, the petitioner convened with the Zoning Board and came in with a written description of duties for the “domestic servant.” Now they have filed for a re-hearing and are prepared with an even more descriptive list of duties for the “domestic servant.” He felt that the applicant was not prepared at the initial hearing and for this reason he was not in favor of granting a re-hearing. Mr. Todd felt that the Zoning Board’s decision was sound and well-thought out. There was no reason to use the Town’s resources to re-do the hearing.

Ms. DiClerico said that they were charged with simply defining “domestic servant.” They spent a lot of time thinking about and discussing the issue. They may have agreed slightly differently in their findings, but in the end the majority agreed that it was more of a Residential Advisor (RA) position than that of a “domestic servant.” She stood by her original decision.

IT WAS MOVED (Michael Todd) AND SECONDED (Laurie DiClerico) to deny the application for a re-hearing. THE MOTION PASSED 4:1

Michael Todd: Yes, Laurie DiClerico: Yes, Jeff Horten: Yes, William Green: Yes, Courtland Cross: No

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Approval of Minutes

July 25, 2012

IT WAS MOVED (Laurie DiClerico) AND SECONDED (Courtland Cross) to approve the minutes of July 25, 2012, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

August 20, 2012

IT WAS MOVED (Jeff Horten) AND SECONDED (Michael Todd) to approve the minutes of August 20, 2012, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

With no further business, Chair Green called for a motion to adjourn.

IT WAS MOVED (Michael Todd) AND SECONDED (William Green) to adjourn the meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting adjourned at 7:50pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London

LIST

APPEAL FROM AN ADMINISTRATIVE DECISION

To: Board of Adjustment,
Town of New London

Name of applicant: Harry M. Snow III

Mailing Address: PO Box 1372, New London NH 03257

Home Telephone: 763-4636 Work # 526-2700 Cell: 667-0039

Email address: snowbuildingconstruction@comcast.net

Owner of property: same
(if same as applicant, write "same")

Location of property Cottage Lane

Tax Map Number: 85 Lot Number: 19 Zone: R-1

APPEAL FROM AN ADMINISTRATIVE DECISION

Appeal of a decision made by a Town Official alleging that his or her interpretation of the New London Zoning Ordinance, Site Plan Review Regulations or Land Subdivision Control Regulations is in some way in error such that: In my opinion I feel we are zoning compliant having additional persons employed and residing at the premises whose job is to provide direct supervision and internal domestic duties of the dwelling unit.

The specific zoning regulation(s) involved in the appeal include the following Article: 111 Section: 4749 of: Definitions of NL Zoning ordinance but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families

Applicant(s) Signature:

Harry M. Snow III

Date: 6/20/12

NOTE: This application is not acceptable unless all required statements have been made.

Additional information may be supplied on a separate sheet if the space provided is

inadequate. Enclose copies of all documents of the decision you are appealing.

The appeal must be filed within 20 days of the decision.

For questions or assistance in completing these forms, please contact:

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APPEAL FROM AN ADMINISTRATIVE DECISION

To: Board of Adjustment,
Town of New London

Name of applicant: Harry M. Snow III

Mailing Address: PO Box 1372, New London NH 03257

Home Telephone: 763-4636 Work # 526-2700 Cell: 667-0039

Email address: snowbuildingconstruction@comcast.net

Owner of property: same
(if same as applicant, write "same")

Location of property Cottage Lane

Tax Map Number: 85 Lot Number: 20 Zone: R-1

APPEAL FROM AN ADMINISTRATIVE DECISION

Appeal of a decision made by a Town Official alleging that his or her interpretation of the New London Zoning Ordinance, Site Plan Review Regulations or Land Subdivision Control Regulations is in some way in error such that: In my opinion I feel we are zoning compliant having additional persons employed and residing at the premises whose job is to provide direct supervision and internal domestic duties of the dwelling unit.

The specific zoning regulation(s) involved in the appeal include the following Article: 111 Section: 49 of: Definitions of NL Zoning ordinance but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families

Applicant(s) Signature:

Harry M. Snow III Date: 6/20/12

NOTE: This application is not acceptable unless all required statements have been made.

Additional information may be supplied on a separate sheet if the space provided is

inadequate. Enclose copies of all documents of the decision you are appealing. The

appeal must be filed within 20 days of the decision.

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NOTICE OF DECISION
New London Zoning Board of Adjustment

July 25, 2012

RE: HARRY M. SNOW, III

MAP 085, LOTS 019 & 020

You are hereby notified that on this date the New London Zoning Board of Adjustment (ZBA) held a public hearing at the request of Harry M. Snow, III (Appellant). Appellant requested an Appeal of an Administrative Decision made by the New London Selectmen to deny Mr. Snow's request to allow more than five persons to live in each unit of the Cottage Lane duplexes as [sic] the additional people do not fall within the meaning of "domestic servants" for the purposes of the zoning ordinance requirement.

The ZBA AFFIRMS the decision of the Selectmen for the following reasons.

After hearing testimony, and receiving exhibits, the ZBA concludes there was ample evidence in the record to find:

1. The structures are located in the R1 (Residential) District.
2. Uses permitted in the Residential District include Single-Family or Two-Family Dwelling, except as otherwise provided in the Ordinance. (Article V. A. 1.)
3. Family is defined in the Ordinance as: One or more persons occupying a Single Dwelling Unit, provided that unless all members are legally related, no such family shall contain over five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a Family or families. (Article III. #49.)
4. The term "domestic servants" is not specifically defined in the Ordinance.

The review of the ZBA on the Appeal from an Administrative Decision is *de novo*; we decide as if the question were presented to us anew. We first examine the language of the Ordinance and where possible ascribe the plain and ordinary meanings to the words used.

Domestic servant a person hired or employed primarily for the performance of household duties and chores, the maintenance of the home, and the care, comfort and convenience of members of the household. Black's Law Dictionary, 5th Ed. (1979) p.435.

Board of Selectmen P: 603-526-4821 x 10 F: 603-526-9494	Town Administrator P: 603-526-4821 x 13 F: 603-526-9494	Town Clerk-Tax Collector P: 603-526-4821 x 11 F: 603-526-9494	Finance P: 603-526-4821 x 21 F: 603-526-9494	Assessing P: 603-526-4821 x 20 F: 603-526-9494
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Servant one who is employed to render personal service to another otherwise than in the pursuit of an independent calling, and who, in such service, remains entirely under the control and direction of employer. *Id.*

Servant 1. a person employed by another [person], esp. one employed to perform domestic duties. 2. A person in the service of another [person]. Random House Unabridged Dictionary (1966) p.1304. [Emphasis added.]

Servant A personal or domestic attendant; a person employed in a house to perform various household duties according to the orders and requirements of his or her employer. New Shorter Oxford English Dictionary, 3rd Ed. (1993) p.2788.

The “domestic servant” [hereafter “DS”] as described by Petitioner, will get a reduced rate for the room, and be duly compensated¹ and perhaps special parking accommodations.² Domestic servants traditionally worked full time for their employers, and received room and board, and a small stipend. They had little time for other pursuits. Domestic service was a full-time calling. Au pairs compensated with room and board are considered to be full-time employees³.

The student DS would be responsible for “coordinating” cleaning and maintenance, and to keep common areas of the apartments [sic] orderly.⁴ The DS would also “coordinate” damage repairs. Traditional domestic service was a “hands-on” job, with each servant assigned specific tasks, according to the type of servant employed, and the personal services were performed in the home, or garden, or stable of the master or mistress of the household, not in apartments for the other tenants thereof.

The student DS would be a liaison to the college regarding any repairs needed or damaged⁵. Liaison is “communication and coordination, usually in a military application.” Traditional domestic servants were not involved in military applications. Their allegiance was to the master or mistress of the house, and their duties were personal in nature.

The student DS would be responsible for “relaying behavioral concerns” to the college⁶. Behavioral concerns outside of cleaning are not the responsibility of the DS but may be referred by the DS to the proper services within the college⁷. We find no reference to any such duties in the roles of the traditional domestic servants as we have come to understand them.

¹ David Sauerwine letter to Mr. Snow dated July 16, 2012.

² ZBA Minutes, July 16, 2012, p.3.

³ ZBA Minutes, July 25, 2012, p.4.

⁴ *Id.*

⁵ David Sauerwine letter to Mr. Snow dated July 16, 2012.

⁶ ZBA Minutes, July 16, 2012, p.3.

⁷ David Sauerwine letter to Mr. Snow dated July 16, 2012.

The students residing in the apartment would not be required to purchase a college meal plan⁸ yet the DS would not be responsible for cooking for the other students. That was something the students would decide⁹. Cooking and laundry are customary duties of domestic servants. The student DS would not be responsible for doing the laundry of the students in the duplex. There are laundry facilities on-site¹⁰. According to Emily Post, service that is adequate at all times requires a minimum of three: a cook, a butler or waitress, and a housemaid¹¹. The present description of the duties of the DS does not include any of these three as a regular part of their full-time responsibilities.

There is nothing in the lease that includes anything about the specific duties of DS¹². This further supports the notion that the duties of the DS are subordinate to all other aspects of college life. There was no evidence that domestic servants were presently employed elsewhere on the campus by the College in any capacity.

If the cost of campus housing were \$7,000 per student per year, and the cost of a compensated domestic servant performing the duties as described, at student pay rates, might be between \$16,000 and \$18,000, then a DS spending 15% of their time doing these duties would be a very part-time position¹³. The traditional position in domestic service was full-time, and the servants were compensated accordingly. The general servant, or maid-of-all-work, is the only one of her class deserving of commiseration: her life is a solitary one, and in some places, her work is never done¹⁴.

Domestic servants were never hired at a new establishment without first producing letters of reference from previous employers. Such letters mention the candidate's honesty, sobriety, capability, trustworthiness and disposition¹⁵. Residents of the apartments (some of whom are intended to serve as DS) are interested juniors and seniors chosen by lottery¹⁶.

⁸ ZBA Minutes, July 16, 2012, p.5.

⁹ Id.

¹⁰ ZBA Minutes, July 16, 2012, p.5.

¹¹ Emily Post's Etiquette, 11th Ed. (1965) p. 614.

¹² ZBA Minutes, July 16, 2012, p.5.

¹³ ZBA Minutes, July 25, 2012, p.4.

¹⁴ I. Beeton, Mrs. Beeton's Manual of Household Management, ¶2340 (1st ed. 1861)

¹⁵ Emily Post's Etiquette, 11th Ed. (1965) p. 629.

¹⁶ ZBA Minutes, July 16, 2012, p.5.

The DS bears little resemblance to the traditional domestic servant, as contemplated in the Zoning Ordinance, in hiring, duties, amount of time spent, or compensation.

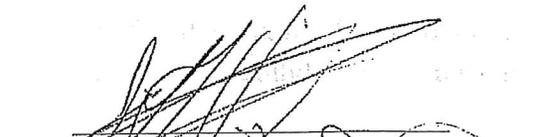
The July 13, 2012 decision of the Selectmen is **AFFIRMED** by a vote of 3-2.

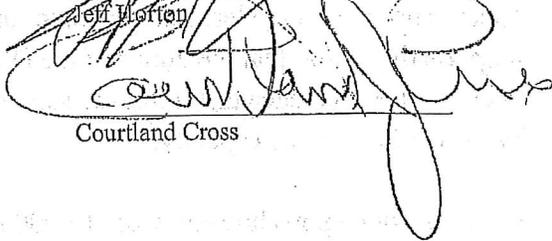
Respectfully Submitted,

William Green, Chairman


Laurie DiClerico


W. Michael Todd


Jeff Morfen


Courtland Cross



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ZONING BOARD of ADJUSTMENT
MEETING MINUTES
July 16, 2012

Members Present: Chair Bill Green, Courtland Cross, Laurie DiClerico, W. Michael Todd

REQUEST FOR ADMINISTRATIVE APPEAL

Harry M. Snow, III

Cottage Lane

New London, NH 03257

Tax Map: 085 Lot: 019 & 020

Chair Green called the meeting to order at 7:36pm. Since there were only four members of the Zoning Board of Appeals present, it was the option of the applicant to postpone the hearing or to hold it that night. The applicant asked to proceed. Chair Green said that the meeting was being recorded and had been properly noticed. He explained the purpose of the requested appeal, which had been previously denied by the Board of Selectmen, as described below:

PURPOSE OF THE REQUESTED WAIVER

The applicant is constructing two homes that will be housed by more than five persons, who are not legally related and are asking the Zoning Board of Adjustment to interpret the ordinance. The applicant believes that they are in compliance with the zoning ordinance because the individuals residing in the home are college students and domestic servants employed on the premises. Section III, Definition #49 of the ordinance states that "domestic servants employed on the premises may be housed on the premises without being counted as Family or families."

Mr. Todd asked that before Mr. Snow gave his presentation, that he say something. Before the time the appeal was requested, there had been no actual decision given. Once the petitioner receives a decision they have a period of time to appeal the decision. The notice of hearing (without prior decision) was issued in error and he didn't feel that procedurally it was correct. The actual decision had just been made at the previous Board of Selectmen's meeting, which was held the prior Friday afternoon. He felt that holding the hearing at this point would be putting the cart before the horse. The normal mechanism is to allow the decision to have rested and the recipient to chew it over in their mind, to allow them to consult with counsel and decide to appeal to the ZBA. Only at that time is the decision a public matter and an appeal may be sought. He didn't think they should schedule a hearing, properly notice it and then get a decision handed to them just three hours before the meeting. Mr. Todd thought they should follow the procedures.

Ms. Hallquist said that Mr. Todd was right in that Mr. Snow had no decision at the time he handed in the appeal. He didn't understand at that time that he didn't have an official decision. When they realized there was no actual decision, Mr. Snow came to meet with the Board of Selectmen. They are talking about a few days difference and she didn't feel that anyone was at a great disadvantage if the hearing was held that evening. The biggest thing was that they would have had the meeting minutes to review from that Friday sooner than just that day.

Ms. Hallquist said that an administrative decision is any order made by an administrative official. In this case, it is the Board of Selectmen who decides whether or not Mr. Snow's plans are within the zoning

ordinance, Mr. Todd felt it was now the ZBA's chance to research the decision made by the Board of Selectmen, now that they have heard it. He felt that this would be beneficial for all concerned. He said they could hear the presentation and continue the hearing or they could take it under advisement.

Chair Green asked Mr. Snow how he felt at this point with a 4/5 board and the issues Mr. Todd had raised. Mr. Snow said he didn't want to make anyone on the board uncomfortable and thought it they wanted to do their due diligence, he understood. Ms. DiClerico thought it would be good to hear the presentation and then take it under advisement.

Mr. Todd suggested that they hear the presentation and then ask questions. As for deliberation, he would like to do so upon a continuance. Their job is to interpret the ordinance. He is happy to hear the facts but would like to deliberate on a later date. Ms. DiClerico agreed with Mr. Todd. Mr. Cross asked Mr. Todd if he would want Mr. Snow to repeat his presentation if they convene a second time. Mr. Todd said that a repeat verbatim would not be necessary as the presentation would be present in the minutes from the current meeting. Any new information may be shared at the second meeting.

Mr. Snow said he was fine to proceed. He explained that Cottage Lane is in the R1 zone which includes town water and sewer, and said that duplex housing is permitted. He has owned this property since the late 90's and put in the water sewer and road in about 12 years ago with the intent to put in multi-family housing. The property is very isolated with one way in and out and it wasn't conducive for single-family housing. It is also very close to the college. Mr. Snow said that they have been waiting for the right time to start to develop the property. ✕

Mr. Snow noted that the college has expanded their enrollment and have had to purchase properties to lease to some of their students as they are running out of room for housing on campus. There have been some conflicts between the town and the college regarding safety issues with these properties, including egress and sprinkling. They are trying to design around these issues and take into consideration what would be needed for appropriate student housing. It isn't a dormitory but from a life-safety code they are ✕ approaching that level. The duplexes will have larger egress windows, two-hour burn ratings between the structures, use of high-tech materials, plaster in all the stairways, closed stairways, fire doors, lit exit signs, etc. They have also incorporated a sprinkler system with a big feed and multi-heads. Mr. Snow said that they have also integrated an alarm system that is the same system the college uses that ties in fire alarm, carbon monoxide alarms, and different mechanisms that can set it off. These alarms are monitored on a 24 hour basis.

Mr. Snow said that the two duplexes he has built are substantially complete. One is all plastered and there is quite a bit of finish work being done. The other isn't too far behind. They anticipate being ready for occupancy in about six weeks.

Mr. Snow explained that they looked at the Zoning Ordinance and how it relates to the town's Master Plan. He referenced a few excerpts from the Master Plan. One was regarding the importance of the college to the town. It was obvious to him that from a planning standpoint there would be increased enrollment at the college. They have a unique property that is surrounded by the college, making it a perfect place for student housing.

In the Residential Land Use portion of the Master Plan, it noted that development should be concentrated within the village center to make use of town water and sewer. Mr. Snow said that this is what they are doing and he noted there are only a few places left in the center of town that could be developed in this way.

Mr. Snow also indicated that the Master Plan suggests that an effort be made to attract a more balanced mix of residents and age groups and to consider accommodating these needs in the center of town. The use of rental units was to be considered as was housing over businesses or in the commercial district, and the conversion of large single family homes into multiple units.

Mr. Snow said that there have been a number of houses that were purchased by the college, rented to students, and there are multiple issues where it is virtually impossible to bring them up to a safety standard appropriate for students to be living in them. Some of the buildings should just be torn down and rebuilt as it would be easier.

Mr. Snow indicated that he had been using the Master Plan as his guide. He also used the Zoning Ordinance, which says that one or more persons may occupy a single unit and unless they are related, and then there should not be more than five people. Domestic servants employed on the premises do not count towards the total individuals in a dwelling. Mr. Snow felt that this clearly states that they could have domestic servants employed and housed on the premises. He also noted that there is no defined number of servants specified. The maximum occupancy is, however, defined by the size of the building.

Mr. Snow said that by the design of the building and from a safety standpoint, they are limited to a maximum of eight people per side. They need, on premises, some kind of domestic servant to deal with the day to day duties of the household and to have someone there who is responsible.

Mr. Snow said they are talking about the college at this time but the buildings could be leased out to a number of different organizations who need housing. He has been talking with the college about this domestic servant and the description of what they would do.

Dave Sauerwein, Dean of Students, helped to come up with the wording of the servant description.

1. The student would receive a reduced room rate and compensation, and perhaps special parking accommodations
2. The student would be responsible for coordinating cleaning and maintenance, and to keep common areas of the apartments orderly
3. The student would be responsible for usual cleaning, including weekly vacuuming, cleaning of the refrigerator twice per term, bathroom cleaning, and coordinating damage repairs
4. The student would be responsible for relaying behavioral concerns to the college if/when necessary

Chair Green said there was no definition of "domestic servant" in the Zoning Ordinance. Defining this is their major task as well as to decide if, within the use of the property, it would be appropriate. Mr. Snow said that the Board of Selectmen specifically asked for a domestic servant job description in writing be brought to the ZBA.

Mr. Todd said when they get to the point where they would deliberate, their standard of review is "de novo" (from the beginning). They have to make their decision based on what the Board of Selectmen had for information at the time of their decision. If they do this, they can't consider the job description before them because it wasn't what the Board of Selectmen had. Chair Green disagreed and felt an applicant can bring and present any information they have that is available which may have not been earlier prior. Mr. Snow said the information was presented at the Board of Selectmen meeting orally but he had been asked to put it in written form. Mr. Todd noted that the Board of Selectmen made their decision even though the domestic servant description was given to them orally.

Mr. Cross said he had trouble getting around the fact that they possibly won't be able to consider the written job description before them. Ms. Hallquist said that Mr. Snow had said the same things in the selectmen's meeting that Friday, which was that students would be responsible for domestic duties. Mr. Cross felt they should consider the written description.

Fire Chief Lyon said that it is considered a room and lodging house at the number of residents they are requesting currently. Chair Green said it was common to have someone at the college who was a student who had roles to play in the dorms. They have to consider the definition of a servant. Chair Green found no definition. He looked it up in the dictionary and found that a servant was "one that performs duties about the home for a master or employer" or "one who is privately employed to perform domestic services."

Mr. Snow said that they have a substantial investment and they are looking at having these people living there to protect the investment. It will have an upscale appearance and a lot of effort has gone into the project. The students will be fully compensated for performing these domestic duties.

Chair Green said that there is a limitation of five unrelated people in rentals. The rationale of permitting servants is that if the person was providing a service and was employed and tied to the property there would be a higher level of responsibility and the property would run at a much better fashion.

Mr. Cross was troubled by the Board of Selectmen's decision saying that the additional people do not fall within the meaning of domestic servant. Ms. Hallquist said she wrote the word "meaning" in the minutes because there is no definition in the ordinance. The ZBA needs to decide on the definition of a domestic servant.

- X Ms. Hallquist noted that the safety issues and the design of the duplexes were not relevant to their deciding if the students should be considered domestic servants or not. Their issue is solely: what is the meaning of domestic servants? It is nice that it is very safe and that the town likes the college, but does it fall within what the voters decided in the zoning ordinance regarding the number of people allowed to reside together in a rental unit. Mr. Snow opined that the safety issues are important in considering the need for a domestic servant.

Mr. Todd asked Chief Lyon about the rules on numbers of people in Rooming Houses. Chief Lyon said that for every structure in the State of New Hampshire, unless adopted by local ordinance, the definitions are based upon the Life Safety Code 101. They look at these regulations when monitoring places of assembly, hotels and motels, and places of businesses. That is where the definition comes from. Mr. Todd understood that the code is an overlay over the zoning ordinance. Chief Lyon agreed.

Chair Green asked, in the way that the building is constructed, how many could it safely hold. Chief Lyon said up to 15 people. 16 or more would require some slight changes. Instead of going off of domestic water, Mr. Snow put in greater flow rates. Based upon the layout of the building, they could have three people on the first floor (a single and two doubles potentially) and five people on the 2nd floor (three singles and a double). The issue is the enclosure of the stair well. The breezeway would need doors added (which Mr. Snow has made provisions for if needed), and hazard areas (such as the boiler) would need to be compartmentalized with a one-hour burn rate.

Mr. Todd brought the conversation back to "what is a domestic servant." Mr. Cross said that the name "domestic servant" makes him think of a maid. "Domestic Servant" has a broader connotation in this sense in that it, in his reading, refers to a representative from the college being compensated by

conscientious discharge of the duties. They are there to keep the students in line and the building maintained.

Mr. Todd asked if a building permit was issued. Mr. Snow said it was issued at the end of April. Mr. Snow said that there were six bedrooms per side. He added that he had met with Peter Stanley and they discussed the project. They went over the different situations with inclusion of a domestic servant. Mr. Stanley's suggestion was to apply for the permit and that five people were allowable but he would need to apply to the Board of Selectmen for an interpretation of the "Domestic Servant."

Mr. Todd asked if they had all the duties written down in their description. Mr. Snow said they did, at this point. Mr. Todd asked if Mr. Snow was bound by a lease. Mr. Snow said he was and it was for five years. Mr. Todd wondered where the duties of the Domestic Servant would be performed. Mr. Snow said they would be performed on the premises. Mr. Cross asked if the lease included anything about domestic servants. Mr. Snow said there was nothing that included specific duties.

Mr. Todd asked who determines who gets to live in the duplexes. Mr. Snow said that interested Juniors and Seniors will be put into a lottery. Mr. Todd asked who would make repairs to the structure. Mr. Snow said that he would make repairs to the outside of the structure and the college is responsible for anything to do with the interior. Mr. Todd asked who would deal with policing the buildings. Mr. Snow said that Colby-Sawyer College's campus security would patrol and they would have a NOX Box on the outside of each building so the Fire Department could gain access to the buildings if needed.

Mr. Todd asked if there would be a full kitchen in each duplex. Mr. Snow answered in the affirmative. Mr. Todd asked if the students living there would be required to purchase a meal ticket. Mr. Snow said they would not. Mr. Todd asked if the domestic servant would be responsible for doing the laundry of the students in the duplex. Mr. Snow said that he wasn't sure but didn't believe so. They will have laundry facilities on-site. Mr. Todd asked if the domestic servant would be responsible for cooking for the other students. Mr. Snow said that was something the students would decide.

Mr. Snow said that he thought there would be a minimum of six students per side and doubted it would go above seven, including the servant.

Chief Lyon said that through Colby-Sawyer College, Resident Directors and Resident Assistants go through extensive training, which includes fire safety instruction. The trainings generally last between three and five days.

An abutter, Yvette _____ wondered where students would park their cars. Mr. Snow said that each unit was a separate lot and there is adequate parking space on the back and sides of the buildings.

There were no further questions from the board. Chair Green said they need to determine what a Domestic Servant is and how it applies to this property. Mr. Todd wanted to continue the meeting after they have had time to think about the information that was brought before them. They could take it under advisement and issue a decision in 30 days, make a decision that night, or continue with another meeting.

**IT WAS MOVED (Laurie DiClerico) AND SECONDED (Bill Green) to take the issue under advisement and continue to July 25th at 7:30pm.
THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 8:46pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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BOARD OF SELECTMEN
MEETING MINUTES
July 13, 2012

PRESENT:

Peter Bianchi, Chair
Tina Helm, Selectman
Janet Kidder, Selectman
Kimberly Hallquist, Town Administrator

ALSO PRESENT:

Tom Cottrill, Planning Board Chairman
Bill Green, ZBA Chairman
Bob Brown, Conservation Commission Chairman
Harry Snow, Cottage Lane duplex owner (public session only)
Doug Atkins, Colby-Sawyer College (public session only)

Chair Bianchi called the meeting to order at 9:00 AM.

The Board entered non-public session pursuant to RSA 91-A:3, II(b) (the hiring of any person as a public employee) to conduct interviews for the Planning & Zoning Administrator position.

The Board returned to public session at 12:00 PM.

Harry Snow and Doug Atkins met with the Board to discuss the two duplex-unit buildings currently under construction on Cottage Lane. Mr. Snow (owner and builder) explained that he wanted to exceed the five person per unit limit (New London Zoning Ordinance Article III Section 49) by having additional persons as allowed under the provision of "domestic servants." Mr. Snow pointed out that these additional people would be "dealing with domestic issues" within the units and as such should be considered to be "domestic servants" for purposes of the zoning requirements. He pointed out that the zoning ordinance does not restrict the number of "domestic servants" allowed in each unit. Mr. Snow observed that the people providing these services might also be students, but they might not be students.

Chair Bianchi asked how these people would be paid. Mr. Snow said that it would be a combination of the college paying them and also he would be paying them in reduced rent charged. Ms. Kidder asked how many people could be housed per dwelling unit. Mr. Snow responded that there could be 8 people per dwelling unit, 16 per building. He explained that he has worked closely with Fire Chief Jay Lyon on fire safety issues, and has spent thousands of dollars above and beyond what was needed, to provide addition fire safety measures so that each unit is rated for eight people. He informed the Board that each dwelling unit of the duplex building has 6 bedrooms: 4 bedrooms for single occupancy and 2 bedrooms for double occupancy for a maximum of capacity per building of 16 people. Currently he is leaning towards having 7 people per dwelling unit. Ms. Hallquist asked if there were job descriptions for the people that Mr. Snow maintains will be "domestic servants." Mr. Atkins noted that there are no job descriptions at this time, but he believes they will be available for the Monday ZBA public hearing.

IT WAS MOVED (Tina Helm) AND SECONDED (Janet Kidder) to deny the request to allow more than five persons to live in each unit of the Cottage Lane duplexes as the additional people do not fall within the meaning of "domestic servants" for purposes of the zoning ordinance requirement. THE MOTION WAS APPROVED UNANIMOUSLY.

IT WAS MOVED (Tina Helm) AND SECONDED (Janet Kidder) to adjourn the meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting adjourned at 12:30pm.

Respectfully submitted,

Kimberly A. Hallquist
Town Administrator