

EPSOM BOARD OF ADJUSTMENT
1598 Dover Road, Epsom, NH 03234

RECORD OF DECISION

Zoning Appeal Case 2024-05 (Sunrise View Leasing, LLC – SE & Var.)

Applicant & Owner: Sunrise View Leasing, LLC

Tax Map: U-14 **Lot:** 30

Zoning District: Residential/Agricultural Zone

Notice is hereby given that the appeal submitted by Krist and Wendy Nelson, on behalf of Sunrise View Leasing, LLC, for a Special Exception, per Article II, Section C [Table of Uses] for Retail and Service Use Number 19 (b), and a Variance to Article III, Section G [Residential Single and Multifamily Residence Requirements], Subsection 5 [Elderly Multifamily Apartment Residences with Three or More Units] to modify conditions contained in the Case 2016-02 (Sunrise View Leasing, LLC – SE & Var.) approval to permit construction of an additional three residential buildings containing six 2 bedroom and six 1 bedroom apartments and a fourth building to be used for storage, laundry and maintenance was **approved** by unanimous vote of the Zoning Board of Adjustment at the Public Hearing held on Wednesday, April 17, 2024. The property is located on Short Falls Road within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map as U-14, Lot 30.

The Case 2016-02 (Sunrise View Leasing, LLC – SE & Var.) approval conditions are modified and annotated to reflect current status as follows:

1. The number of dwellings to be constructed shall be limited to eighteen (18) two-bedroom apartments and eighteen (18) one bedroom apartments in nine (9) buildings;
2. The thirty six housing units contained in the facility are for older persons and shall be subjected to the provisions of NH RSA 354-A:15, the Rules of the NH Commission for Human Rights (Hum. 302) and Federal Housing for Older Persons Act of 1995 (24 CFR Part 100). The dwelling units are referred to as HOP unit(s) below;
3. Use of the HOP units shall be restricted by written covenants as follows:
 - a. The use and occupancy of each HOP unit shall be by individual(s) aged 55 years or older. Occupancy per HOP unit shall not exceed two persons;
 - b. Prospective tenants shall provide positive documentation of the age and number of occupants intending to occupy the HOP unit to the facility owners prior to commencing residency in order to enable the owners to demonstrate that the occupancy restrictions are met;
 - c. No guest or other invitee who is under 55 years of age or who would cause occupancy in the HOP unit to exceed two persons shall be permitted for a cumulative period of more than 45 days in any one year

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- period without written permission from the owner. Under no circumstances shall the stay by the guest or invitee exceed 90 days;
- d. An individual who is certified to provide in-home care to an occupant of a HOP unit may occupy the HOP unit on an as needed basis in spite of the occupancy restrictions;
 - e. The owners of the facility shall conduct annual surveys of the occupants in each HOP unit to ensure compliance with the occupancy restrictions. The result of these surveys shall be provided to the Town of Epsom upon request;
 - f. In the event of a violation of any of the occupancy restrictions, including failure or refusal to provide documentation evidencing a HOP unit tenant's compliance with the occupancy restrictions, the facility owner shall, after a 30 day written notice to the HOP tenant and to any occupant in violation of the occupancy restrictions, enforce such restrictions in any court of competent jurisdiction and may seek all equitable or legal remedies including, but not limited to, the requirement that the HOP unit be vacated or that the person(s) found in violation of the occupancy restrictions be evicted. All costs and expenses, including reasonable legal fees, shall be recoverable by the successful moving party against the HOP unit tenant;
 - g. The covenants shall specify the rights of the Town of Epsom to enforce the conditions of the covenants in accordance with zoning regulations;
4. To ensure the intent of these conditions are met, the format and language of the covenants shall be approved by the Town of Epsom through the Town Attorney and shall be registered in the Merrimack County Registry of Deeds. A copy of the registered declaration shall be provided to the Zoning Compliance Officer at time of building permit application (*Complete – No further action required*);
 5. Rental lease agreements shall be established and executed with all tenants to ensure compliance with the covenants as outlined above. Copies of the executed lease agreements shall be provide to the Epsom Zoning Compliance Officer within five (5) days of a written request;
 6. A firewall shall be provided between each residential unit and each unit shall have its own fire sprinkler system. The design of the sprinkler system shall be approved by the Epsom Fire Department and shall be operational prior to the issuance of the Zoning Certificate of Occupancy. An annual inspection of the fire protection system shall be undertaken in conjunction with the Epsom Fire Department;
 7. Emergency access codes shall be provided through any driveway access gate for local emergency responders (i.e.: fire, police, and ambulance);
 8. Subsurface disposal:
 - a. A reserved subsurface disposal site shall be located on the property. The Epsom Planning Board shall approve the location of the reserved

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field based upon suitable engineering data provided by the applicant
(Completed for existing residences – No further action required)

- b. A subsurface disposal system for the twelve new HOP units and laundry facility shall be designed and approved through the NH Department of Environmental Services. Approval shall be reviewed as part of the Epsom Planning Board’s Non-Residential Site Plan Review;
9. Runoff within the site shall be treated using the best management practices and approved by the Epsom Planning Board;
10. Temporary water pollution controls during construction shall be utilized that meets or exceeds the best management practices for site developments and shall be approved by the Epsom Planning Board. All necessary State and Federal permits shall be obtained prior to construction commencing and copies of the permits provided to the Epsom Planning Board and Zoning Compliance Officer;
11. The driveway and parking areas shall remain in private ownership and the owners shall be responsible for maintenance. Approval shall be obtained from NH Department of Transportation for a Driveway Permit *(Permit obtained, No further permitting action required)*;
12. The exterior lighting within the site shall be designed for “downward” illumination and shall be designed to have minimal intrusion into the neighboring parcels unless the property owner consents in writing;
13. The facility shall utilize the existing Town water supply;
14. The existing tract of land upon which the facility is sited shall not be subdivided;
15. Fencing and/or vegetation shall be used to screen adjacent lot U14-29 located at the Northeast corner of the property. Specifics of this screening shall be determined by the Planning Board *(Completed, No further action required)*;
16. The applicant shall proceed to the Planning Board to obtain a Non-Residential Site Plan Review for the additional 12 HOP units within twelve months from the date of this “Record of Hearing Decision”;
17. Variance and Special Exception approval for the additional 12 HOP units shall expire if after two years substantial development has not commenced. Substantial development shall mean the completion of the first of three new residential building foundations.

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Glenn A. Horner, Chairman
Zoning Board of Adjustment
Date: April 18, 2024

Note: Any person affected has the right to appeal this decision and/or conditions of the approval. If you wish to appeal the decision, or any conditions contained herein, you must act within a thirty (30) day period beginning with the next working day after the Zoning Board of Adjustment meeting when the decision was made. The first step in the appeal process is to apply to the board of adjustment for a rehearing. The motion for a rehearing must set forth all the grounds on which you will base your appeal.

cc: Sunrise View Leasing, LLC, 2 Sunset Lane, Deerfield, NH 03037-1146
Epsom Board of Selectmen
Epsom Planning Board Chair
Epsom Zoning Compliance Officer
Epsom Town Clerk
File Case 2024-05 (Sunrise View Leasing, LLC – SE & Var.)