

**ZONING BOARD OF ADJUSTMENT
OCTOBER 2, 2013 MEETING
DRAFT MINUTES**

Board members present included Chairman Christopher Carley, Nicholas Wallner, Rob Harrison, Stephen Norton and Ben Kelley. Also present was Zoning Administrator Craig Walker and Clerk of the Board Rose Fife.

21-13 Carolyn A. Parker for VSH Realty, Cumberland Farms: (Request for Rehearing) (Continued until November 6, 2013) Applicant wishes to install a scroller type sign and requests Variances to Article 28-7-7, Signs Prohibited Under this Ordinance:

- 1) Section (a), to permit a sign which has parts and surfaces that physically or visually move when signs that have parts or surfaces that physically move are prohibited,
 - 2) Section (r), to permit an electronically activated changeable message sign (EMC) when EMC signs are prohibited in the City of Concord,
- for property at 47 Fisherville Road in a CG General Commercial District.

Recessed until the November 6, 2013 meeting.

36-13 Duprey Acquisitions, LLC: (Request for Rehearing) Applicant wishes to remove an existing single-family residential structure to construct a parking lot and requests the following:

- 1) Variance to Article 28-2-4(j), Table of Principal Uses, to permit a "Public or Commercial Parking Lot," (use K-1) where such use is not permitted;
- 2) Variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit a lot coverage of 69% where a maximum of 50% is allowed,

All for property located at 46 Pillsbury Road and situated in an RN Residential Neighborhood District.

Information submitted by Attorney Uchida suggested that the Board made an error of law as the decision findings were not in written form. He also felt that he had new evidence regarding a neighborhood study regarding parking.

Norton was not convinced that the Board made an error of law. He did, however, feel that they provided better and more information with the parking survey that they submitted.

DECISION: A motion to grant the rehearing was made by Norton, second by Harrison and passed by a unanimous vote.

Public Hearings

40-13 Barlo Signs for Carlsons Motorcorp: (Tabled until November 6, 2013) Applicant requests the Zoning Board overturn the Zoning Administrator's determination that the use of a remotely programmable electronic message sign for variable background illumination is a use that is not permitted under the City of Concord's Zoning Ordinance for property at 13 Manchester Street in a GWP Gateway Performance District.

41-13 Barlo Signs for Baron's: (Tabled until November 6, 2013) Applicant requests the Zoning Board overturn the Zoning Administrator's determination that the use of a remotely programmable electronic message sign for variable background illumination is a use that is not permitted under the City of Concord's Zoning Ordinance for property at 350 Loudon Road in a GWP Gateway Performance District.

These cases were Tabled until the November 6, 2013 meeting.

49-13 Bank of America: Applicant wishes to construct a freestanding ATM kiosk and request a Variance to Article 28-6-9(b), Permitted Building Signs, to permit a total of 33 s.f. of building signage when a maximum of 7.67 s.f. would be allowed for property located at 55 Fort Eddy Road in a GWP Gateway Performance District.

Tim Ponton, a Civil Engineer testified. This strip mall has LL Bean, Petco and Auto Zone in it. This signage is for an ATM walk up unit. They need signage for the kiosk. The bank is new to the shopping center. It will be a 16" high band all around the building with 9" high letters with a small logo after.

Wallner asked how many parking spots will be taken up. (Three spaces. There are 568 spaces there now.)

Walker stated that this request also triggers a site plan review. Walker went on to explain how the signage was calculated and that the calculation include the graphics as well as the background.

Tim Ponton stated that they included the red background band in the calculation as well as the letters for the size of the sign. They are 2 feet below flood plain but it is a non-habitable building.

In favor: none.

In opposition: none.

Comments from Code Administration: none.

DECISION: A motion to approve the request was made by Norton, seconded by Wallner and passed by a unanimous vote.

Kelley felt that if you took the background color out, the sign would be compliant. Norton felt that the characteristics of the location make it different. Wallner felt it met all 5 of the criteria for a variance. Carley felt that the building was a unique scale of location and thus the building created a unique circumstance not replicated by other buildings in the area and without a variance it would be difficult to see the signage.

48-13 Cheryl Tufts for David & Sandra Delude: Applicant wishes to construct a garage, mudroom and 3 season porch and requests a Variance from Article 28-4-1(h), The Table of Dimensional Regulations, to permit a side yard setback on the east side of 3 feet where a 15 foot setback is required for property located at 6 Hampshire Drive in an RS Residential Single Family District.

Cheryl Tufts, owner of 3W Design testified. Sandra Delude testified. In 1996 the Delude's were granted a variance to build a 2 car garage and a mud room. This is the smallest lot in the subdivision. Most of the neighborhood has a 2 car garage. Last year they tried to sell their home but they couldn't. Part of the reason that they couldn't sell their home is they didn't have a garage and they have electric heat. They have decided now not to sell and want to now add the garage. It would leave a 3 foot setback from the property line.

Carley asked if the neighbor at 8 Hampshire Drive would be affected. (Yes, he's in the audience to testify.) Anyway to do this without impinging on the setback? The garage is 22 feet wide, not 24 feet wide, which is standard. Ms. Tufts stated that due to their vehicles they had to go with this size. The mudroom will be an entry, which would open into their kitchen. A 22 foot wide garage is minimal. There is no second floor to the garage.

Norton asked why they are not putting the garage in the rear of the home. Ms. Tufts stated that they have a gorgeous backyard and this would take most of it. They have a pretty dense tree line.

In favor: Adam Hackett, 8 Hampshire Drive. He approves of the request. This is not going to obstruct his property.

In opposition: none.

Comments from Code Administration: The minimum setback is 5 feet for a detached 250 s.f. shed.

DECISION: A motion to approve the request was made by Wallner, seconded by Harrison and passed by a unanimous vote.

Wallner felt that there was a hardship as neighbors have garages and he feels that they meet the criteria.

50-13 Tri-State Iron Works, Inc.: Applicant wishes to construct a 25' x 50' (1,250SF) addition to an existing industrial building and requests a Variance to Article 28-4-1(h), The Table of Dimensional Regulations, to permit

a front setback of 19.86 feet were a front setback of 50 feet is required for property located at 24 Industrial Park Drive in an IN Industrial District.

Attorney Maria Dolder testified. The owners of Tri-State Iron Works were also available to testify.

This is a 3.16 acre lot. In 1974 a variance was granted to allow the construction of the original 50'x80' building with a 20 foot setback vs. 25' setback required at that time. They want to keep in line with that 20 foot setback and not encroach any more than that. There is a 265 foot wide utility easement with PSNH that cuts across the property. This cuts their buildable area down. Ms. Dolder went through the criteria. The use would be the same as what is there now. The business has grown and they need more space. It would be a minimal change. There is no ability to expand without the variance.

Carley asked what the easement prohibits. (It prohibits buildings and permanent structures, anything of a permanent nature. They have had the property surveyed.)

In favor: none.

In opposition: none.

Comments from Code Administration: none.

DECISION: A motion to approve the request was made by Norton, seconded by Harrison and passed by a unanimous vote.

Norton felt that it was not contrary to the spirit or intent of the Ordinance and it doesn't have a negative impact on neighbors, the easement creates a hardship..

MINUTES: A quorum was not present to act on the September 2013 Minutes.

A TRUE RECORD ATTEST,

Rose M. Fife, CLERK
ZONING BOARD OF ADJUSTMENT