

**ZONING BOARD OF ADJUSTMENT
DECEMBER 4, 2013 MEETING
DRAFT MINUTES**

Board members present included Chairman Christopher Carley, Stephen Norton, David Parker, Ben Kelley and Andrew Winters. 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) (Request to recess until January 8, 2014) 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.
- 40-13 Barlo Signs for Carlsons Motorcorp:** (Request to recess until January 8, 2014) 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:** (Request to recess until January 8, 2014) 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.
- 55-13 E. Douglas Ryan:** (Request to recess to January 8, 2014) Applicant appeals the Zoning Administrator's (ZA's) decision and requests that the Board overturn the ZA's decision that the use of the subject property as a two-family home is not a prior non-conforming use established prior to October 4, 2001 for property at 151 Oak Hill Road in an RO Residential Open Space District.

If the Board upholds the ZA's decision the applicant requests the following.

- 51-13 E. Douglas Ryan:** (Request to recess to January 8, 2014) Applicant wishes to legitimize a non-compliant apartment and requests a variance to Article 28-2-4(j), Table of Principal Uses, to permit a two-family dwelling (Use A-2) where such use is not permitted for property at 151 Oak Hill Road in an RO Residential Open Space District.

A request was made by the applicant's attorney, Steven Solomon, to recess both case 55-13 and 51-13.

A motion to recess case #55-13 and Case #51-13 to the January 8, 2014 meeting was made by Parker, seconded by Norton and passed by a unanimous vote.

- 53-13 New Hampshire Distributors, Inc.:** Applicant wishes to install 2 additional freestanding signs on a single lot and requests a Variance to Article 28-6-9(a) & (c)(1), Permitted Freestanding Signs, to permit a total of 3 freestanding signs with a total of 68 square feet where the Ordinance permits 1 freestanding sign with a total sign area not to exceed 40 square feet for property at 65 Regional Drive in an IN Industrial District.

Attorney Richard Uchida testified along with Erin Lambert of Nobis Engineering, Chris Brown, President and COO of NH Distributors and Tom Painchaud, Senior VP of NH Distributors.

Attorney Uchida stated that they have a 26 s.f. existing sign. This request is for 2 additional signs. They would be internally illuminated and would need ADR approval. The site is 15.5 acres with 1060 feet of lot frontage. The building

relies on truck traffic for both receiving and shipping products. They have an abundance of traffic. Signs are for identification of driveways. The 26 s.f. existing sign is 5.5 feet high and next to the building. It is considered a historic sign by their company. The sign is 90 feet off the edge of Regional Drive. The existing sign is obscured by streetscape work.

Erin Lambert testified that they recently built a new one way only truck driveway. They are changing their truck traffic pattern. A clear signage is needed for the "entry" only driveway.

Chris Brown testified that they built their building in 1982. It was one of the first buildings on Regional Drive. Regional Drive is now built up. The new driveway helps with trucks queuing in the driveway, not on the road. With their new entrance comes confusion. Two signs would clarify the entry issues. His grandfather Jim Hayes started the company in 1946. He bought the existing sign, as a historic piece, to their business. He would prefer not to remove this sign.

Tom Painchaud testified that the expansion was done with safety in mind. They do a lot of night receiving; 4 nights a week. The signage would help. A lot of the trucks come from out of state and have trouble finding the driveway.

Attorney Uchida stated that the Ordinance does allow directions signs, but only 4 s.f. in size. For this road, this site and this size building 4 s.f. is not very practical. They are proposing 21 s.f. each. The size of the site should be considered. These signs would enhance traffic safety.

In favor: none.

In opposition: none.

Comments from Code: none.

DECISION: A motion to approve the request was made by Norton, seconded by Kelley and passed by a unanimous vote. The hardship is the size of the site, the public interest and safety.

54-13 Jonathan Chorlian for John Macintosh: Applicant wished to reconfigure the parking layout for an adjacent 3 unit residential building and requests the following variances:

- ~~1) Article 28-7-8(b), Separation of Driveways in Residential Districts, to permit 2 driveways for a lot having approximate combined 200 feet of frontage on Rumford Street and School Street when continuous frontage of 100 feet plus continuous frontage of 250 feet of frontage is required;~~
- 2) Article 28-4-1(h), Table of Dimensional Regulations, to permit construction of a covered parking structure with a 5 foot front setback where a minimum setback of ~~25~~ 15 feet is required for both the Rumford Street and School Street frontages;
- ~~3) Article 28-7-7(f), Driveway Widths, to permit a continuous curb cut of 60 feet where a maximum of only 28 feet is allowed (Rumford Street frontage);~~
- 4) Article 28-7-7(g)(1), Setbacks and Restrictions, to permit off-street parking within the required ~~25~~ 15 foot front yard setbacks (Rumford Street and School Street frontage);
- 5) Article 28-7-8(a), Restrictions on Backing into a Street, to allow a parking area design in conjunction with a multi-family dwelling that requires backing into the street to exit the parking area (Rumford Street and School Street access);
- 6) Article 28-7-7(g)(2), Setbacks From Lot Lines, to permit parking within 1 foot of the westerly lot line where a 5 foot setback is required (School Street parking space)
for property located at 72 School Street in a RN Residential Neighborhood District.

Jonathan Chorlian, the developer and John Macintosh, the owner, testified.

Zoning Administrator, Craig Walker, commented that a revised site plan had been submitted and items deleted from the variance requests reflect changes to the site plan.

Mr. Macintosh has lived there for 20 years. April 6, 2013 they suffered a fire. The house is a wreck. It is a 5200 s.f. house that is too large for an empty nester. He would like to create multiple units. He has spoken with his neighbors.

Jonathan Chorlian testified. He lives at 80 School Street. This is a large lot for this area of town. The property borders School and Rumford Streets. The project would be a complete gut and rehab and they would restore some of the nice features. This would be a higher end condo. The challenge is the parking. This was a 3 unit and will continue to be a 3 unit. They had 2 parking spaces but the Ordinance requires 6 spaces. The large yard is the property's strength. To create 6 spaces, they would have to pave the whole yard. The neighbors would rather see two 2 car garages vs. one 4 car garage. They spoke with the Engineering Department and they had concerns with a wide driveway and backing into the street. He walked the Board through the plans. The variance for one space is needed to back into the street. He spoke with Engineering regarding this issue. There is a stone wall against the one space off of School Street. The other 5 parking spaces encroach within the 15 foot front setback. It would be an unreasonable hardship if it were denied. The property has 2 street frontages. The variance is consistent and not contrary to the spirit of the Ordinance. This will enhance surrounding property values.

Parker asked about the green space. Winters asked if it was an existing 3 unit. (It is a legal 3 unit.) Could you establish a new property with 3 units or is it "grandfathered". (There is sufficient lot size to convert.) Norton asked why 3 units, not 2. (Economics. It is real undesirable in a condo situation to have 2 units. 2 units equal 2 votes. 3 units = 3 votes and no hassles.) Parker asked if backing into School Street was not a safety concern. (A lot of people do that. They could back in and pull out.) Walker stated that they did ask Engineering about this and Engineering did not raise a concern. Mr. Macintosh stated that the existing parking configuration backs onto the (Rumford) street now.

In favor: David Lamarre-Vincent, 50 Rumford Street. He has lived there since 1981 and owns 52-54 Rumford Street. They look directly at this property. The current plan balances the highest and best use of the next generation. In favor of all requests before the Board. Feels it is a positive development for the neighborhood.

Leslie Thomas, 76 School Street. She feels they are keeping the character of the neighborhood. The traffic on weekends is very quiet. Believes parking is allowed on School Street.

In opposition: none.

Comments by Code: none.

DECISION: A motion to approve all the requests was made by Parker, seconded by Norton and passed by a unanimous vote. Kelley stated that the direct abutters are in favor. Norton felt that 2500 s.f. places are not feasible. He had concerns with the School Street Parking, but Engineering looked at it so that alleviates some of his concern. The hardship is created by the property configuration. Maintaining open space is reasonable.

56-13 Joseph E. Richard: Applicant requests a variance to Article 28-3-3, Shoreland Protection (SP) District to permit the construction of a garage with a minimum setback of 25 feet from the reference line (natural mean high water level) of Bowen Brook where all building and structures are required to be located at least 75 feet from the reference line for property at 74 Shaker Road in a RM Residential Medium Density District.

Joseph E. Richard testified along with Lisa Linehardt and Carl Robbins, the builder. Mr. Richard stated that they did not know about the water, which is a seasonal stream. It runs about twice a year. The structure is about 30-35 feet from the water way. Lisa submitted a map that she indicated was submitted with the Building Permit application.

Carley asked Walker if this were an oversight. (He believes so.) Lisa stated that they were unaware of the 75 foot requirement. Carley asked if it were an unheated garage. (Yes.) Norton asked if the house were inside the setback also. (Yes, the house and the current garage.) Carley asked Walker about how this Article is 'triggered'. (It is a City of Concord requirement. How it is mapped and defined, he is unsure of.)

Mr. Richard stated that this is a run-off from the property behind him. It has never been a flowing brook. It is a dry stream. Parker asked if it flowed through the property. Mr. Richard stated that it does flow through and comes out toward Mountain Road. He has done excavation work and poured the footings and 4' frost walls. Winters asked if the existing garage were within the 75 foot setback. Mr. Richard stated it is closer. The septic is between the house and the garage.

In favor: A letter was submitted by Mr. Ralph Wilson of 68 Shaker Road in favor.

In opposition: none.

Comments from Code Administration: Walker commented that the purpose of the Shoreland Protection area is to protect water bodies from harmful runoff and other contaminants. Fertilizers and such things are not permitted with the SP district.

DECISION: A motion to approve the request was made by Parker, seconded by Winters and passed by a unanimous vote. The property creates a hardship. There is no other location for the building. The spirit of the Ordinance is upheld.

11-6-13 MINUTES: A motion to approve the Minutes was made by Norton, seconded by Kelley and passed by a unanimous vote.

Walker commented that a Request for Rehearing for Case #52-13 and that a meeting will need to be held to consider the request.

A TRUE RECORD ATTEST,

Rose Fife, CLERK
ZONING BOARD OF ADJUSTMENT