

**ZONING BOARD OF ADJUSTMENT
AUGUST 1, 2012 MEETING
DRAFT MINUTES**

Board members present included Chairman Christopher Carley (Conflict with Case 22-12), David Parker (for Case 22-12 only), Nicholas Wallner, Robert Harrison Jr., Stephen Norton and Jim Marshall. Also present was Zoning Administrator Craig Walker and Code Administrator Michael Santa.

19-12 Deborah L. Samodai: Applicant wishes to build a garage and requests a variance to Article 28-4-1(h), The Table of Dimensional Regulations, to permit a side setback of 18 feet where a side setback of 40 feet is required for property at 176 Elm Street in an RO Residential Open-Space District.

Deborah Samodai testified. She has a very sloping yard. On the right side there is a leach field and on the left side is a shed. She would like a 24' x 24' garage. She said there is ledge further back that is impacting where she can put the garage. This is the only reasonable place she can build. She could place it closer to the road but it would be impractical since her house is so far back. Since her house is so far back and screened from other houses in the area there will be no negative visual impact on abutters. The RO Zone requires a 40 foot minimum setback and she is requesting an 18 foot setback.

Walker displayed GIS images showing contours and aerials to the board.

In favor: none.

In opposition: none.

DECISION: A motion to approve the request was made by Wallner, seconded by Harrison and passed by a 5-0 vote. Wallner felt that there was a hardship due to the topography of the lot and the ledge.

20-12 Barlo Signs for Men's Wearhouse: Applicant wishes to install 1 additional building sign and requests:

- 1) Variance to Article 28-6-9(b)(1), Permitted Building Signs, to permit 4 building signs where 3 would be permitted and,
 - 2) Variance to Article 28-6-9(b)(1)(a), to permit 145 SF of signage where 90 SF would be allowed (note: 82 SF already exist),
- For property at 60 D'Amante Drive in a GWP Gateway Performance District.

Tim Sullivan of Barlo Signs testified. They would like an additional wall sign. It is needed on the Target, Michael's side of the property to identify it for prospective customers. They lack identification from the Sheep Davis Road side of the property. It would be the same lettering and size as the D'Amante Road side. It would help their business.

Norton asked how sign area is calculated. Walker stated that the calculation for signage is 1 s.f. per 1 linear foot of frontage. Private drives do not count in their calculations, only road frontage. (Norton) If the drive was a city street could they have additional signage on that side of the building? (Walker) yes.

In favor: none.

In opposition: none.

DECISION: Marshall felt it was an unusual situation. What if the private road was public? A motion to grant the requests was made by Marshall, seconded by Harrison and passed by a 5-0 vote. It is a benefit to the public to clearly identify the destination.

21-12 Christopher D. Clement, Sr. for the State of New Hampshire: Applicant wishes to operate a commercial retail compressed natural gas fueling facility which would be open to the public and requests the following:

- 1) Variance to Article 28-5-17, Certain Uses in the Opportunity Corridor Performance (OCP) District, to permit a retail fuel facility in a portion of the OCP District where retail uses are not permitted,
- 2) Variance to Article 28-3-2(d)(2), Uses Prohibited in the 100 year Floodplains and the F1 District, to permit the storage of hazardous materials in a F1 overlay district,

For property located easterly of the north end of 11 Stickney Avenue as shown on submitted plans in an OCP Opportunity Corridor Performance District.

Rebecca Olen from DES and Brian Pike from DOT testified. Rebecca stated that they already have compressed natural gas at the facility for State vehicles. They propose to get a private operator to run the site. The State will divest themselves at that time. Their gas and diesel pumps are to be moved to Hazen Drive. The State will keep a gas fueling station at Stickney Avenue. Natural gas is lower – note per gallon \$2/gallon – easier to budget than gas and diesel.

Norton asked if the DES would issue a permit for this facility. (Yes.) Natural gas is lighter than air.

Harrison was concerned with the appearance from the highway. Rebecca says it will eventually move to Hazen Drive. The State cannot sell to private vehicles. There will not be any new installation of pumps at this location, with the exception of the possibility the pump may be moved to under the canopy. The State does not aspire to operate this type of facility; to operate CNG station.

Norton questioned if the State would be issuing additional licensing because the facility is in a floodplain? The applicant was unable to answer the question

In favor: none.

In opposition: none.

Comments from Code Administration: Walker stated that the State needs a variance because they are leasing the operation to a private vendor and the State exemption does not apply to a private vendor.

DECISION: Norton asked if the private vendor wants to expand. Walker stated that they would need to come back for review. Harrison will not support this request. Marshall thinks it will not add to the impact of the site. He is in favor. Norton is not able to support the request without knowing about the floodplain question. Wallner is in favor as he feels it will not impact the site.

A motion to approve the requests was made by Wallner, seconded by Marshall and passed by a 3-2 vote with Harrison and Norton in the minority.

22-12 John T. Radley: Applicant wishes to convert an existing residential building to 4 units and requests the following parking related relief:

- 1) Variance to Article 28-7-6, Compact Automobile Spaces Permitted, to permit 4 compact spaces for a residential use,
- 2) Variance to 28-7-7(c), Handicapped Accessible Spaces, to permit an accessible parking space 16 feet in length when 19 feet are required,
- 3) Variance to Article 28-7-7(e), Minimum Aisle Width, to permit aisle widths of 21 feet +/- when 24 feet are required,
- 4) Variance to Article 28-7-7(g)(1), Parking Restrictions in the Required Front Yard, to permit a parking space to be located within six (6) feet of the front property line where a 15 foot front yard setback is required,
- 5) Variance to Article 28-7-7(g)(2), Setbacks From Lot Lines, to permit parking with no setback from the southerly side lot line where a five foot setback is required,

All for property located at 55 Jackson Street in an RD Residential Downtown District.

The Board for this case consisted of Parker, Wallner (Chair), Norton, Harrison and Marshall.

John Radley and Attorney Anna Zimmerman testified.

Atty. Zimmerman stated that she had conversation with Mr. Walker prior to the meeting and agreed that the setback request and the expansion of a non-conforming building request listed in the application were not needed and that by striping the access way they could provide an accessible space (compact) space.

Atty. Zimmerman stated that her client is rehabilitating the building. Mr. Radley is a member of the NH National Guard. He would like to take the existing 3 units and make it to 4 units. The building was constructed in approximately 1925. Radley is trying to get 8 parking spaces with minimal impact. The parking could be created on the other side of the structure, but it is less desirable. Zimmerman commented on a letter in the file from an abutter and stated that the tree that was removed the letter referred to was removed by the City and not her client and her client intends to live in the building when it is complete.

Parker asked if they could keep it a 3 family. Radley stated that it would be safer as a 4 family with a full sprinkler system.

Norton asked if they could place parking on the north side of the building and be compliant. Walker stated that he look at that doesn't believe that the parking can be compliant locating it on the north side and maintain the full 15' setbacks on both front lot lines.

Harrison asked if sprinklers were required. (Yes if it is a 4 family.)

Attorney Zimmerman stated that lot size would allow a five family unit. They are trying to improve the neighborhood.

Marshall asked if the garage is being razed. (No as it is a required parking space.)

Harrison asked about the swimming pool and if it was usable. (Radley, not as it is now but he is getting quotes for a liner and intends to rehabillitee it for use)

Harrison asked what the hardship was. Attorney Zimmerman stated that the existing structure is located in a place that does not facilitate the parking.

Harrison asked about snow storage. (Radley, there is room in front of the building where snow can be stored and room to the rear side of the building.

The question was asked if they would need to be in front of the board if they kept it a three family

Walker stated that his research indicated that his research was only able to verify the building is a legal two-family. Past zoning records show the building has been used as a day care and as a real estate office by the owner/occupants. So, without verification of a legal conversion to a three family they would still need to be before the board to convert because of parking setback and lot design issues. Attorney Zimmerman stated that additional units are better than a day care or a real estate office.

Wallner stated that the issue before the Board is for parking only. If this structure stayed a 2 family there would be no parking variance needed.

Parker stated that if he relocated the shed they could get the compliant parking. Attorney Zimmerman stated that they could look at that if they Tabled the case.

In favor: David Harris, 7 Highland Street. The parking should be clustered (kept in one area in the rear), not spread around.

In opposition: A letter from Jane Abramczyk, 56 Jackson Street with concerns about large parking lots in residential areas.

DECISION: Marshall has a problem with 2 parking spaces in the front. Walker stated that only one parking space, #7, would be lost if item #4 is denied. Marshall wants to deny the 15 foot setback encroachment in front, but no problem on the other setbacks. Wallner stated that they could vote separately on the variances. Walker stated that this will also be going before Planning for a Minor Site Plan Review.

A motion to grant request #1 was made by Norton, seconded by Marshall and passed by a 5-0 vote. A motion to grant request #2 was made by Norton, seconded by Marshall and passed by a 4-1 vote with Parker in the minority. A motion to grant request #3 was made by Norton, seconded by Wallner and passed by a 5-0 vote. A motion to deny request #4 was made by Norton seconded by Marshall and passed by a 5-0 vote. A motion to grant request #5 was made by Norton, seconded by Marshall and passed by a 5-0 vote.

23-12 Dean E. & Margaret F. Wilber: Applicant wishes to reconfigure two existing lots of record and requests a variance to Article 28-4-1(h), Table of Dimensional Regulations, where the new lot line location will result in an existing building having a side setback of 11.4 feet where a side setback of 40 feet is required for property located at 103 Oak Hill Road in an RO Residential Open Space District.

Dean Wilber, Margaret Wilber and Robert Saunders testified.

Saunders testified on the Wilber's behalf. The purpose of this lot line adjustment is to separate the house lot from the sugar house and maple sugar tree orchards. They have placed the lot line in the proposed location to follow the existing stone wall to maintain the natural boundary between the properties. The placement of the line maintains a conforming setback for the existing house. The two orchards of maple trees were planted by Mr. Wilber and are used to produce maple syrup in the sugar house. Each lot will have its own separate driveway.

Carley asked if there were two lots now. (Yes, the lot line will be moved.)

In favor: none.

In opposition: none.

DECISION: A motion to grant the request was made by Wallner, seconded by Harrison and passed by a 5-0 vote. Wallner felt that this was a minimal change.

24-12 Susan and Philip Bradley: Applicant would like to install a 37" to 42" open picket fence on a corner lot and a 72" privacy fence in a required front yard setback and requests the following:

- 1) A variance to Article 28-5-40, Fences, Walls and Hedges, Section (a), "At Corners and Intersections", to permit a fence up to 42 inches in height to be erected within 30 feet of an intersection where nothing shall be allowed so as to materially impede vision between a height of 2 1/2 feet and 8 feet,
- 2) Variance to Article 28-5-40, Fences, Walls and Hedges, Section (b)(1), Fences, to permit a privacy fence of up to 72 inches (6') tall in the required 15 foot front yard setback where the maximum height allowed is 48 inches (4'),

For property at 20 Holt Street in an RN Residential Neighborhood District.

Philip & Susan Bradley testified. Philip stated that they have no backyard. The fence would create some privacy and security to the front area of the lot. The hedges will be removed and replaced with a wood fence. The neighbors are in approval.

In favor: None

In opposition: Ken McKenna, 105 School Street, is concerned about the site line from the driveway.

Bradley stated that the fence will be 30 feet from the driveway.

DECISION: Marshall felt that it was reasonable to want privacy. Felt it was a good attempt to provide visibility. Wallner felt that the owner could not fully use their property. Marshall thinks it is reasonable.

A motion to grant request #1 was made by Harrison, seconded by Wallner and passed by a 4-1 vote with Norton in the Minority.

A motion to grant request #2 was made by Harrison, seconded by Wallner and passed by a 3-2 vote with Norton and Carley in the minority.

OTHER BUSINESS

A motion to approve the July short Minutes was made by Harrison, seconded by Wallner and passed by a unanimous vote.

A TRUE RECORD ATTEST,

_____, CLERK
ZONING BOARD OF ADJUSTMENT