

**ZONING BOARD OF ADJUSTMENT
MARCH 7, 2012 MEETING
DRAFT MINUTES**

Board members present included Chairman Christopher Carley, Nicholas Wallner, David Parker, and James Monahan. Also present Zoning Administrator Craig Walker and Rose Fife, Clerk of the Board.

03-12 Fellowship Housing Opportunities Inc.: (Recessed Hearing) Applicant wishes to convert an existing 3 unit residential structure into a 5 unit residential structure and requests the following: (Note: Due to a notice error of (1)(b) the following request was recessed to allow for proper notification.)

- 1) Variances to Article 28-5-3, Conversion of a Residential Building,
 - a. (Granted) Section (b)(1) Minimum Lot Size, to permit a 5 unit conversion on a lot of 4,367 square feet when a minimum lot size of 12,500 square feet is required,
 - b. **(Recessed)** Section (b)(2), Other Dimensional Requirements, and Article 28-4-1(h), Table of Dimensional Regulations to permit the conversion on a lot with 70 feet of frontage where 75 feet are required and permit lot coverage of 68 percent where a maximum lot coverage of 60 present is allowed.
- 2) Variances to Article 28-7, Access, Circulation, Parking and Loading
 - a. (Granted) Article 2(a), Computation of Number of spaces Required, to permit the provision of 2 compliant parking spaces, inclusive of 1 van accessible space when 10 spaces would be required,
 - b. (Granted) Article 7, Parking Area Design Standards, to maintain the existing parking area without full conformance with the Ordinances parking area design standards.
 - c. (Granted) Article 8(a), Restrictions on Backing into Streets, to permit a parking layout that requires vehicles to enter and exit the parking area by backing into Jackson Street, where such action would otherwise be prohibited.

All for property at 10 Jackson Street in an RD Residential Downtown District.

The Board members who had hear the original testimony present for this for this case consisted of Carley, Parker and Wallner, absent were Norton and Harrison.

A motion to reopen the recessed case was made by Parker, seconded by Wallner and passed by a unanimous vote.

Attorney John Arnold of Orr and Reno and his client Page Cannon of Fellowship Housing Opportunities decided that they would prefer to have the full 5 member Board.

A motion to recess the case until the April 2012 meeting was made by Wallner, seconded by Parker and passed by a unanimous vote.

04-12 Steve Yianakopolos: Applicant wishes to expand an existing hair salon to provide day spa services (use D-1) by converting an unfinished 1 car garage into habitable space and requests the following:

- 1) A variance to Article 28-2-4(k), The Table of Principal Uses, to convert a 155 +/- square foot garage area to a commercial day spa service use where such use is not permitted by right,
- 2) Variances to Article 28-7, Access, Circulation and Loading:
 - a. Article 2(a), Computation of Number of spaces Required, to permit the provision of 1 off-street parking space, when 9 spaces would be required,
 - b. Article 7, Parking Area Design Standards, to maintain the existing parking area without full conformance with parking area design standards required by the Ordinance.
 - c. Article 8(a), Restrictions on Backing into Streets, to permit a parking layout that requires vehicles to enter and exit the parking area by backing into Monroe Street, when such action would otherwise be prohibited.

All for property at 39 South Street in an RD Residential Downtown District.

Carole Houle, lease and beauty spa owner and Cassandra Cloutier testified.

They would like to convert the 155 s.f. unused one car garage into useable space. She submitted a photo packet to the Board.

Craig Walker gave a history of the previous uses on the property.

Ms. Houle testified that the salon will run the same as it is now but it needs some extra space and she is already paying for this space. They will not be adding any extra employees, just utilizing more space.

Carley asked if they would be serving the same number of clients. (Yes.) Carol stated that parking space is used by the apartment and that they have on-street parking so no one will be backing into Monroe Street.

In favor: none.

In opposition: Lynn Sabean Guimond for Gloria Sabean. She submitted photographs. She feels that the applicant has not met all 5 criteria. Where is the hardship? The garage can be used as a garage or for storage. The property is not different from other neighborhood properties. They are adding to the intensity of the business. It goes against the basic principle of the Ordinance. Their 2011 application represented less business. Not true. There is more traffic. There is no balance of the interest of others. They did not show that the surrounding property values would not be diminished. The tenants have failed to show that the application is appropriate and lawful.

Carley asked what the impact was on Mrs. Sabean. (Mrs. Sabean is in her late 70's and her home is about a foot from the spa. She is concerned that people will not come to visit her as the on-street parking will all be taken up by this business.) How long has she lived there? (She's lived there 7 years now.) Monahan asked what was there when she moved in. (There was a flag store at this location.)

Darren Sabean, son of Gloria Sabean testified. His mother's deck is approximately 8 feet from the fence and then the garage is right there. She is worried that the expansion will interfere with her enjoyment of her deck.

Comments from Code Administration: none. Wallner asked Walker if the 155 s.f. expansion would add to their parking formula. Walker stated that it could by 1 or more spaces.

Rebuttal: Carol Houle stated that she cannot see Mrs. Sabean's deck from the garage and visa-versa. They will not be using their back door. They are not hiring more people so they will not need more parking. They haven't violated any City parking regulations regarding the on-street parking.

Wallner asked how many clients a week they see. (Approximately 24 a week.) How many do you anticipate? (About the same number.) Cassandra Cloutier testified.

DECISION: A motion to approve the requests was made by Wallner, seconded by Monahan and passed by a 4-0 vote. Wallner felt that there were no additional changes in the operation, their hours or employees. Parker was included to agree with Wallner.

05-12 Jeannine & Glen Richard: Applicant wishes to construct an "infill" addition in an area between an existing house and barn and request a variance to Article 28-4-1-(h), Table of Dimensional Regulations, to permit the infill with a setback of 40 feet +/- from the front property line where a 50 foot front setback is required for property located at 8 Old Dover Road in an RO Residential Open Space District.

Glen Richard testified. There is an open space between his barn and his house and their roof pitches and has created water damage. The water is getting into their cellar and it is eroding the foundation of the barn. The roof is a 1:12 pitch and shingled. He wants to close in the space between the two buildings, the length of the barn, with trusses that would also include the existing sunroom and divert the water away from the buildings. The foundation of the old barn is stone and cement. The new roof will be a 3:12 pitch. The property is located across from Cole Garden's. They have no City water or sewer services at this location.

Monahan asked if the area will be enclosed. (Yes.) Will it be a slab? (He would like to suspend a floor across with a crawl space under. There is 16 feet between the house and the barn. The house was built in 1923 and the foundation is granite and stone.)

In favor: none.

In opposition: none.

Comments from Code Administration: Mr. Walker gave the Board a GIS printout showing the setbacks.

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

06-12 Chris Gately for Arthur Aznive: Applicant wishes to legitimize a second freestanding sign and requests a variance to Article 28-6-9(c), Permitted Freestanding Signs, Section (1) to permit a second freestanding sign on a lot where 1 freestanding sign is permitted for property located at 15 South State Street in a CBP Central Business Performance District.

Chris Gately testified. He submitted some signed affidavits. He would like a second freestanding sign. The building is over 200 years old. Sign visibility has benefited his business. He's been in business less than a year. The posts that hold his sign had already existed. The property owner prefers no signage on the building. It is a 30 x 40 double sided sign. The abutters never even noticed his sign.

Carley asked if the posts are already there. (Yes they are and he understands that they have been there over 20 years.) Carley asked Walker if the last sign was in violation all along. Walker explained the sign history of the property pointing out that there is no permit or record of a sign at that location with that type of construction and that in the past there had been a single tenant sign. Walker also stated that a permit for the freestanding sign on the left side of the property was issued in 2006 and at that time it was to be the only freestanding sign on the property. Monahan asked if he rented the space. (Yes.)

In favor: Affidavits from Michael Vermette DMD; Arthur Aznive; Concord Homeless Resource Centers and Main Element all in favor.

In opposition: none.

Comments from Code Administration: They have alternatives, i.e. building signage allowed.

DECISION: A motion to approve their request was made by Wallner and seconded by Monahan. The motion failed with a 2-2 vote with Parker and Carley in the minority.

Parker understands the need for a sign. He felt that the property owner could have planned better. Monahan felt that the tenant is being adversely affected and the surrounding neighborhood businesses have no opposition with the request. Wallner stated that there was evidence that the posts had been there for quite some time. Walker reiterated that there was no record of a permit being issued for a sign at that location. Carley finds no hardship.

A motion to deny the request was made by Parker and failed with no second.

A motion to RECESS the case until April 2012 with a 5 member Board was made by Parker, seconded by Monahan and passed with a unanimous vote.

07-12 Generation Farm, LLC: Applicant wishes to maintain an unpaved driveway and construct an unpaved 6 car parking & loading area to serve the farm's proposed commercial agricultural and horticultural operations (use M-1) and requests a variance to Article 28-7-7 (h), Surfacing and Drainage, to be permitted to maintain unpaved

surfaces for the driveway and parking & loading areas for property located at 44 Graham Road in an RO Residential Open Space District.

Attorney John Arnold of Orr and Reno testified. James Stever and Jenn McCourt, Engineer was also present to testify. Attorney Arnold stated that the applicant wants to construct an unpaved parking area and driveway. He leases approximately 66 acres for organic farming. In the mid 1900's the fields became overgrown and is now a forest. Generation Farm is reclaiming the fields and restoring them. They want to construct a barn structure with a residence above. The lower floors will be for agricultural uses and the upper part will be the residence for 3 farm workers. The parking area will be next to the barn. The traffic going to the barn will be from the 3 residents and farm equipment and deliveries. No retail traffic.

Mr. Stever testified that they want to be a fully certified organic farm for fruits, vegetables, flowers and herbs. They will use no chemical fertilizer or pesticides. The driveway for the farm will be related business and residents. They are concerned with the impact that paving would have on their organic certification.

Jenn McCourt testified that they have upgraded the driveway to provide access. They have used bank run gravel and crushed gravel and put in drainage. The number of parking spaces will be only the number needed.

Carley asked Walker if the Ordinance didn't have a provision or a conditional use permit from Planning for this type of thing. Walker stated that it does not apply in this case.

Attorney Arnold testified that there will be less traffic to the barn compared to a farm stand or retail use. There is no negative impact to the neighbors. Unpaved fits best with the nature of the organic farm. The property is unique. It is a large size parcel and has unique shape and topography. If they were to pave, the asphalt would hold the chemicals that could be washed off into the ground. The proposed use is reasonable.

In favor: none.

In opposition: none.

Comments from Code Administration: Walked explained the City's reason for paved surfaces for businesses.

A letter was read into the record from Donald W. Stever, owner of the property in favor of the request. He has owned the property since the mid 1970's.

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

MINUTES: A motion to approve the February 2012 Minutes was made by Wallner, seconded by Parker and passed by a unanimous vote.

A TRUE RECORD ATTEST,

_____, CLERK
ZONING BOARD OF ADJUSTMENT