

ZONING BOARD OF ADJUSTMENT
October 5, 2011 MEETING
DRAFT MINUTES

Board members present included Chairman Christopher Carley, David Parker, Robert Harrison Jr., Stephen Norton and Robert Boley. Also present Zoning Administrator Craig Walker and Rose Fife, Clerk of the Board.

31-11 Christopher Johnson: Applicant request variances from Article 28-4-1(h), The Table of Dimensional Regulations, to permit an accessory building with a setback of 4 feet from the northerly side property line and 0 setback from the westerly side property line where a setback of 10 feet is required from both property lines for property at 6 Cambridge Street in an RD Residential Downtown District.

Christopher Johnson testified. The request is for a garden shed that is near to the north west corner of his property. There is no objection from his neighbors. The house does not have a shed or garage as other surrounding properties do. There is no other location to place the shed on his property. His property is on the downside of the abutters. The topography is such that his property is below his abutters and the shed will not be obtrusive to his neighbors.

Carley asked what the shed would look like. He submitted photos and explained that he had a contractor build the shed before he knew he needed a Building Permit, so it already exists. Carley asked when he built the shed. He believes it was sometime late summer.

In favor: Clara Brogan, next door neighbor on Academy Street. Her property line is a concrete wall on Academy Street between the houses. The shed does not interfere with her enjoyment of her property.

Pat Wilczynski who lives across the street feels it fits in with the neighborhood. She feels it is a reasonable request.

A letter paraphrased for the record from Robert Freid of 4 Academy Street in support.

In opposition: none.

Comments from Code Administration: Walker had previously explained this had come to the attention of the Code Administrator via the Assessor observing construction at the site. When the property owner was contacted he submitted for a variance.

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

32-11 Ryan Arsenault: Applicant requests a variance from Article 28-7-7, Parking Area Design Standards, Section (g), Setbacks and Restrictions, for a driveway and off-street parking to be located within 1½ feet of the westerly property line when a 5 foot setback

is required for driveways and parking areas for property located at 236 East Side Drive located in an RS Residential Single Family District.

Ryan Arsenault testified. He purchased the house in February 2011. The house was built in 1958. He has 3 vehicles so he paved the area in question in the spring. He was unaware that he needed a variance and his contractor failed to advise him he needed one. East Side Drive is a very busy road so now he can back around and pull out safely. His driveway now parks 3 vehicles comfortably. The previous owner parked on the lawn but that was an eye sore and created ruts in the side yard area. He submitted a letter from Mr. Letourneau in favor.

In favor: Raymond Blodgett, 239 East Side Drive. He has been there over 30 years and the last property owners always had 1 driveway and always parked on the grass, it was a mess. The driveway is hard to get in and out of without the extra space. It enhances the property and is not a problem.

Letter paraphrased into the record from David and Linda Letourneau of 240 East Side Drive in favor.

In opposition: none.

Comments from Code Administration: This issue was brought to Code's attention via Kevin Demers in Engineering. The property owner acted promptly.

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

33-11 David Caron: Applicant wishes to reinstate and expand an apartment and requests a Variance from Article 28-5-7, Conversion of a Non-residential Building, Section (a), Conversion Resulting in Five or Fewer Units, to permit 1 apartment on a lot with 20,914+/- s.f. of land and 113+/- feet of frontage where 25,000 s.f. of land and 150 feet of frontage is required for property at 21 Village Street located in a CG General Commercial District.

David Caron testified. He is the owner of the property.

Craig Walker, Zoning Administrator explained to the Board that when the property was purchased it was a single family home which was converted with a variance so that the first floor was a Barber School and the pre-existing non-conforming residential use was reduced to a second floor apartment. Mr. Caron has now removed the majority of the original building to rebuild a new building. When he did he lost the right of the non-conforming use. Now that he has the building rebuilt, he would like to keep the apartment on the second floor and slightly increase the size but the lot is substandard for it.

Mr. Caron explained that he wants to be allowed to have the apartment on the second floor. He has been before the Planning Board for this project and received their approval. The building and apartment is all built. The old apartment was 740 s.f. and the new apartment is 840 s.f. He has received a Temporary Certificate of Occupancy for the school 3 weeks ago.

In favor: none.

In opposition: none.

Comments from Code Administration: none.

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

34-11 Bindery Redevelopment, LLC: Applicant wishes to construct a 5 space parking lot and requests the following:

- 1) A Variance to Articles 28-5-48(c), Parking Lots and Structures and Article 28-7-12, Performance District Standards, Section (a)(2), to permit a parking lot to be within 72 feet of South Main Street where a 100 foot setback distance is required,
 - 2) Variance to Article 28-7-7(g), Setbacks and Restrictions, to permit a property line setback of 2 feet from the westerly abutting lot line and 0.8 feet from the easterly abutting lot line where 5 feet is required for a lot line setback,
- for property at 43-45 South Main Street in a CBP Central Business Performance District.

Attorney John Arnold of Orr & Reno testified. Attorney Richard Uchida was also available for testimony and Steve Duprey also arrived to testify.

Attorney Arnold made note that there was an amendment to the plan submitted for 4 handicap spots vs. the 5 that were on the original plans. No off-street parking is required. To put parking in, they need setback relief. The State of NH Warehouse is behind the property. The State has granted them an easement to access the parking. Mr. Duprey went on to say that the building will come down to create the space for the handicapped parking. There are no spaces in front of the Bindery, but the City is creating new spaces. He could not get the City to create those spaces to be handicapped spaces as it wasn't wide enough.

Attorney Arnold went on to say that the Spirit of the Ordinance is being observed. Parking spaces will be behind 41 South Main Street and approximately 72 feet away from South Main Street on a slight (6 to 8 feet) downgrade. The lot line setback was created for adequate buffer, but there is no building setback. The hardship is that the property is unique. It is a large downtown building (4 stories and 69,000 s.f.) with no handicapped parking nearby. The shape of the property is unique and is unsuitable for a building. Due to the lot layout, the parking doesn't infringe on the streetscape. There is no other place to put the handicap spaces.

Norton asked why they changed from 5 to 4 spaces. (They needed more space due to accessible aisles in the parking lot adjacent to the accessible parking spaces.) Harrison asked how they were going to handle snow removal. (Mr. Duprey stated that they would pay a loader to come in.

In favor: None

In opposition: Merriam McGallen, Hills Avenue Condo Association. She had questions for Mr. Duprey. The Board allowed her to ask him. Will there be a handicapped entrance? (Yes.) Who will keep the driveway clear? (His company will.)

Comments from Code Administration: none.

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

OTHER ITEMS

Minutes: A motion to approve the September 2011 Minutes was made by Norton, seconded by Harrison and passed by a unanimous vote.

Walker distributed copies new ordinance Article 1-6, Code of Ethics and Article 30-3-29, Board of Ethics along with an inventory list of all Zoning amendments adopted since the last full recodification of the Zoning Ordinance in 2001.

A tentative date for a Board discussion meeting was set for November 9, 2011.

A TRUE RECORD ATTEST,

Rose Fife, CLERK
ZONING BOARD OF ADJUSTMENT