



Zoning Board of Adjustment Meeting
Monday, April 7, 2008
Council Chambers, City Hall at 7:00 p.m.

Meeting Minutes
Approved 5/19/08

Meeting Called to order at 7:02 pm by Chair Hurd

Consensus from the board to continue the election of officers until next months meeting

Ms. Carolyn Towle to be appointed to Vacant Seat 1

I. Roll Call

Present: Jim Hanson, Michael Hurd, Carolyn Towle

City Staff: Jerry Coogan, Interim City Planner; Eric Giles, New City Planner; Michelle Aiken, Boards & Commissions Coordinator.

Absent: None

II. Report(s) of Secretary:

Tuesday, March 03, 2008 Public Meeting Minutes

Motion to: Accept the March 3, 2008 meeting minutes

Made by: Ms. Towle **Second:** Mr. Hanson **Vote:** Unanimous

III. New Business:

- **(ZO2008-00005) Bernard & Rebecca Ferland, Claremont, NH** – seeks a Use Variance from Section 22-226 of the City Zoning Ordinance in order to occupy the property at 38 Summer Street with a Quilt Shop business in the R-2 District. Tax Map: 132, Lot: 9, Zoning District: R-2. Property Owner of Record: New Life Worship Center, Robert L. Perrigo Jr.

Mr. Hurd asked the Applicant if there was any objection to being heard by a three person board and he was aware that it would require a unanimous decision to be approved. The Applicant had no objection.

Abutters' Roll Call - Joanne and Jeff Baillargeon, Clifton Busby, Erwin Caplan, Ruhama Picano

Mr. Giles advised that the sites present use is a vacant church, the area is surrounded by single and multi family homes and the zoning in the vicinity is R-2 and general commercial business. The R-2 zoning would require 8 off street parking spaces for this low impact retail proposal. This is considered a low retail impact use and consistent with neighborhood commercial uses which is the general character of the area, a mix of residential and neighborhood commercial uses. The applicant will be required to submit a Site Plan to the Planning Board for a change of use.

Mr. Bernie Ferland advised they want to open up a quilt shop that will be very low impact for the area and there is more than adequate parking, the only changes to the exterior will be that they are putting in a handicap ramp. They have spoken with the neighbor at 1 bond and there is a right of way that was given to the church, although he believes that has been relinquished or will be once the property has been sold. Mr. Ferland advised that that is not a problem because they have their own driveway now. Ms. Rebecca Ferland advised that there are a lot of quilters in the area and they are currently located behind the moody building on the water street side. They want to expand their business and they need more parking and would like to have classes for more than 5 people in a class. They will be having a quilters road show and people will come from all over to see the quilt store and at their previous location parking and location was a problem. They have been looking for something with more space and that is easier to find. She teaches a class with 5 people on Tuesdays and Thursdays and she feels that it would be great for Claremont. They have a machine for the quilting that is run by one person.

Mr. Hanson asked if there was any noise from their quilting machine and if there were any deliveries of materials. Ms. Ferland advised that it is not noisy, it is just like an oversized sewing machine and their deliveries are hand delivered by UPS or Fed Ex.

Mr. Victor St. Pierre wanted to mention that it is 41ft from the B-1 zone and 45ft from the B-2 Zone, so it is in a corner of all the zones near Stevens High School. It is currently a church and would be coming off the non profit tax roll onto the property tax rolls. They do not feel they are changing the use greatly. Mr. Hanson asked if he sees any problems as far as parking. Mr. St. Pierre advised that there are 8 spaces and one would be handicapped.

Open public hearing

Ms. Joanne Baillargeon who owns 1 Bond Street advised that the right of way still exists and it will be until 2014 or until the building is sold, she is not sure. When she bought the house, it was clearly residential zoning in a beautiful neighborhood and she has a concern with the parking and is not sure if there are really 8 spaces there. Chair Hurd advised that the dimensions show that it is enough area for 8 spaces. She advised that this is a residential area and there are so many businesses downtown on Pleasant Street that are vacant, she feels that this is spot zoning and they should use the properties that are vacant and already zoned for this. She feels it is not right to put a business in a residential area when there are so many others that are vacant.

Mr. Jeff Baillargeon asked how the parking spaces were calculated. Chair Hurd advised that the parking clarifications will be handled at the Planning Board level. Mr. Baillargeon also asked the board to clarify where it is in the mixed use. Chair Hurd advised that the area is mixed use means that there is more than 1 zone in the area, a mixed use of zoning in this section of town. There is a lot of vacant space within a mile of this location. He feels that it will hurt the neighborhood by spot zoning. There are 8 spots for parking and the quilt shop is saying that they want to have more than 5 people attend the classes. They share parking at the corner of the lot and he is worried he is going to have to go out and kick people out of his spot. They have not had to deal with traffic issues since they moved there and they do not want to have to deal with this. Ms. Towle asked what he feels is a low impact business. Mr. Baillargeon advised that he has nothing but positive things to say about them, but he does not feel that there is no room for retail in this area; it is not designed for this traffic.

Mr. Cliff Busby advised that he supports the business although he believes there are lots of nice areas in town that are vacant and he does not feel that it belongs in this residential area. He believes they could put it somewhere else.

Mr. Steven Picano from 43 Summer Street advised that there is a lot of retail sprawl which makes remaining in the area difficult because of the gas station, counseling center, etc. He has a problem with a retail business in a residential area when they should be using something that is vacant in town. When this was a church and daycare, the church owned the Baillargeon's property so they parked wherever they wanted. There needs to be more push to use the vacant buildings in town and he is afraid there will be a precedence set.

Mr. Gerome Goggin lives at 24 Green Street and he is opposed to it because he lives in a residential neighborhood and he would like to keep it that way. When school is in session you cannot find a spot to park and these people are going to have to park in the back. Small businesses have a hard time in this area and what happens if they do not make it, what is going to happen with the building, there will be another business that could have more of an impact. Chair Hurd advised that the variance is for this applicant and does not run with the property.

Rita Robitaille lives on 9 Bond Street and she knows there are a lot of questions about the parking which she does not see as a problem. There is so much parking on Bond Street and Summer Street. The quilt shop will be a big asset, even when the church was there they made a lot of noise, they had bands practicing there. The quilt shop is a proven business and she knows the owners and they are excellent people. They are going to buy the property and finding another space for this price and square footage it is a great deal. Her property abuts Tremont house of pizza and that is not all that bad, she feels the quilt shop will be an asset.

Mr. Brent Ferland is Business manager for the quilt shop and if they leave the property the variance would leave with them. With a quilt shop you are looking for ambiance and their current location does not have the atmosphere they are

looking for. They see the business as an asset to the residential area, they cannot have a dumpy area or the type of clientele they have would not come. They would not have more than 3 or 4 cars at one time. Maybe on a sale or event night there may be a few more, but not many. Some quilt shops are in old barns, etc for the atmosphere and they like this building because of the space. This will bring character and value to the area. There may be some right of way issues, but they will work those out. Mr. Hanson asked when they have their busiest times. Mr. Ferland advised that on a good day they will get at the most 8 people spread out through the day. When they have the classes there may be a few more cars although, they never have the shop open past 9pm. He feels that it would be rare to have the parking lot full and some of the people coming into the business are older and would not want to have to walk a block to get to the store.

Ms. Ruhama Picano asked what will happen in the winter with the snow and losing spaces due to snow. Chair Hurd advised that this is a Planning Board issue that will be on their Site Plan. Ms. Picano wanted to confirm that if the property is purchased and they decide to sell at a later date any other business would have to come back to the zoning board and then to the planning board.

Ms. Joanne Baillargeon advised that when she first started living in her house it was owned by the church and they couldn't rent out the house for 6 years and the first two years she lived there she has been in the church. She knows that the basement is finished with carpeting and this should also be counted as useable space.

Chair Hurd asked Mr. Ferland to explain the interior of the building. Mr. Ferland advised that the basement has about an inch of water in it and the rear of the property has an addition that has leaked due to the snow. If something isn't done with it soon the building could be unsalvageable. The basement has flooded and the water damage makes it unusable space and they would not be interested in renovating that area at this time due to the cost. They have budgeted about \$100,000 for the first floor for the quilt shop and the basement will eventually have to be gutted.

Motion to: have a brief recess

Made by: Ms. Towle

Second: Mr. Hanson

Vote: Unanimous

Meeting Called back to order by Chair Hurd

Chair Hurd advised the Baillargeon's square footage would be for retail space and the rest of the space would be for cold storage to include the basement. This will all be noted as required on the Site Plan.

Ms. Baillargeon advised that because it is a residential area and people coming and going from the property would shine their headlights through her kitchen and living room window. If a business opens and there is a large group of elderly people pulling right up to property line. She has twin boys and they will not be allowed to use that side of the house because an elderly person may not see her children.

Mr. St. Pierre advised that he has a copy of their map and it shows their house is 7ft away from their property line. They are arguing that their kids may come across that property line but they should know that that property is our property to plan. The right of way is clear on the deed and advises that when the property is sold the right of way goes away. They have not proposed any parking there yet and they have not proposed a fence or anything yet. The church should be able to use their property as they see fit and those issues will be addressed at the Planning Board.

Mr. Goggin asked what other products this business sells. Chair Hurd advised that the applicant has advised there would be fabric and quilts, no crafts or anything like that.

Mr. Busby advised this will change the character of the people who live at 1 Bond St. He does not feel that it would be a good thing for the neighborhood.

Mr. Jeff Baillargeon advised that he does know that the quilt shop should be able to use their property although he should also be able to keep the character of their property. He also advised that since it is a corner lot and it should be said that there is no parking in front of the building on the street. Ms. Towle advised that they have certain criteria that they have to go by and the parking and traffic issues will be made at the Planning Board level. Mr. Baillargeon advised that he does not feel that the zoning should change.

Closed the public hearing

Motion to: approve the applicants request for a use variance in order to use 38 Summer Street for a retail quilt shop

Made by: Ms. Towle **Second:** Mr. Hanson **Vote:** Unanimous

The proposed use will not diminish the value of the surrounding property

Unanimous

Granting the variance will not be contrary to the public interest

Unanimous

Denial of the variance will result in unnecessary hardship to the applicant because the zoning restriction, as applied to this property, interferes with reasonable use of the property in its environment

Unanimous

There is no fair and substantial relationship between the general purpose of the zoning ordinance and the specific restriction on the property

Unanimous

Granting of the variance would not injure the public or private rights of others

Unanimous

Granting the variance will do substantial justice

Unanimous

The use is not contrary to the spirit of the zoning ordinance

Unanimous

IV. Correspondence

- Notice of Decision – Mandala Convenience, 58 Washington Street
- Zoning Bulletin – Please note Electronic Signs

Mr. Coogan advised that this is a case that went to the district court in Concord who have an ordinance that does not permit flashing signs advertising retail messages and it was upheld by the court and this ordinance is similar to Claremont's zoning ordinance. This helps validate the ordinance that the City of Claremont has. There have been a couple of signs that have been brought up in the past and we ask them to comply when we hear about them. Chair Hurd asked about flashing signs inside the windows. Mr. Coogan advised that we do not have a lot of say for signs that are placed in windows.

V. Adjournment

Motion to: Adjourn

Made by: Mr. Hanson **Second:** Mr. Hurd **Vote:** Unanimous

Meeting adjourned at 9:07 p.m.

Respectfully Submitted,

Michelle Aiken

Boards and Commissions Coordinator