



Zoning Board of Adjustment Special Meeting

Monday December 21, 2009, 6:00 p.m.

14 North Street, Visitor's Center, Claremont

Meeting Minutes

Approved: 1/4/10

I. Roll Call

Present: Robert Woodman, Mike Hurd, Pierre Caouette, Ed Friedman, Jim Hanson, Carolyn Towle

Absent:

City Staff: Mike McCrory; Interim City Planner, Jane Taylor, City Solicitor; Katrina Spaulding, Business Development Specialist, Kelly LeBlanc, Administrative Assistant

Old Business

- **(Z02009-000030) Windham Environmental, Windham, NH** – Requesting an Area Variance from Section 22-298 of the City Zoning Ordinance to allow a lot area less than 20,000 sq. ft. Proposed use will be automotive repair shop. Tax Map 119, Lot 91, Zoning District B-2 at 87 Mulberry Street.

Project Description:

The applicant is seeking an Area Variance related to the creation of a non-conforming lot. The intent is to facilitate occupancy of an existing, vacant building by a small auto repair business. The potential buyer and proprietor of the proposed auto repair business need an on-site parking area to serve the business and satisfy the Zoning Ordinance. The Owner has agreed to a Lot Line Adjustment that will benefit the subject parcel (Map 119/Lot 91). The Lot Line Adjustment will increase the area of Map 119/Lot 91 from 4,172 square feet (sq. ft.) to 6,882 sq. ft. This will increase surface parking by taking a portion of the adjacent parcel to merge the lots.

Planning Considerations:

The subject parcel does not comply with the minimum lot size requirements in Section 22-298 of the Zoning Ordinance. The proposed new lot dimension still does not comply with the Zoning Ordinance, but will increase the lot size. A cursory review of the neighboring parcels along the westerly side of Mulberry Street in the B-2 zoning district indicates that many of these lots have similar dimensions to the subject parcel. Further, the proposed use of the site is an allowed use in the B-2 zoning district.

Review Criteria:

When considering this application, the following Area Variance criteria should be considered. The burden of proof is upon the application to demonstrate that they meet the following criteria. Jeff Kevan of TF Moran was present to discuss the proposed Area variance. The proposed Auto body shop would be run by one individual who would work out of a single bay.

Mike Hurd presents a concern that backing in with a tow would block traffic and cause the car to be offloaded up hill.

Parking is confirmed as two inside spaces and three outside spaces. One of the two inside spaces will be for the owner's personal vehicle.

The board has a concern regarding the lack of sidewalk/ slightly wider shoulder. Jim Hanson presented this as a public safety issue if while unloading a vehicle pedestrians would have to walk in front of the 'side-walk' area. TF Moran suggests an alternate access route.

Mike Hurd inquires about environmental concerns regarding the site behind the auto shop which previously contained oil containers. Development would allow for lot usage and not deem the property a wasted lot. Peter Frank, Environmental specialist, acknowledged the concerns of the board and verified environmental soundness.

Mike McCrory will draft a report to the Planning Board stating the concerns of the Zoning Board.

Robert Woodman inquires about the potential for more parking. Jeff Kevan states the maximum is 5 outside and 2 inside but this is the decision of the owner. Mr. Bushey, owner of adjoining property, could potentially add an easement for two additional spaces to increase circulation.

Pierre Caouette clarified that it is not a possibility for the applicant to purchase additional land.

Ed Friedman reiterates safety as a primary concern. Jeff Kevan, TF Moran, states the building has increased safety as there is a possibility of a vehicle backing up into the building via 12 foot doors. The site itself limits business and the pending new business will bring the lot back to its historic use.

Open Public Hearing

No Abutters Present

Close Public Hearing

Motion to: Re-Open Public Hearing

Made by: Mike Hurd

Second: Pierre Caouette

Vote: Unanimous

Pierre Caouette questions how a hauler can drop off a vehicle without going into the road. The applicant states there are two alternative solutions: (1) vehicle can back into the shop via overhead doors or, (2) vehicle could pull up alongside the shop.

Jane Taylor states a condition to granting the application could be an easement to remedy parking concerns.

Area Variance To review an Area Variance in accordance with New Hampshire statutory criteria the ZBA must adopt the following **Findings of Fact** for each criterion:

1. Does the proposed use maintain the value of surrounding property?
 - Yes, unanimous agreement that the existing building will be utilized in the community

2. Would granting the variance be in accord with the public interest or, in other words, would granting the variance be in agreement with the objectives of the zoning ordinance?
 - Yes, unanimous

3. Would denial of the variance result in unnecessary hardship to the applicant because:
 - a. There are special, unique conditions of the property itself such that the proposed use cannot be made without a variance?
 - Robert Woodman – no, Carolyn Towle – yes, Pierre Caouette – yes, Ed Friedman – Yes, Mike Hurd - Yes

 - b. The applicant cannot achieve the intended result by another reasonably feasible method, other than through the granting of an area variance?
 - Yes, Unanimous

4. Will granting the variance result in substantial justice? (Is the loss to the applicant outweighed by the benefit to the public if the variance were denied; would granting the variance threaten the public health, safety or welfare?)
 - Robert Woodman – No, Carolyn Towle– yes, Pierre Caouette – yes, Ed Friedman– Yes, Mike Hurd- Yes

5. Is the use in accord and not contrary to the spirit and intent of the ordinance and does not interfere with the underlying purpose of the restriction?
 - yes, unanimous - the owner is limited by the size of the lot

Motion to: Close Public Hearing

Made by: Mike Hurd **Second:** Ed Friedman **Vote:** Unanimous

1. **Motion to:** Approve application for Area Variance, Section 22-298, Tax Map 119, Lot 91 under the following conditions of approval: (1) easement for overflow equivalent of two standard parking spaces (18' x 36') (2) The front of the parking lot rectified so it is not a public safety concern. All loading and unloading must be done entirely on the premises without any on-street usage. (3) Require recording the Area Variance in the chain of title.

Made by: Ed Friedman **Second:** Carolyn Towle **Vote:** Unanimous

Other

Adjournment

Motion to: Adjourn

Made by: Ed Friedman **Second:** Carolyn Towle **Vote:** Unanimous

Meeting adjourned at 7:30 p.m.

Respectfully Submitted,

Kelly LeBlanc