



Zoning Board of Adjustment Meeting
Monday, April 4, 2011 at 7:00 p.m.
City Hall, Council Chambers

Minutes
Approved May 2, 2011

I. Roll Call

Present: Mike Hurd, Carolyn Towle, Tom Rock, Todd Russel, Jim Hanson, Dan Worcester (alt), Pierre Caouette (alt)
Absent: Ed Friedman (alt),
City Staff: Tracey Thibault; City Planner, Jane Taylor, City Solicitor; Kelly LeBlanc, Administrative Assistant

II. Review Public Meeting Minutes from February 7, 2011

Motion to: Accept Meeting Minutes from February 7, 2011

Made By: Mr. Caouette

Second: Mr. Rock

Vote: Unanimous

III. Old Business

(ZO2011-0001) 43 West Terrace Street, Claremont, NH – Applicant seeks a Variance from section §22-331 to allow for two family dwelling units. The current zoning of the property reflects a single family unit - **43 West Terrace Street**. Tax Map: 107, Lot: 163, Zoning District R-2.

Ms. Thibault stated that this application is a continuance from February 7, 2011. At that time additional information was requested. Since that time the applicant has decided to go forward with his original request of 2 units, one 1-bedroom and one 4-bedroom. This configuration also requires a variance from the parking standard as the applicant can only provide 6 of the required 8 spaces.

Ms. Taylor stated for the record that alternates will now sit with the board and be able to ask questions. The alternates will not vote.

Chair Hurd stated that the five regular members will sit for this application.

Gary Coolidge, applicant, was present for the hearing

Mr. Coolidge stated that originally he was going to keep three rooms as cold storage but after reassessing the situation he does not want to keep this space as cold storage.

Ms. Towle confirmed the property is listed as five bedrooms and that one unit with one bedroom and one unit with four bedrooms are proposed.

Mr. Coolidge would like to leave things how they are. He purchased the property from the previous owner's nephew.

The last tax card listing states the property is a single family unit.

Mr. Hanson stated that square footage might be an issue and would like to know the hardship.

Mr. Coolidge stated he wanted the electricity switched over but has not changed the living situation of the current tenant. The hardship would be financial.

Mr. Hanson stated that a financial hardship is not valid from the standpoint of the Zoning Board.

Ms. Towle confirmed the nephew was responsible for the purchase and sales paperwork. She would like to confirm that there were renters when the house was purchased.

Mr. Coolidge stated there were no renters when he purchased the property but there were two kitchens in the building.

Ms. Towle stated that the multi family use is not grandfathered in.

Mr. Russel stated that the surrounding properties are multi family but when the applicant purchased the property it should have been classified as single or multi-family.

Chair Hurd stated that the property listing/tax card states one kitchen.

Dan Langille, City Assessor, initialed the paperwork in August 2009 stating that the amount of units in the building was unknown due to the renovation.

Mr. Coolidge did the remodel himself and did not get appropriate building permits.

Mr. Caouette asked if the applicant had any additional paperwork or information to prove hardship. No additional information or paperwork provided.

The renovations stayed in the same footprint.

Open Public Hearing

No Abutters Present

Close Public Hearing

Mr. Caouette read condition Number 5, *the property shall include adequate vehicle parking and turn-around on site.*

Mr. Caouette believes that this application is reasonable as the housing in the area is multi-family.

Mr. Hanson stated that the sale just happened to be private without a real estate agent. Ms. Towle stated that *buyer beware* still applies. Chair Hurd stated it could have been paperwork/housekeeping that kept the property listed as a single family.

Mr. Russel does not believe the applicant was hiding any information.

Mr. Worcester stated that if the post office had this property as two families then he is in agreement with multi-family use.

IV. Review Criteria

When considering this application, the following Variance criteria should be considered. The burden of proof is upon the applicant to demonstrate that all necessary criteria are met.

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

1. Would granting the Variance be in accord with the public interest?

Mr. Hanson – Yes, the structure fits the neighborhood with other multi family homes

Chair Hurd – Yes, you are not changing what is there, no footprint change

Ms. Towle – Yes, the area is already multi-family

Mr. Rock – Yes, no exterior change

Mr. Russel – Yes, no structural change and the neighborhood is also multi-family

2. Would granting the Variance be consistent to the spirit of the ordinance?

Mr. Hanson – Yes, there is no additional infringement on neighbors

Chair Hurd – Yes, this is a housekeeping issue

Ms. Towle – Yes, there are other multi-family dwellings and this is house keeping

Mr. Rock – Yes, this sets the tax record straight

Mr. Russel – Yes, this is a house keeping issue given the neighborhood

3. Would granting the variance, as requested, do 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?)

Mr. Hanson – Yes, no impediment on public health, already an improvement of public safety

Chair Hurd – There is no threat to public health, the house will not be listed as a two family

Ms. Towle – Yes, will clarify the multi-family status and no threat to health or safety

Mr. Rock - Yes, the applicant losses would be more substantial then the public gain if denied

Mr. Russel –Yes, if anything there is public benefit

4. Does the proposed use maintain the value of surrounding properties?

Mr. Hanson – Yes, it will give the applicant an incentive to improve the house

Chair Hurd – Yes, the value of surrounding properties will be maintained

Ms. Towle – Yes, the property value will be maintained and increased

Mr. Rock – Yes, the value will be maintained and the interior upgrades will increase the value

Mr. Russel – Yes, the value will be maintained and the renovations will increase the value of the surrounding properties

5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?

Mr. Hanson – Yes, the applicant bought the property months before the appraisal, and it was believed that this property was multi-family due to the history

Chair Hurd – Yes, applicant has demonstrated the proposed use is similar to the existing two-family

Ms. Towle – Yes, the applicant has demonstrated that the property has been used as a two-family in its past use

Mr. Rock – Yes, the applicant has shows it does not materialistically change the property

Mr. Russel – Yes, the applicant has demonstrated that not granting this variance would be a substantial hardship

- A. For purposes of this subparagraph, “unnecessary hardship” means owing to special conditions of the property that distinguish it from other properties in the area:

(i) The Applicant has demonstrated that no fair or substantial relationship exists between the general public purposes of the Section(s) of the Ordinance from which relief is sought and the specific application of the Section(s) to the property.

(ii) The Applicant has demonstrated that the proposed use is a reasonable one.

Alternatively, if and only if the criteria in the above subparagraph cannot be established

- B. Has the Applicant demonstrated the special conditions of the property that distinguish it from other properties in the area prevent reasonable use in strict conformance with the ordinance and a variance is necessary to enable a reasonable use of the property?

Motion: to grant the variance for §22-231 to allow this to become a 2 unit property...with the following conditions (1)There shall be no more than two (2) residential units in total on the property, Both residential units shall be located in the primary residential structure, (2)The primary residential structure shall meet all applicable building and fire safety codes, (3) The property shall have only one curb cut and drive-way.(4)This Variance shall be recorded in the chain of title.

Made By: Mr. Russel **Second:** Mr. Hanson **Vote:** Unanimous

Parking Variance

Chair Hurd would like to know the dimensions from parking space 'three' to the back parking line. The board is uncertain of the actual dimensions. It has been estimated that a Variance for 2 parking spaces is still needed but a reconfiguration would be beneficial.

Mr. Hanson explained that due to the parking issues downtown the board is trying to increase the awareness and need for parking plans.

Open Public Hearing

No Abutters Present

Closing Public Hearing

Motion: to grant a Variance for 6 parking spaces under §22-533 with the following conditions (1) The front setback shall not be utilized for parking (2) The property shall include adequate vehicle parking and turn-around on site, (3) a parking plan will be created and registered with the Planning Department, (4) This Variance shall be recorded in the chain of title.

Made By: Mr. Rock **Second:** Ms. Towle **Vote:** Unanimous

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

1. Would granting the Variance be in accord with the public interest?
Mr. Hanson – Yes, it will not infringe on the neighbors rights
Chair Hurd – Yes, it will be a designated area on the property
Ms. Towle – Yes, this is a plan to provide for a better parking setup with no infringement on the neighbors
Mr. Rock - Yes, the delineation of parking will be beneficial
Mr. Russel – Yes, there will be no front parking or infringement
2. Would granting the Variance be consistent to the spirit of the ordinance?
Mr. Hanson – Yes, it gives the board a chance to correct the lot set-up for a multi-family home
Chair Hurd – Yes, it will give the enforcement aspect of parking
Ms. Towle – Yes, it will map out the plans
Mr. Rock - Yes, it structures the parking in orderly fashion

Mr. Russel – Yes, it removes the front yard parking and is laid out according to the ordinance

3. Would granting the variance, as requested, do 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?)

Mr. Hanson – Yes, now that the unit is two-family it assures the renters have space

Chair Hurd – Yes, the parking allows the multi family to have designated parking

Ms. Towle – Yes, it maps out the location of the multi-family automobiles

Mr. Rock – Yes, there is no threat to the public health, safety, or welfare and it is a safe parking area

Mr. Russel – Yes, it takes parking off the street

4. Does the proposed use maintain the value of surrounding properties?

Mr. Hanson – Yes, one of the conditions is a parking plan, so this will give code enforcement a legal document for parking enforcement

Chair Hurd – Yes, the homeowner is liable for maintaining the lot

Ms. Towle – Yes, it does not deter from surrounding properties and will maintain the value

Mr. Rock – Yes, the use was a two-family in the past and this variance will delineate parking

Mr. Russel – Yes, it will clean up the area and eliminate on-street parking

5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?

Mr. Hanson – Yes, it would be unnecessary hardship as having two units makes the parking space necessary

Chair Hurd – Yes, this makes the parking as close to the minimum required as possible

Ms. Towle – Yes, the applicant has demonstrated that he proposed use is reasonable due to the automobile parking plan

Mr. Rock – Yes, it existed as a two-apartment and the need for vehicles is being met and dealt with in a reasonable fashion

Mr. Russel – Yes, this parking will fit best with a two-family dwelling

- A. For purposes of this subparagraph, “unnecessary hardship” means owing to special conditions of the property that distinguish it from other properties in the area:

(i) The Applicant has demonstrated that no fair or substantial relationship exists between the general public purposes of the Section(s) of the Ordinance from which relief is sought and the specific application of the Section(s) to the property.

(ii) The Applicant has demonstrated that the proposed use is a reasonable one.

Alternatively, if and only if the criteria in the above subparagraph cannot established

- B. Has the Applicant demonstrated the special conditions of the property that distinguish it from other properties in the area prevent reasonable use in strict conformance with the ordinance and a variance is necessary to enable a reasonable use of the property?

A five minute break was requested.

IV. New Business

(ZO2011-0002) E & D Shoes, 162 Washington Street, Claremont, NH – Applicant seeks a Variance from §22-296 to allow single family residential use of the property in addition to the commercial use. The current records for the property only indicate use as a retail establishment. Property Location: **162 Washington Street**, Tax Map 120, Lot 237, Zoning District B-2.

David Santini and Elna Santini are present at the hearing

Ms. Thibault stated that the applicant proposes to utilize the space above the retail establishment on the property as a single family dwelling unit. The property has municipal water and sewer.

Chair Hurd would like to know what aspect is sprinkled and compliant with fire-safety. Ms. Thibault stated that this will have to be discussed with the Fire Department and Building Department. An application will also have to go to the Planning Board due to the need of an amended site plan. The applicant is aware of this.

Mr. Santini stated when they bought the building they changed it to mercantile and did not know they could not live on the property as it has been used as a residence previously.

Ms. Thibault confirmed for Chair Hurd that the multiple use classification was gone after the building was purchased.

Mr. Russel inquired why Mr. Santini was requesting a variance. Mr. Santini stated that the Fire Department came in and reported the situation to the Planning Department which initiated the process.

Ms. Towle confirmed that the applicant had lost their home and that is why they moved into the property full time.

Open Public Hearing

No Abutters Present

Close Public Hearing

Mr. Hanson stated that given this is a business use you try not to mix the two uses, but each case must be evaluated on an individual basis.

Re-Open Public Hearing

Chair Hurd would like to reopen the public hearing to ask where the kitchen located. Mr. Santini stated that the kitchen is upstairs.

Mr. Caouette asked if there is any yard or lawn. Mr. Santini stated that there is a little bit of yard. Ms. Thibault confirmed that there is 10 feet of grass.

Chair Hurd confirmed 16 parking spaces. Mr. Caouette confirmed there is enough parking spaces for business and residential. Ms. Thibault stated that a two bedroom apartment requires 2 spaces for a total of 20 required spaces; an additional site plan amendment will be needed from the Planning Board to accommodate insufficient parking per the city ordinance.

Chair Hurd stated that this variance will go with the property.

Ms. Towle understands that each application is individual but does not want to set a precedent with the influx of applications coming to the ZBA.

Mr. Caouette is worried about future use of the property and how this Variance will carry on. Ms. Thibault stated that yes, it can be owner occupies, but the planning office and city solicitor would recommend that the variance would be conditional on approval of the amendment of the Site Plan from the Planning Board. The Variance cannot be limited to the current owner but can be restricted as owner occupied.

Motion: to grant the Variance from section §22-296 with the following conditions (1) There shall be no more than one (1) residential unit in total on the property, (2) The property will be owner occupied only and is conditional on the approval of the amendment of the site plan from the Planning Board, (3) The primary residential structure shall meet all applicable building and fire safety codes, and (4) this Variance shall be recorded in the chain of title.

Made By: Mr. Russel **Second:** Mr. Hanson **Vote:** Unanimous

IV. Review Criteria

When considering this application, the following Variance criteria should be considered. The burden of proof is upon the applicant to demonstrate that all necessary criteria are met.

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

1. Would granting the Variance be in accord with the public interest?

Mr. Hanson – In this particular case it best serves the public if the owner is onsite
Chair Hurd – Yes, as an individual case, granting the variance is not going against public interest

Ms. Towle – Yes, it goes back to how businesses used to run with the owner onsite
Mr. Rock – Yes, given the buildings previous use, it would be in accordance to have the owner occupy the building
Mr. Russel – Yes, the building will be safer with the owner living there and this is certainly a case by case situation

2. Would granting the Variance be consistent to the spirit of the ordinance?

Mr. Hanson – Yes, it is nice to have owners of the business present to care for the whole business

Chair Hurd – Yes, the limitation of ‘owner occupied’ means this will not be an income property

Ms. Towle – Yes, the individual is the owner and in this case it stays with the owner
Mr. Rock – Yes, the building was previously used as business and a dwelling and as long as it is the current owner living there, the spirit is upheld
Mr. Russel – Yes, this property remains owner occupied

3. Would granting the variance, as requested, do 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?)

Mr. Hanson – Yes, the owners have been forced to move in to the location and if this was not granted the business might have to close

Chair Hurd – There is no public safety, health, welfare and will not increase traffic

Ms. Towle – Yes, in this case the owners have been forced to live at their business property and does not threaten health, safety or welfare

Mr. Rock – Yes, does not interfere with public benefit or health, safety or welfare

Mr. Russel – Yes, this would be a hardship for the applicant if they were unable to stay at their business

4. Does the proposed use maintain the value of surrounding properties?

Mr. Hanson – Yes, in this case the business has looked cleaner and more home-like

Chair Hurd – Yes, the aesthetics will be maintained

Ms. Towle – Yes, the values will be maintained in the owner occupied property

Mr. Rock – yes, there is no physical change to the building and no effect on surrounding properties

Mr. Russel – Yes, the owners onsite would keep the property cleaner

5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?

Mr. Hanson – Yes, the owner demonstrated that the building had living quarters upstairs which distinguishes it from other commercial buildings in the area

Chair Hurd – Yes, the special condition was that this started with a house and was converted to a business

Ms. Towle – Yes, the applicant demonstrated the proposed use is reasonable as the building had living quarters in it and the applicant losing their home forced them to live in these quarters

Mr. Rock - Yes, this apartment previously existed and it is a reasonable request

Mr. Russel – Yes, this was previously a business and apartment

- A. For purposes of this subparagraph, “unnecessary hardship” means owing to special conditions of the property that distinguish it from other properties in the area:

(i) The Applicant has demonstrated that no fair or substantial relationship exists between the general public purposes of the Section(s) of the Ordinance from which relief is sought and the specific application of the Section(s) to the property.

(ii) The Applicant has demonstrated that the proposed use is a reasonable one.

Alternatively, if and only if the criteria in the above subparagraph cannot established

- B. Has the Applicant demonstrated the special conditions of the property that distinguish it from other properties in the area prevent reasonable use in strict conformance with the ordinance and a variance is necessary to enable a reasonable use of the property?

- **(ZO2011-0003a) Mandala Convenience, LLC, Claremont, NH** – Applicant seeks a Variance from setback to come within five feet of the property line. Property Location: **58 Washington Street**, Tax Map 108, Lot 69, Zoning District B-2.

Mr. Hanson has recused himself from this application as his sister owned the pizza restaurant attached to Birney’s Market.

Randall Rhodes – Project Manager, M&W Soils, present
Narouz Wein – Mandala Convenience, present

The applicant is seeking a variance to encroach on the property yards which requires relief from Section §22-299 from a set back standard. The Applicant plans rebuild a convenience store and pizza shop, which burned, in a new location and add apartments and gas pumps.

Ms. Thibault stated that the law changed pertaining to variances and we now use the same standards for both 'types.' Ms. Taylor stated that before January 2010 we had the Use and Area Variance. The state law has changed so they no longer make that distinction. It has been viewed as a legal error to call them Use or Area Variances. One is a request is from a Variance for a dimensional requirement and the other is from permitted use.

Chair Hurd confirmed that the applicant is looking for a set back variance from §22-299 from a set back standard which is presenting 0' on the plan and going to 5'. Ms. Thibault stated that she could not confirm the new set back dimensions as she did not have the plan at that time to scale from. The applicant will give full size copies of a revised plan.

Mr. Rhodes, M & W Soils, has put together an anticipated plan as he is new to the application. This was a new plan presented to the ZBA and Planning Department Staff. The proposal of the applicant is to build a new store towards the rear of the lot. A smaller footprint will include the convenience store, pizza shop, gas sales (the Special Exception was granted in 2008 and a Variance was also given to allow for gas storage with in 10 feet of the property line).

This lot is not even 100 feet wide in the center buildable area. There is no way to build a feasible sized commercial building on this lot, plus the required parking, turning radiuses and the like without encroaching on the side set backs. The rear setbacks can be met but the canopy out front will need to be discussed. While it is 50ft from the street, the property line is not a direct angle. There would be a request that the Variance would read 25 feet from the building to the canopy so that there is room to alter the plans as needed for traffic flow. The applicant would be asking for a reduction of side set backs from 15 feet to 5 feet and in the front from 50 feet to 25 feet for the purposes of the canopy.

Chair Hurd inquired if this application should be resubmitted by the applicant because the set backs were not actually listed. Does the terminology need to change as the front yard and side yard set back are included. The question was if this was properly noticed as both set backs were not listed on the application.

Ms. Taylor stated that a continuance of the Variance that was advertised to include the front set back which was not in the application.

Ms. Thibault stated we would need additional fees and materials as the front set back was not stated in the original application.

Open Public Hearing

DLC Investments Present

Andrew Hanson, DLC Investments, stated they were not notified until today. The owners would like to come up from Keene. Their notice was stamped March 27, 2011.

Mr. Rhodes stated that the lot is non-conforming and this plan is to get the building further back from Washington Street. The Sonoco station has concerns about the building blocking their sight lines. This non-conforming building location had a 0 foot setback; the property was originally built over the property lines and a property transfer to match the property lines to the end of the building was needed. Because of competition, the owners feel the only way to have a viable store is to also

have gas sales. The 50 foot front set back would bring the canopy to the front steps of the building. If the intent of the ordinance was to keep the separation from the public thoroughfare from any structure to the road then the proposed canopy works. What the application does not have is the dimension to the property lines. The current edge of the parking lot is paved and used by the business even though it is on City land. Mandala Convenience would like to continue the usage. The owners would like to use this plan as a viable use considering their currently building has burned down.

Ms. Thibault stated that in Claremont if a building is destroyed by fire or other means it is not grandfathered by the ordinance to build on the same footprint. This applies to both commercial and residential buildings.

Chair Hurd asked the number of pumps proposed. Mr. Rhodes stated that there are 2 islands. Mr. Caouette asked if the fill of tanks would block any entrances. Mr. Rhodes stated it might block some parking spots but should not block an entrance. The underground storage tanks will have to be submitted to NH DES, the location determined, and additionally be approved by the fire chief.

Mr. Rhodes stated that the architect has changed from the original plan so some of the interior might change.

Chair Hurd stated that the board will need the actual setbacks, the actual footprint, and location in comparison to the property line. Mr. Rhodes stated that concurrent with the Zoning application there will also be a Planning Board site plan application.

Chair Hurd reminded the applicant stated that the setback has to be addressed before the permitted use.

The permitted use can be opened and discussed because it was properly noticed. If the use issue is not opened then it cannot be continued because it was properly noticed.

Mr. Caouette stated that they cannot consider putting to rest the density/layout of the building if the board has not decided that the set back is correct. The ZBA may need the applicant to change something about the layout once the set back is decided.

Mr. Hanson stated that DLC Investments supports the rebuilding of Birney's market/Daddy's Pizza but they have a concern about the use of open space and gas storage.

Motion: Continue the public hearing and application until May 2, 2011

Made By: Chair Hurd **Second:** Mr. Rock **Vote:** Unanimous

- **(ZO2011-0003b) Mandala Convenience, LLC, Claremont, NH** – Applicant seeks a Variance from Section §22-296 to allow for three residential apartments above the proposed convenience store and pizza shop Property Location: **58 Washington Street**, Tax Map 108, Lot 69, Zoning District B-2.

The applicant is seeking a variance to encroach on the property yards which requires relief from Section §22-296. The Applicant plans rebuild a convenience store and pizza shop, which burned, in a new location and add apartments and gas pumps.

There was a Special Exception in the past to allow for gas storage and pumps as a use. Location of an underground storage tank was discussed but the canopy has not been approved.

Ms. Towle asked about the time limit. Ms. Taylor stated that there are no time restrictions for a Special Exception.

Three one-bedroom apartments are proposed. A variance for the apartments is required and a variance that they do not need the density requirements for apartments. Health, safety and welfare are needed when mixing business and residential as well as traffic flow.

Density requirements are met for this application.

Mr. Rhodes stated that the proposal is to build above the commercial space and hope that meeting parking requirements, fire egress, and the like would meet regulations and density use. The owners are hoping that someone from the business would be living in at least one of the apartments. The apartment parking will be dedicated in the rear of the building. Two parking spaces will be allotted per apartment. Access to the apartments would be separate from the commercial business. Code enforcement has been addressed with the Building Department.

DLC Investments is a strictly residential unit and the gas station is the only commercial abutter to this property. This neighborhood already has a mixed use of commercial and residential. The owners are voluntarily reducing the commercial footprint of this building; they feel they have to put in the gas pumps to be competitive with other businesses in town and part of the trade off they need from that is to generate more income via apartments. This would classify as their hardship.

Chair Hurd inquired about the projective parking for the project.

Ms. Thibault stated she does not have enough information to answer the question.

Mr. Rhodes stated that the seating for the restaurant is 36 seats which translate into 9 parking spaces, 1500 SQ FT of convenience space translates into 5 parking spaces, 6 dedicated apartment spaces and one staff spot in the back, and 9 designated spaces for the pizza shop. The applicant will not be seeking any parking amendments from the Planning Board.

Ms. Thibault stated a 12' x 60' tractor trailer space is needed. Vertical clearance of 15' needed.

Ms. Thibault read Section §22-535 New Commercial or Industrial spaces not including replacement over 4,000 space shall be provided at the rear or side of each building for the loading or unloading of trucks at the rate of one space for the first 20,000 SQ FT plus one for each additional 50,000 SQ FT. Each truck loading space shall constitute a rectangular space at least 12 feet in width and 60 feet in length with a vertical clearance of at least 15 feet.

This is not for the fuel truck but for a delivery vehicle.

Mr. Rhodes does not know where it says you cannot block a parking space when making a delivery. If the only commercial entrances are on the side or front of the building then for safety and convenience you would not off load in the back of the building and wheel the products to the front.

Chair Hurd reiterated that the question would be the acceptable use of residential and commercial.

Mr. Rhodes stated that the tanks are located so the delivery trucks can move in and out without disturbing the flow of traffic and exit onto Washington Street.

Chair Hurd asked if there is an amount of clearance needed behind the parking space. Ms. Thibault stated that the Ordinance isn't very clear about this and it lends leeway to the city attorney/engineer.

Ms. Towle inquired about the delivery and if the deliveries will be front or back door. Mr. Wein stated it is front door deliveries. Mr. Rhodes stated that they can only design a building that will work in that space. Currently 24' is shown behind the parking spots. A gravel parking lot by the easement might be a possibility.

Open Public Hearing

DLC Investments has no concern about the residential units.

Close Public Hearing

A motion can be made assuring that the parking and plan meets planning board approval. Chair Hurd suggested a condition notes that an owner/employee/manager will occupy one unit of the apartments.

Mr. Rhodes stated that from the owner's stand point it would be tough to do this and they would prefer not to do that.

Ms. Taylor stated that in terms of use, you cannot condition residency. You can classify over 55/senior housing but not that it must be a single person, no children, etc.

Ms. Towle pointed out that on the owner's application it stated the apartment will become the owner's residence. Mr. Wien, while confirming owner/family occupation is true to culture, stated that writing owner occupied on the application was a miscommunication on his part.

Ms. Taylor stated that the PB cannot give final approval until the Variance issues are resolved.

Ms. Thibault reminded the board that this is the first time they have seen the new plans and this is also the first time Planning and Development has viewed the plans.

Mr. Rhodes stated that the applicants would agree to a continuance until all the information was in order

Ms. Thibault stated that according to the ZBA By-Laws any information submitted to the board less than 10 days before the meeting date is not considered.

Motion to: Continue the application until May, 2, 2011.

Made By: Chair Hurd

Second: Mr. Rock

Vote: Unanimous

V. Correspondence

VI. Other – OEP Conference is scheduled for June 11, 2011. Details will be made available to the board as they are received.

VII. Adjournment

Motion to: Adjourn

Made by: Ms. Towle

Second: Mr. Rock

Vote: Unanimous

Meeting Adjourned 10:05 PM

Respectfully Submitted,

Kelly LeBlanc