



Zoning Board of Adjustment Meeting
Monday, May 5, 2014 at 7:00 p.m.
City Hall Council Chambers

MINUTES
Approved 8/4/2014

Chairman Hurd called the meeting to order at 7:00 PM.

I. Roll Call

Present: Michael Hurd (Chair), Jim Hanson (Vice Chair), Todd Russel, David Nichols
Absent: Carolyn G. Towle, Daniel Worcester
City Staff: Michael McCrory, Interim City Planner

II. Review Public Meeting Minutes from April 7, 2014

Motion: to accept minutes from April 7, 2014 as presented
Made By: Mr. Russel **Seconded by:** Mr. Hanson **Vote:** Unanimous

III. Old Business

There was no old business to discuss.

IV. New Business

- **(ZO2014-00002) Wayne McCutcheon, 548 Washington St, Claremont, NH** – seeks an Area Variance from Sections 22-298 of the City Zoning Ordinance to permit construction of a storage building at 548 Washington St, 17 ft from the Roberts Hill Rd property line where 50 ft is required. Tax Map: 134, Lot: 15, Zoning District: B2

Abutter's Roll Call

Chairman Hurd called for an abutter's roll call. A representative for Lisa Laliberte was present.

Chairman Hurd explained to the applicant that there were only four members present and asked if the applicant wished to continue this hearing until a full board was present, or proceed with the members present this evening. The applicant stated that he wished to proceed.

Project Description from Mr. Michael McCrory, Interim City Planner:

Mr. McCrory stated that section 22-298 of the zoning ordinance calls for a 50-ft. setback from any right-of-way in the B-2 zone. The applicant is requesting a variance from this requirement to build to 3600 sqft self-storage unit completely within the Roberts Hill Road right-of-way.

Mr. Russel declared that he rents a unit in this storage facility, but felt he would not have a conflict of interest. Neither the applicant nor the other Board members objected to Mr. Russel participating in the review.

Applicant Wayne McCutcheon presented his case:

- Mr. McCutcheon presented a scale drawing of the project site with colored lines highlighting the outline of the proposed building, the edge of the asphalt on the eastern side of the lot, and the existing chain link fence. The proposed building is oriented roughly northeast/southwest on the eastern boundary of the site parallel to Roberts Hill Road
- There will be no traffic access to the east side of the building.
- The building will not interfere with maintenance of Roberts Hill Road.
- The proposed building will house “contractors’ units” so the building will be taller than the other units that are for personal possessions.
- The perimeter fence will stop at the northeast corner of the building and start up again at the southeast corner.
- The building itself will act as a fence to prevent access to the site from Roberts Hill Road.
- The house that stood on this property before being removed for the storage units was 12 feet from the property line. This building will be 17 feet from the line.
- The existing curb cut to Roberts Hill Road will be removed.
- This is a corner lot. Therefore, it has frontage on two sides. The only access to the property is from Washington Street. The property address is 548 Washington Street. Roberts Hill Road is more of a side lot line than a frontage line.

The property owner stated that there is a waiting list for contractors’ storage units.

There were no further questions from the Board. There were no questions or comments from the audience.

Chairman Hurd closed the public hearing.

Discussion

1. The proposed building will be lower in height than the former house.
2. The proposed building will be 5 feet further from the right-of-way than the former house.
3. The neighbors have not come forth to object.

Motion: to re-open the hearing

Made by: Mr. Russel **Second by:** **Vote:**

Mr. McCutcheon had made a comment about two lots being merged for this project. Mr. Russel requested additional information. Mr. McCutcheon stated that the owner had purchased two lots – one with a house on it, the other a vacant lot. Phase one of the storage unit project was built on the vacant lot in 2001. In 2008, part of the house lot was annexed to the vacant lot and three more units were built in 2011. The number of apartments in the house was reduced from five to three to compensate for the reduction in lot area. Ultimately the house was removed. The remaining lot will be merged with the rest of the project area.

Chairman Hurd closed the hearing again.

Discussion (cont.)

4. The previous tennis court on this lot was on the edge of the road.
5. Because this is a corner lot, the front setback must be met on two sides of the property.

Motion: To grant the variance for the new unit with the following conditions:

1. The applicant shall obtain and receive all necessary permits and approvals as determined by Local, State and Federal governments. Such approvals include Site Plan Approval from the Claremont Planning Board.
2. This variance shall be recorded in the chain of title.

Made by: Mr. Hurd **Second:** Mr. Russel

Discussion on the motion:

1. Would granting the variance be in accord with the public interest?
 - No one attended to speak against the project
 - There would be no detriment to the value of neighboring properties
 - The property is already developed
2. Would granting the variance be consistent with the spirit of the ordinance? The consensus was yes.
3. Would granting the variance do substantial justice? The consensus was yes.
4. Does the proposed use maintain the value of surrounding properties? The consensus was yes.
5. Would denial of the variance ... result in unnecessary hardship? The double frontage requirement makes it difficult to realize the full potential of the property. The consensus was yes.

Vote: Unanimous in favor of granting the variance.

- **(ZO2014-00003) M.L.Limoges, LLC, 286 Main St** – seeks to enlarge or expand a nonconforming use to improve and modernize the fuel transfer system at 286 Main St. Tax Map: 107, Lot: 125, Zoning District CB-2.

Abutters Roll Call Chairman Hurd called for an abutters roll call. No abutters were present.

Project Description from Mr. Michael McCrory, Interim City Planner:

Mr. McCrory explained that the current use of the project property is nonconforming in the CB-2 zoning district in which it is located. The property has been used as a fuel supply depot since the 1960's and possibly earlier. As a nonconforming use, it is entitled to certain protections, but changes or expansions must be reviewed by the Board and the Board must make certain findings.

Attorney Taylor stated that the Board must determine if an expansion of a nonconforming use is to an acceptable extent, a determination that can be primarily a judgment call. She further explained that this application has come to the Board because of its proposed external structural changes.

All agreed that the public is better served by conducting this public review.

Dan Aery of Pathways Consulting presented the project for the applicant:

- This project is about making the operation more compliant with today's environmental regulations relative to fuel containment and loading/offloading of fuel.
- They are proposing to build an 18 ft x 65 ft steel building with a shed roof (height of 18 ft 6 in) to house the loading/offloading operations.
- The building is designed to contain more than 4000-4500 gallons of fuel.
- The building height will be lower than the existing fuel storage tanks.
- The new building will be barely visible from the street.
- Fill will be added and stabilized in the back part of the lot for the new building.
- There will be no effect on the Sugar River.
- Water and snow will shed away from the containment area.
- The existing underground tanks will be removed.
- The above-ground tanks will be sand blasted and repainted.

There were no comments from the public. The hearing was closed.

Discussion

- There will be no change in the use of the property.
- The project will improve the safety and appearance of the property.
- There will be no enlarging of the business as a result of the project.
- There will be no increase in the intensity of the use of the property.
- There will be no burden on City services.

Motion: To approve the application for expanding the nonconforming use on the property at tax map 107, lot 125 with the following conditions:

1. The applicant shall obtain and receive all necessary permits and approvals as determined by the Local, State and Federal governments.
2. This approval is limited to the proposed fuel transfer facility as described in the application and in accordance with the site operational parameters presented by the applicant. Future expansion of the approved nonconforming use shall require a permit from the Zoning Board of Adjustment and Site Plan Amendment approval from the Claremont Planning Board.

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

V. Correspondence

There was no correspondence for the Board.

VI. Other

Chairman Hurd announced that Mrs. Towle was planning to resign from the Board for health reasons. He thanked Mrs. Towle for her many years of dedicated service to the Board and wished her well.

VII. Adjournment

Motion: to adjourn the meeting.

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

The meeting adjourned at 8:04 PM.

Respectfully Submitted,
deForest Bearse