

**ZONING BOARD OF ADJUSTMENT
JUNE 5, 2019 MEETING
MINUTES**

Attendees: Chair Christopher Carley, Nicholas Wallner, Andrew Winters, Jim Monahan, Robert Harrison Jr. (Conflict with rehearing Case #17-19) and Laura Scott (for rehearing Case #17-19)

Absent: none

Staff: Craig Walker, Zoning Administrator
Rose Fife, Clerk of the Board

Meeting commenced at 7:05 pm.

17-19 David Nickerson for Carol Royce and Michele Nickerson: (Request for Rehearing) Applicant wishes to create a duplex/two-family dwelling and requests the following:

- 1) A variance to Article 28-5-2, Duplex or Two-Family Dwelling, to permit a duplex/two-family dwelling to be established on a lot with an area of 51,836 square feet where a lot area of 60,000 SF is required (1.5 x minimum lot area),
- 2) A variance to Article 28-5-2, Duplex or Two-Family Dwelling, to permit a duplex/two-family dwelling to be established on a lot with 201.7' +/- of lot frontage where 300' is required (1.5 x the minimum lot frontage) for property located at 56 Oak Hill Road in an RM Residential Medium Density District.

The Board consisted of Carley, Wallner, Monahan, Winters and Scott from this case.

Carley reviewed the criteria for a rehearing i.e. there needs to be new evidence or evidence to the Board that they made an error in law or in fact in order to approve a Rehearing Request.

Carley reviewed the information submitted by David Nickerson. He asked if the Board had read the submission. They have.

Carley polled the Board:

Nick Wallner: He was in favor of the variance at the original hearing. However, he doesn't see any new evidence in the request paperwork.

Monahan: He doesn't see any new evidence.

Scott: She finds no new evidence presented in the paperwork for the variance that was applied for and denied.

Winters: The paper work noted that Mr. Nickerson wanted to ask for a variance to the special exception for an ADU. Walker had reviewed his interpretation with others and they have agreed with it.. Walker wanted to remind the Board that this was for the appeal that was requested at the last meeting, not a new request in the material. Winters finds no new information submitted.

A motion to deny the rehearing request was made by Winters, seconded by Monahan and passed by a unanimous vote.

Scott wanted to note that the applicant did raise points in the paperwork that he didn't agree with the Code Administrator's interpretation that he needed a variance and he (Mr. Nickerson) is welcome to bring that issue forward as an appeal of the Zoning Administrator's decision.

22-19 Karen Boselli: Applicant wishes to ~~construct~~ remove an existing garage and replace with a 23 foot wide x 24 foot deep garage and requests variances to:

- 1) Article 28-4-1(h), The Table of Dimensional Regulations, to permit a structure (garage) to be built with a 2' 6" +/- setback from the easterly side property line where a 10 foot setback is required; and
- 2) Article 28-4-1(h), The Table of Dimensional Regulations, to permit a structure (garage) to be built with a 17' 2" +/- setback from the northerly rear property line where a 25 foot setback is required, for property located at 6 Orchard Street in an RN Residential Neighborhood District.

The Board consisted of Carley, Wallner, Monahan, Winters and Harrison from this point forward.

Testified: Karen Boselli and Amelia Martin-Brock, Architect.

Ms. Martin-Brock testified that they are improving an existing condition making the garage that is there now less nonconforming. The lot is long and narrow with a large home on the property. They have a very limited back yard. They want to move garage forward to improve setback and allow more of a useable back yard. The neighborhood is an older neighborhood. The rear property lines and the ZBA FM 06.05.19

abutting property have structures almost on the property lines. A freestanding garage is consistent with the neighborhood. The existing structure is 20 feet wide and 26 feet deep. The standard size is 24 feet wide. They want to build it 23 feet wide and make it work for a 2 car garage. The rear entry of the home has a back porch as well. Carley asked about the elevation of this property vs. the neighbor's property. Ms. Martin-Brock stated they were within 2 feet. There are Bushes and plantings there. They are 2 feet higher. Their proposal is within keeping of the intent of the zoning regulations and the neighborhood.

Monahan asked if it were a single family home. Ms. Boselli noted it was.

In favor: none.

In opposition: none.

Code: none.

DECISION: Carley reviewed the testimony.

A motion to approve was made by Wallner. He noted that it is a negligible increase in size. It's an improvement. Winters seconded. The motion passed by a unanimous vote.

25-19 Chad R. Miller: Applicant wishes to construct a mudroom/entry on the front of an existing house and requests a Variance to Article 28-4-1(h), The Table of Dimensional Regulations, to permit a front setback of 2 feet +/- where a front setback of 25 feet is required For property located at 6 Woodman Street in an RS Residential Single-Family District.

Testified: Chad Miller. He has already built the structure when Code Administration came by and noticed it. Carley asked if he applied for a Building Permit when he constructed it. Mr. Miller said he did not. He has been out on disability and cannot do much so he worked on this. Carley asked him to explain why he would meet the criteria. Mr. Miller stated that the lot next to him has upgraded. The lot to the right has been rehabbed. He bought the home 14 years ago and he's trying to bring it into character with the neighborhood. He had a fence in the front lawn but it had to be removed. He's close to the high school and has a lot of foot traffic. He'd like to have an entry way so he is able to lock the porch. The squirrels chewed through the screen and created a mess of his porch. Monahan asked if the porch was 3 season? Did he close it in? Mr. Miller said he did. Wallner asked how close to the sidewalk his porch is. Mr. Miller said one foot closer than what was there. Harrison asked if he built an entryway. Mr. Miller said he reframed part of it. Harrison asked if he built walls and a roof over what was there. Mr. Miller said that was correct.

Walker explained the measurements in the request. The 2.5 feet is the accurate request (the original request was measured from the edge of pavement). Monahan asked if any of the neighbors had a 25 foot setback. Walker said no. Harrison asked if the setbacks were similar. Walker said yes. Mr. Miller has had issues with theft.

In favor: none.

In opposition: none.

Comments from code: none.

DECISION: Carley reviewed the testimony that was given.

Winters: it's a small lot. Having a mud room is a reasonable use. It's in character with the neighborhood. He is inclined to approve. Harrison: there was something there prior. It's only 1 foot or so closer. It was nonconforming before. He feels it's a reasonable use for the property.

Monahan: footprint is essentially the same. It is in keeping with the rest of the neighborhood.

Wallner: it's not going to affect surrounding property values. It will not alter the character of neighborhood.

A motion to approve the request was made by Winters, seconded by Monahan and passed by a unanimous vote.

26-19 Barlo Signs for Dartmouth Hitchcock: Applicant wishes to install to internally illuminated freestanding signs and requests variances to Article 28-6-9(c), Permitted Freestanding Signs, Section (1), to permit 2 freestanding sign on a single lot where only 1 freestanding sign is permitted per lot and to from Article 28-6-9(e), Sign Illumination, to permit 2 freestanding signs to be internally illuminated were only external illumination is permitted, for property located at 253 Pleasant Street in an IS Institutional District.

Testified: Michael Brewster. He'd like to take an existing freestanding sign located on Pleasant Street and mount a double faced internally illuminated signs to the base. They would also like to replace the small directional sign located on Langley Parkway with a

sign of similar size to the Pleasant Street entrance. The only part that is internally illumination is the copy. The background, outline of the letters, is opaque and will not be illuminated. Due to the layout of the property this request is in keeping with the spirit and intent of the ordinance. Neither of the existing signs is internally illuminated (external illumination all that is permitted). Carley asked if the existing sign complies with the Ordinance. Walker said yes. The building and parking lot are set back so it is easy to miss. They are trying to spruce up the property. Carley asked him to address why the sign needs to be internally lit. Mr. Brewster noted that externally lit signs cause more light pollution and can be more distracting to drivers. The internally lit sign gives a better presentation. Winters concern is that Mr. Brewster's explanation could be given for any request. He feels that the Board needs something unique to this property. Mr. Brewster stated that internal illumination is an upgrade to the property. They won't have to worry about the lights being covered by snow in the winter.

In favor: none.

In opposition: none.

Comments from Code: Walker noted that the City of Concord recently modified some sign guidelines for the downtown area. Internally illuminated signs were modified and this sign would comply with that ordinance. Winters asked what the rationale was for now allowing this type of sign in this zone. Walker explained. Discussion regarding downtown signage. Monahan asked about other signs in the neighborhood that are internally illuminated. Walker explained.

DECISION: Carley reviewed the testimony.

A motion to approve the request was made by Monahan and seconded by Wallner. Winters is inclined to agree with the variances for 2 freestanding sign and feels due to the lot configuration it is necessary. As far as the request for internal illumination, he would like to be more convinced. He'd be inclined to deny that variance. Monahan is supporting it because he feels it should have been looked at by the City more comprehensively. They are institutional as well as residential but it is in the IS zone mostly with businesses around. Wallner felt that the hardship is more so that there is no visible signage for people that are accessing the property.

Monahan amended the motion to be for just the first request for 2 freestanding signs on a lot. Wallner seconded the amended motion and the vote passed unanimously.

A motion to approve the internal illumination request was made by Monahan, seconded by Wallner and passed by a 4-1 vote with Winters in the minority.

27-19 Donald Jewell for ECNH Realty, LLC.: Applicant wishes to use a vacant property for outdoor storage of vehicles, storage trailers, and equipment and requests a variance to Article 28-5-37(d), Maximum Area of Lot to be Used or Designated for Outside Storage, to permit the outdoor storage of vehicles, trailers, equipment and materials (use K-7) where outside storage areas are allowed only as a ratio of land area to building area of 1.3 to 1 which is the ratio of the area of outside storage to the gross floor area of the buildings on the lot which house the principal use for property located at 39 Locke Road in an IN Industrial District.

Testified: Donald Jewell. He's owned the property since 2003. He initially had a building permit for a 34,000 s.f. building approved and that permit expired. At this time he's not in a position to go forward and request a new building permit. He would like to utilize the vacant and cleared land for the purpose of conducting his business in a limited scale. The property has an existing driveway. He would level the cleared land. He would put in some gravel and store trailers and sell lumber out of those trailers. There is a considerable amount of box trailers in that neighborhood. He feels it is a reasonable use of the property. It's consistent with a roofing companies/constructing companies. It would allow substantial justice. He doesn't feel it would harm property values. His goal is to put up a building at some point in time.

Winters asked Walker if the crux is that they wouldn't have a building. If he were to have a building he could have outside storage. Walker said that was correct. Monahan asked Mr. Jewel if the ZBA approved something previously. Jewell had received Planning Board approval. Walker asked how many trailers he would have on site. Mr. Jewell thought he would have about 8. Carley asked if the lot were empty now. Mr. Jewell said it was. Harrison asked if the driveway were already there. Mr. Jewell said it was. Wallner asked what was across the street from him. Walker stated that Metal Max, HL Turner, a manufacturing businesses, etc. Mr. Jewell explained that the property has mostly brush on it as he had the property cleared 5 years ago. Winters asked if there were any activity associated with the trailers that would be taking place. Mr. Jewell noted that his business is that he sells hardwood lumber that would be in the trailers. Harrison asked if he had his business somewhere else right now. Mr. Jewell said that was correct. Winters asked if there were any paving there. Mr. Jewell explained that there is a driveway existing and a culvert on the north end. Monahan asked if there would be retail activity. Mr. Jewell explained that there may be some. Walker explained to Mr. Jewell that he understood his request to be storage only. There would not be any commercial activity advertised from this site. Winters asked how frequent he would expect deliveries. Mr. Jewell thought he would have deliveries a couple of times per week.

In favor: none.

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In opposition: Harold Turner, owner of HL Turner. He's a resident of 83 Appleton Street in Concord. He manages the property at 27 Locke Road. Only 2 of the 4 lots on his side of the road have been developed. They built on their property in 1998. He fails to see where Mr. Jewell meets the criteria for the use of the property. At one point in time Mr. Jewell had a building permit for 34,000 s.f. building. It's a 4 acre lot and they could build there and conform to the existing zoning. He doesn't feel there is a hardship.

Bertrand Lefebvre. His business is located at 42 Locke Road. They are a construction company. They would be in front of that property. It becoming a storage facility would affect his property value. Monahan asked what his business was. He said bridge construction. Monahan asked if they had storage on his property. He said yes, but it is behind his building. Winters asked if it was more the eye sore that bothered him. Mr. Lefebvre concurred.

Comments from Code: The applicant doesn't intend to build. He will need to abide by other requirements of the Ordinance. All storage areas will need to be 50 feet back from the front property line and he will need to meet the screening requirements. It will need to go before Planning Board for minor site plan review. Wallner asked how high the fencing would be. Walker said 8 feet.

Rebuttal: Don Jewell. There are a considerable number of businesses on that street that have storage visible from the street.

DECISION: Carley reviewed the testimony.

Winters asked Walker what the rationale was about the need of a building there in order to have outside storage. Walker explained.

Winters: He can't see a basis for the variance. He worries about precedents.

Harrison: He's not persuaded it makes a good piece of property for outdoor storage.

Monahan: He agrees with Winters and Harrison. There is a need to have the building to keep with the Spirit of Ordinance.

Wallner: He's not persuaded.

A motion to deny the request was made by Winters, seconded by Harrison and passed by a unanimous vote.

Minutes from 5.19. A motion to approve the Minutes was made by Wallner, seconded by Harrison and passed by a unanimous vote.

A motion to adjourn the meeting at 8:12 pm was made by Wallner, seconded by Winters and passed by a unanimous vote.

*Respectfully submitted by
Rose M. Fife, Clerk*