

**ZONING BOARD OF ADJUSTMENT
APRIL 3, 2019 MEETING
DRAFT MINUTES**

Attendees: Chairman Chris Carley, Nicholas Wallner, Andrew Winters (conflict with Case #14-19), James Monahan, Jim Marshall and Amy Bourgault (for Case #14-19)

Absent: Robert Harrison Jr.

Staff: Craig Walker, Zoning Administrator

13-19 97 Storrs Street, LLC., d/b/a Concord Antiques: Pursuant to NH RSA 676:5 and 676:15:1-a(a), Applicant appeals the Planning Board's denial of Applicant's sign application because the denial ignored the terms of the variance that was granted to the Applicant and the decision thus involved errors in the construction, interpretation and application of the Zoning Ordinance for property located at 137 Storrs Street in a CBP Central Business Performance District.

Attorney Peter Imse submitted a letter on behalf of his client to request the matter be Tabled. They would like to give the Planning Board an opportunity to reconsider their decision.

A motion to Table the request was made by Wallner, seconded by Marshall and passed by a unanimous vote.

12-19 Concord Area Trust for Community Housing: Applicant wishes to merge two existing lots of record into a single lot and develop said lot for multi-family housing and requests Variances to Article 28-4-5(d), Minimum Tract Requirements (for multi-family development) and Article 28-4-2(j), Table of Dimensional Regulations, to allow multi-family development with a total frontage (after merging) of 148.2' +/- when frontage of 150' is required, for properties currently known as 95 & 97 Village Street in a CG District.

Testified: Attorney Phil Hastings of Cleveland Waters and Bass. Tom Fretato of CATCH Housing was also available to testify.

Attorney Hastings noted that CATCH is in the process of acquiring this property from the Penacook Community Center. The address is 95/97 Village Street. The property is near the Catholic Cemetery. CATCH intends to develop it for multi-family housing. The required frontage is 150 feet. Neither of the lots have 150 feet of frontage. 95 Village Street has 57 feet of frontage and 97 Village has a little over 90 feet of frontage. The merger of the 2 lots will result in a single lot having 148.2 feet of frontage. They are a foot and a half shy of meeting the requirement. The Ordinance requires multi-family dwellings to comply with the frontage requirement. He spoke with Mr. Walker regarding whether these lots are nonconforming lots. He feels that they may not need a variance but would like to proceed with their request. Hardship: they are taking 2 substandard lots and creating one lot which is less nonconforming. Multi-family housing on this site is reasonable. The area has mixed commercial uses. Almost all of the lots in this part of the CG zone are nonconforming in terms of frontage. Merging the 2 lots together will help with the nonconforming condition. The frontage requirement is intended to eliminate overcrowding. By combining the 2 lots they will not overcrowd the lot. Spirit and Intent: Ordinances are intended to reduce nonconformities. This variance will reduce 2 nonconformities. Public Interest: It is in the public interest to reduce nonconformities. Substantial Justice: It would be a detriment to the applicant if this would be denied. Diminution of Value of surrounding properties: The lots around this one are largely substandard in their mixed uses. Granting the variance on a lot that is a foot shy of the standard will not reduce the values of the surrounding properties.

Carley: Asked Walker about the minimum tract requirement request. Walker noted that Article 28-4-5d requires that you meet minimum frontage and it also states at least 25,000 s.f. of land is needed for a multi-family development in this district. This also references the Table of Dimensional Regulations.

Marshall asked if there are any houses on the lots now. Attorney Hastings answered there were no houses there. Walker explained that the home on 95 Village Street was demolished years back. Barney's Florist existed on the other parcel but was also demolished. Marshall asked how many units would be built. Mr. Fretato stated they are still in the planning

stages, but they may be able to have a maximum of 19 units there. Attorney Hastings said they would not be requesting variances for density. CATCH owns approximately 350 units throughout Merrimack County.

In favor: none.

In opposition: none.

Code: none.

DECISION: Carley reviewed the request and testimony. A motion to approve the request was made by Marshall as the 5 criteria have been clearly met and they will be improving two non-conforming properties, seconded by Monahan and passed by a unanimous vote.

14-19 Robert Murray: Applicant wishes to construct an attached single-car garage and requests the following:

- 1) A Variance to Article 28-4-1(d), Minimum Yard Requirements, Section (2), Rear Yard, and Section (3), Side Yard, and a Variance to Article 28-4-1(h), The Table of Dimensional Regulations, to permit the construction of a building with a setback from the rear property line of 3 feet 6 inches +/- where a setback of 25 feet is required and a setback from the westerly side property line of 1 foot 6 inches +/- where a setback of 10 feet is required,
- 2) A Variance to Article 28-4-1(e), Maximum Lot Coverage, and Article 28-4-1(h), The Table of Dimensional Regulations to permit a total lot coverage of 63 percent where a total lot coverage of 50 percent is the maximum allowed,
- 3) A Variance to Article 28-7-7(g)(2), Setbacks From Lot Lines, to permit an extension of an existing non-conforming driveway with a 1 foot 6 inch +/- setback where a minimum 5 foot setback is required, for property located at 107 Warren Street in a RN Residential Neighborhood District.

The Board for this case consisted of Carley, Wallner, Monahan, Marshall and Bourgault. Winters recused himself as he had a conflict.

Testified: Robert Murray. Erin Lambert with Wilcox and Barton. Ms. Lambert testified Mr. Murray lives there. . He would like to construct a one car garage which would be 315 s.f. The driveway exists and they will extend it about 6 feet to get to the front of the garage. It exists 1.6 feet off the property line. The lot is small. It's about 3,529 s.f. or .0 acres. The drive is only wide enough for a single car garage and it would be used to store a snow blower, lawn mower and car. The garage elevation is unique as it's halfway between basement level and first floor. The goal is also to create a covered walkway for him for the winter months. This would be a safer access to him. It would be a hardship as other homes in the neighborhood have garages in the setbacks. The lot coverage is already nonconforming at 53% and they are looking to go to 63%. The roofline will pitch to the back and will have stone laid under for drainage. There is a fence along the rear property line that is deteriorating. He would put the new fence in after the garage is built, if approved. The spirit of the ordinance will be observed as a garage is a common accessory for a home. The request is not contrary to public interest. This will not alter character of the neighborhood. They can mitigate the storm water run-off. Substantial justice will be done as they can secure one car and have a covered walkway. There is no gain to the public if denied. The property values will not diminish as this is common setbacks in this area. It will increase his property value.

Marshall asked questions with regard to the setback requests. Ms. Lambert explained that they are slightly encroaching on the west side at 11'4" where 10' is required

Wallner inquired what percentage of the houses in the neighborhood have garages. Mr. Marshall wasn't sure. Ms. Lambert said there are quite a few. Mr. Marshall said about half or more. Walker gave an estimate of about 50%.

Marshall asked if the garage were to be one story. Mr. Marshall said one story with no storage above.

In favor: none.

In opposition: none.

Code: None.

DECISION: Carley reviewed the request and testimony.

Wallner is persuaded that this is a reasonable use as half the neighborhood has the privilege of having a garage. Monahan asked who the rear abutter was. Walker explained that it was a residence. Monahan noted that it was a compact parcel. Marshall noted that the hardship is that the lot is substandard and a one car garage is a reasonable use. The existing building already encroaches. It doesn't affect the spirit of the Ordinance or the property values. Amy concurs with Marshall. The applicant has addressed the hardship.

A motion to approve the requests was made by Wallner, seconded by Marshall and passed by a unanimous vote.

Minutes: A motion to approve the March 2018 Minutes was made by Wallner, seconded by Monahan, and passed by a unanimous vote.

Non-Agenda Item: The Barn at Bow Meadow submitted a letter from the Fire Marshall stated that the driveway is acceptable.

A motion to adjourn the meeting was made by Marshall, seconded by Wallner and passed by a unanimous vote.

Rose M. Fife, Clerk
Zoning Board of Adjustment