

**CITY OF CONCORD, NH  
ZONING BOARD OF ADJUSTMENT  
MARCH 5, 2020 MEETING  
DRAFT MINUTES**

Attendees: Chair Christopher Carley, Nicholas Wallner, Robert Harrison, James Monahan (conflict with Case #7-20 and #10-20), Andrew Winters (Conflict with Case #7-20), and Laura Scott (for Case #7-20 and #10-20)

Staff: Craig Walker, Zoning Administrator, Rose Fife, Clerk of the Board. Also in the audience were Code Administrator David Hall and Code Inspector Robert Nadeau.

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Meeting commenced at 7:00 pm.

(Laura Scott sat for Monahan)

**10-20 Christopher Aslin and Rachel Goldwasser:** Applicants wish to remove an existing attached garage and replace it with a new attached garage with living space on the second floor and requests a Variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit a building setback of 3'8" +/- from the easterly property line where a 15 foot side setback is required for property located at 17 Rockland Road in an RS Residential Single-family District.

Christopher Aslin testified. He explained his request. They have an existing garage that sits 3'8" from the side yard so it is already in the side setback. They want to replace the existing one story, one car garage with a new garage. There will only be a small change in the footprint that will encroach into the setback. Towards the back of the existing garage is an attached shed that will be removed. The change will be that it would be straight line vs. a jagged line as shown on the plan. The purpose of the request is that the garage is fairly small and they have a minivan which barely fits through the door. They want to widen the garage towards the house a few feet and build up a second story/master suite. He supplied the Board with a rendering of what it would look like. The lot is a small non-conforming lot. It is .17 acres. It is fairly narrow at the street at 74 feet wide. The lot is small in comparison to the other lots in the area. The strict application of the side setback will serve no purpose. It's the same use that is there now so he feels it is a reasonable use of the property. No substantial change is being requested. This will not alter the essential character of the neighborhood. Second stories are common in their neighborhood. There will be no burden to the town. He believes he meets the 5 criteria and reviewed for the Board. He submitted photo of garage and mini-van.

In favor: none.

In opposition: none.

Code: none.

Decision: Carley reviewed the testimony as given.

Winters: The lot is smaller than most in the area. They have, in the past, given consideration to the fact that they are rebuilding virtually the same as what is there now. There is no evidence that it impacts the character of the neighborhood. He is in favor.

Harrison: Agrees with Winters. They are trying to conform.

Scott: Agrees. It is a slight increase in non-conformity. They are building on the same footprint except for 6 inches.

Wallner: Agrees. There is very little change. It is a small lot. It is a reasonable use. He's reduced the breezeway to accommodate a wider garage. He is inclined to agree.

A **motion** to approve the request was made by Wallner, seconded by Winters, and passed by a unanimous 5-0 vote.

(Note: Monahan and Winters stepped down, Laura Scott sat, only 4 members sat)

**07-20 Mike Snedeker for Snedeker Properties, LLC.** Applicant wishes to convert an existing, non-conforming commercial (retail) unit into a dwelling unit for a total of 3 dwelling units in the existing building (2 existing residential dwellings + the converted commercial space) and requests the following:

- 1) Variance to Article 28-2-4(j), Table of Principal Uses, to permit the conversion of a non-residential building (or mixed commercial/residential) to accommodate 1 or more dwelling units (use A-14), where such conversions are not permitted,
- 2) Variances to Article 28-5-7, Conversion of a Non-residential Building, Section (a), Conversions Resulting in 5 or Fewer Units, to permit a conversion to 3 residential units on a lot containing 6,020 SF +/- where 10,000SF of land is required,
- 3) Variances to Article 28-7-1, Access, Circulation and Parking, Section (a), Applicability, to permit the conversion without bringing the property into compliance with the parking requirements including, but not limited to the following:
  - a. Allow the provision of 5 on-site parking spaces where 6 spaces are required
  - b. Allow a driveway/aisle of thirteen feet where a minimum allowable width is 18 feet,
  - c. Allow a parking configuration that does not provide adequate onsite room for maneuvering and requires vehicles to back into and maneuver in the street to enter or exit the parking area,0
  - d. to permit pavement up to the westerly side property line where a minimum 5 foot setback from the adjacent property is required,

All for property located at 75 Allison Street in an RN Residential Neighborhood District.

Carley reminded the applicant that they were being heard by a 4 member Board. If the request is denied, the fact that they were heard by a 4 member Board is not grounds a rehearing.

Testified: Mike Snedeker and Mr. Seidel.

Mr. Seidel explained that this building was built in 1890 and on the smallest lot on the block. It's a mixed use with retail downstairs and residential upstairs. Mr. Snedeker wants to buy the building and put a residential unit downstairs. Nothing about the building size will change. All work is interior to convert it. The lot is so small that they cannot comply with parking and circulation as stated. The building is non-conforming. It's deeply non-conforming. A conforming lot size would be 10,000 s.f. and this lot is 5,427 s.f. It has a 10 foot front setback. The buildable lot is only 2,263 s.f.t. The East setback is 1.45 feet. The rear setback is 5.5 feet. They'd like to request that given the shortage in Concord for rental units, that this building be considered for relief from the parking requirements and some of the circulation dimensional requirements. His intention was that vehicles would be able to back around. They would be able to back out into the aisle and come forward, or you could back out and turn while still in the driveway. Currently the parking is face in on this building and they back into the street. They were able to put 5 cars onto the lot as shown in the submission. Allowing this to be converted from retail to residential would be a benefit and desirable for this neighborhood. They cannot do that without parking relief. He noted that the new formed based Zoning Ordinance that is in discussions right now would require less parking. Backing into the street is more dangerous for pedestrians than what he is proposing. The Ordinance requires 2 parking spaces per unit, so 3 units would require 6 parking spaces.

Laura Scott asked if this would be a 3 bedroom unit on the bottom and two 2 bedroom units on the top floor. Snedeker confirmed and explained that they would have two small 2 bedroom units. Wallner asked questions regarding the parking lot. Mr. Seidel explained. Carley asked Walker if this conversion wasn't allowed in this zone. Walker explained that the Ordinance specifically requires a 10,000 SF lot size for a conversion resulting in three units. With the exception of parking also needing relief, they would be able to change one non-conforming use to another use, but the lot size isn't there. Walker explained that the use would be more conforming as the neighborhood is 99% residential. Mr. Sidel went on to testify that it is easy to argue the change from a mixed use to a residential use as it is a benefit to the property values. They propose to have a lawn in front and a sidewalk. Carley asked if there were any changes to the building. Snedeker explained that there were no changes to the exterior but there would be to the interior. There will be a sprinkler system installed. Harrison asked if they were putting in new windows. Snedeker said yes. Scott asked Walker if on street parking was allowed in this neighborhood. Walker said yes.

In favor: Jerry Dunn, 72 Allison Street. He's in full support of this request. He's lived there 16 years and there have been 5 different businesses in that space. It's not a good location for a business. He agrees that it is going to make the neighborhood nicer.

In opposition: none.

Code: Walker explained that this has been an existing non-conforming use. He's researched the building and the retail shop seems to have been there since the time it was built. It is clearly out of character with the remainder of that neighborhood as it exists today.

Decision: Carley reviewed testimony as given.

Wallner: He believes that the first 2 variances will change it back to the original character. He feels it is within the spirit of Ordinance. He's fine with parking.

Scott: She thinks converting the first floor to a residential use will benefit the neighborhood. The intensity will drop and it is a good use for that space. She thinks 5 parking spots are fine vs. 6 as there is on street parking.

Harrison: There are 3 units now. The lot is small. This is a good use of the property

Carley: Agrees.

A **motion** to approve all 3 variances was made by Harrison, seconded by Scott and passed by a unanimous 4-0 vote.

**06-20 Georgia Karathanasis:** Applicant wishes to establish a hair/beauty salon as an in-home business and requests the following:

- 1) A Variance to Article 28-2-4(k), The Table of Uses Accessory to a Residential Use, to permit a Major Home Occupation (hair/beauty salon accessory use A-2) when such use is not permitted without providing compliant on-site parking,
  - 2) A Variance to Article 28-7-1(a), (Parking) Applicability, to allow the establishment of a Major Home Occupation without providing an on-site parking lot as required and allowing continued use of the existing residential driveway,
- for property located at 10 Drew Street in an RS Residential Single-family District.

Testified: Georgia Karathanasis testified. She'd like to have her own salon. This would allow her the flexibility to be there for her daughter. She's been a hair stylist for over 20 years. She will be working with 1 client at a time on a part-time business. She has an additional parking space on the left hand side of her driveway area. Traffic will not be an issue. She's in close proximity to Loudon Road. There will be no major renovations to the outside other than landscaping. Carley asked Walker what made it a major home occupation. Walker explained. It's restricted to the resident(s) of the dwelling (may have one employee not residing). You are likely to have more traffic and a slightly more intense use. Major Occupations, such as this case, an occasional car coming and going may be seen. Carley asked if it were an attorney would that be a minor or major home occupation. Walker thought probably a major home occupation. If it is just an attorney or accountant with a couple of visits a week and no other employee then maybe a minor home occupation. Harrison asked if she would have an employee. She said no. She may see 5 to 7 clients a day. Winters asked if it would be one at a time. She said yes.

In favor: Donna Lucardi, 5 Chase Street. Her backyard abuts Ms. Karathanasis' backyard. They have been great neighbors. She's spoken with her a few times. She's considerate and nice. Donna is an ex hair dresser and had a beauty shop in her home (in another town). Having children it's a great way to work and raise your kids. Being a one person shop there would be a tremendous amount of traffic, just 1 to 2 cars in the yard at a time. You never see anyone outside in that neighborhood. She won't be bothering anyone. Her beauty shop is inside her home. She is in favor.

Sarah Pratt. She's known Georgia over 20 years as a friend and as well as one of her clients. Georgia has owned her own business for the past 20 years and rented a chair at other hair salons. She's a responsible, mature professional. The business will be run professionally.

In opposition: none.

ZBA DM 3.4.20

Code: none.

Decision: Carley reviewed testimony as given.

Winters: If the variance is granted it's limited to the testimony of the applicant. There is not much of a burden on the parking. He'd be inclined to approve.

Harrison: It is a reasonable use. An abutter spoke in favor of the request. He worries about more than one chair.

Monahan: Agrees with Harrison and Winters. It is a reasonable use of the property. It is a one person salon. The impact to the neighborhood is minimal.

Wallner: Agrees. There is no change to the neighborhood.

A **motion** to approve he requests was made by Wallner and seconded by Harrison.

Carley: Agrees. Strictly speaking, an argument could be made that there is no hardship demonstrated. It could be used as just a home. On the other hand the distinction between customary large home occupations and minor home occupation strikes him as not 100% appropriate in this situation. He doesn't feel it is much different than a minor home occupation. It seems reasonable to him.

The **motion** was passed by a unanimous vote.

**08-20 Aaron Blouin:** Applicant wishes to expand an existing residence, remove an existing garage and rebuild a garage in a new location and requests the following:

- 1) (residence) Variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit an addition to the dwelling unit with the closest point from the side setback being between 17.37' and 31.53' where a building setback of 40 is required,
- 2) (residence) Variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit an addition to the dwelling unit with the closest point from the front property line being 30' +/- where a building setback of 50 is required,
- 3) (garage) Variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit the construction of a detached garage with a 15.72' +/- setback from the side property line where a 40 foot setback is required,

for property located at 145 Silk Farm Road in an RO Residential Open Space Zoning District.

Testified: Aaron Blouin. Since he filed the application he has had the land surveyed. He submitted surveyed plans to the Board. They show the proposed addition and garage location. Walker asked where the entrance of the garage would be. Blouin explained he'd like to put the garage doors in the front but he wants to set it in a correct location from the house. The garage was originally set 15 feet on the setback point. Winters asked if it were now going to be 30 feet for side setback. Harrison asked if he would have a long driveway going to this. Wallner asked about the driveway. How will you reconfigure it? Blouin will ask for the driveway to come in 20 feet above the leach field. Harrison asked if he will put the driveway on the opposite side of the house (yes). Winters asked why the garage can't meet the setbacks. Blouin explained it was due to the tree line. At 40 feet it puts the garage in the middle of the yard, and will be uncharacteristic. Winters asked if the current house doesn't meet the setbacks. Blouin said that was correct. Harrison asked if the house is completely non-conforming. Blouin said that was correct. He shrunk the size of the proposed addition. The current garage is on a slab. He couldn't do anything to connect the house to the current garage. Much discussion took place regarding the layout. Walker noted that the plan he submitted originally had different dimensions than the survey plan. Item #1 was advertised for 17.37 feet from the setback and is now closer to or less than 13.4 feet. This is now an error in notice and they have to re-notice the case. He suggested they recess it to next month.

A **motion** to recess this case to the April 1, 2020 meeting was made by Wallner, seconded by Winters and passed by a unanimous vote. (The Board offered a few suggestions to Mr. Blouin regarding lot configurations)

**11-20 Ana McKenna:** Applicant wishes to have an outdoor sales and display area for garden supplies (Use H-5) including a green-house and requests a Variance to Article 28-2-4(j), Table of Principal Uses to permit outdoor display and sales on a stand-alone lot where such use is not permitted for property located at 331 Village Street in a CBP Central Business Performance District.

Testified: Ms. McKenna and Patrick Simard. Ms. McKenna submitted a letter to the Board. She purchased Fox Ace Hardware in August 2019 and then purchased the lot next to it. She would like to do outdoor sales and display. The lot has been vacant for a while and she purchased it a few months ago. She'd like to eventually build there. Winters asked about outdoor display. Ms. McKenna would like to put a semi-permanent greenhouse structure on that blank lot. The goal is to fence in the yard with black chain link fence, gravel and stone the area and install a greenhouse garden-mart. That would allow them to do some outside sales and have the security of moving things in at night. They'd like to have 2 entry points. One on Village Street at the front of the store and one on Tanner Street. Carley asked if the outdoor sales would be covered within the green house. Ms. McKenna would like some outside of the greenhouse and be able to move them in at night. Carley asked if she would have something similar to pallets of plants out front. She said yes. Monahan asked if they were 2 separate lots. Ms. McKenna said they were. Walker explained that this is the downtown (Central Business District) of Penacook and that is why outdoor sales are not permitted. The sidewalks need to be kept clear, etc. Walker explained vacant lot previously contained a building that was used for retail operations. Ms. McKenna would like to continue to revitalize Penacook. She lives behind the store on Charles Street. Harrison asked how the driveway entrances would work. Ms. McKenna explained that there is municipal parking across the street behind the old bank. They do have an agreement with Langlais for the lot on the other side for parking. They would start with outdoor sales/lawn and garden at first. She has a 5 year plan and hopes to be able to finance the construction of a permanent building. In response to an inquery about future development and use of the property, Walker explained that the zoning requirements for developing buildings in this part of the City are that they have 'build-to' lines. Ms. McKenna has discussed this with the Planning office.

In favor: none.

In opposition: none.

Code: This is intended for garden supplies vs. garden center. Garden supplies category has a broader scope of items that can be sold there. A garden center is a permitted use here but is limited to mainly plants.

Decision: Carley reviewed the testimony as given.

Wallner: This is a natural outgrow to an existing business. He doesn't feel it will affect the values of the surrounding properties. He is inclined to support.

Monahan: Agrees with Wallner. This is a separate lot and it's generally described as a 'stand-alone' lot but is connected to the hardware store.

Harrison: Great place for the expansion.

Winters: An anomaly. The CBP zone is for full density and that isn't there right now. This makes sense.

Carley: He is inclined to agree with the Board. The classic definition of a hardship is not immediately available to them. In the past they considered a lot that wasn't being used or hadn't in quite a while suggesting that leaving it unused is not a reasonable use of the property.

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

**12-20 Kenneth Graham:** Applicant wishes to build a 14'W v 16'D mudroom addition with a 26'W x 30'D attached garage and requests a Variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit a minimum 8 foot setback from the easterly property line where a 15 foot side setback is required for property located at 87 Manor Road in an RS Residential Single-family District.

Testified: Mr. Graham. He is proposing a 14 foot wide mudroom and a 26' wide by 30' deep garage. It is encroaching on his side setback and will be 8 feet +/- to the eastern boundary.

Winters noted that his application states there is no special condition of the land. Winters explained to Mr. Graham that the Board has to find there are special conditions of the property. What is unique? Graham stated that the placement of the 14 foot mudroom is due to a maple tree. He'd prefer not to take it down as it is only 1

or 2 trees left on the property that provides shade for the house. The contractors that did the power line trimming topped other trees near his home and they were dead within a year. He'd like to keep these trees. He doesn't want to disturb them. Carley explained that a standard two car garage is normally 24 foot square. The request before them is larger and both dimensional requirements are affected. Why not a smaller building? Graham said the 2 cars they have include a full size pick up and a full size vehicle. He has a snow blower and lawn tractor he'd like to get out of the elements and into the garage. Carley asked about the property to the right of his home, when looking at it from the street. Who is next door? Graham stated that the end of that house is bedrooms. Any outdoor activities the neighbors do is well to the right. They have a long shaped lot with a lot of road frontage. There is currently vegetation between the houses. Winters asked if the driveway will be moved over. Mr. Graham explained that the driveway is currently there. Carley thought that the driveway was up to the line. Walker explained that the driveway would have to have a 5 foot setback from the property line. Carley asked how wide the mudroom was. Mr. Graham said 14 feet. Harrison calculated that the garage and mudroom equal 40 feet. That makes it 7 feet too wide. The Board went over the site plan. Carley asked how he came up with the mudroom dimensions. If he made the mudroom narrower the tree would have to come down. Monahan asked what the intentions are for the RV that is on the lot. Mr. Graham said it would be leaving. Wallner asked how his lot size compares to the neighboring lot sizes. Mr. Graham explained that the neighbor to the left is about the same lot size. The one on the right has more frontage. Walker stated that two driveways on a property require a Conditional Use permit through the Planning Board. Mr. Graham said he was planning on removing the original driveway.

In favor: none.

In opposition: none.

Code: none.

Decision: Carley reviewed the testimony as given.

Harrison: He has a difficult time finding the hardship. The garage size could be shrunk and meet setbacks. Basically they are working around a tree.

Winters: He thinks preserving the tree is valid and it does present a hardship based on the current structure and placing the garage in the rear is not reasonable. He thinks he can get further back towards the house and the garage doesn't need to be that wide.

Carley: Typically a 2 car garage is 24' square and that gives you room for 2 cars and storage. Something else about the drawing isn't quite right. The scale is off. Carley asked Mr. Graham if the drawing was pulled from the GIS map. Mr. Graham said yes. Walker asked if he measured from the edge of the pavement. Mr. Graham said yes. Walker stated that it appears he measured from the street line vs. property line. Discussion regarding setbacks amongst the Board. Carley stated there were things that he could do. It's not the minimal setbacks.

Monahan: He is generally pro garage as it cleans up the property and adds value and he is pro maple tree.

Wallner: Like Monahan he is pro garage. It's a reasonable use. It's within the character of the neighborhood. He likes trees. He is persuaded of the need for storing equipment in a garage. He could also extend the back of the garage which wouldn't affect the setbacks.

A **motion** to approve the request was made by Wallner, and seconded by Monahan. Motion failed by a 2-3 vote with Carley, Harrison and Winters in the minority.

A **motion** to deny the request was made by Winters, seconded by Harrison and passed by a 3-2 to vote with Wallner and Monahan in the minority.

**17-20 Fred Potter:** Applicant wishes to modify previously granted Variances and requests the following:

- 1) To grant an amendment to the Variance granted in case #23-19 with respect to Article 28-4-1(h), Table of Dimensional Regulations, to allow a maximum lot coverage of 65.0% where a maximum lot coverage of 50% is allowed (63% lot coverage granted under Case #23-19),
- 2) To grant an amendment to the Variance granted in Case #54-18 with respect to Article 28-7-7(g)(1), Parking Restriction in Required Front Yard, to permit the parking of additional cars within the Church Street frontage, as shown on the amended plans, where parking is not permitted,
- 3) To grant an amendment to the Variance granted in Case #25-18 with respect to Article 28-7-2(e), Table of Off-street Parking, to permit the provision of 12 parking spaces where 43 parking spaces are

required (original variance under Case #54-18 allowed the provision of 14 spaces where 50 spaces are required),  
for property located at 135 North State Street in an RN Residential Neighborhood District.

Testified: Fred Potter and Attorney Peter Imse. The Mansion is under renovations. Legacy Wise is the organization that will be in that building. The approved plans called for the retention of 2 parking spaces within the carriage house and 12 spaces around the lot. It is not feasible to keep those two spaces. The revised plan calls for removing those garage spaces and requesting the allowance of stacked parking. Because of this change they are back before the Board asking for minor amendments to 3 variances already granted by this Board. Case 23-19 was a variance that permitted lot coverage relief. The coverage will increase from 63% to 65% lot coverage. Case #25-18 amendment relates to the portions of the parking spaces that will be sited within the Church Street setback, which is not permitted. The prior plan showed parking within the setback. Case 54-18 the prior variance permitted them to provide 14 spaces vs. 50 spaces required. There was an error in the calculations the first time around. The engineers determined that only 43 spaces were required under the Ordinance, not 50. The prior plan showed 12 spaces outside and 2 garage spaces for a total of 14 spaces. Stacked spaces are not allowed to be counted per the Ordinance. (the numbers are different, 12 compliant parking spaces with space for 4 vehicles to be stacked but, those spaces do not count toward conforming parking spaces). The parking spaces are there, but they can't count them. These requests for amendments are intertwined. These request all relate to already approved variances. This was a very much cooperative development project with the adjacent "Pocket Neighborhood". The relief is consistent with the neighborhood, the values and the intent around the total concept of the neighboring pocket neighborhood. This will be attractive. This will be a positive buffer. This is the minimum relief necessary for the project to proceed.

Carley asked if there was a copy of the original plan. Attorney Imse showed the changes on a plan that was shown. Walker asked if there was still a stone wall along the street. Fred Potter said yes.

Monahan asked what the reason was for giving up the 2 spaces. Fred Potter explained that the carriage house was problematic and structurally unsound so they couldn't reasonably put the conference room on the second floor. They needed to bring the conference room to the first floor thus displacing the two (2) parking spaces in the garage. This proposal will preserve the historic carriage house.

In favor: none.

In opposition: none.

Code: none.

Decision: Carley reviewed testimony as given.

Wallner: The changes are minor in terms of lot coverage. The parking spaces are not truly lost. He is inclined to support the requests.

Monahan: Agrees. It is consistent with the previously approved requests.

Harrison: This is consistent and he appreciates the explanations.

Winters: This is the fourth time they have been in front of the Board. It is a very unique lot.

Carley: Agrees.

A **motion** to approve all 3 requests was made by Monahan, seconded by Wallner and passed by a unanimous vote.

**Minutes from February** A **motion** to approve the February 5, 2020 Minutes was made by Wallner, seconded by Winters and passed by a 4-0 vote with Harrison abstaining as he was not at the February hearing.

*Respectfully submitted by  
Rose Fife, Clerk*