

**CITY OF CONCORD, NH  
ZONING BOARD OF ADJUSTMENT  
SEPTEMBER 27, 2023  
MEETING MINUTES**

Attendees: Chairman Christopher Carley, Nicholas Wallner, Andrew Winters, James Monahan, and Brenda Perkins.

Absent: Laura Spector-Morgan and Tedd Evans

Staff: Tracey Hutton, Zoning Administrator

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Meeting commenced at 6:00 pm.

- 1) Call meeting to order at 6:06 pm.
- 2) Chairperson's comments
- 3) Public Hearings
- 4) Review and acceptance of 2024 Meeting Calendar
- 5) Review and acceptance of Findings of Fact
- 6) Review and acceptance of Minutes
- 7) Any other business that may legally come before the Board

**PUBLIC HEARINGS**

**0082-2023**     **5 Mill Street; *RN – Neighborhood Residential District; Marek F Rivero, Owner:***

The applicant wishes to create a subdivision with substandard lots. The applicant seeks variances to:

1. Article 28-4-1(b), *Minimum Lot Size*, for proposed Lot 37-1 (5 Mill Street) Proposed Area 7,489 sq. ft. where 10,000 sq. ft. is required.
2. Article 28-4-1(c), *Minimum Lot Frontage*, for proposed Lot 37-2 (7 Mill Street) Proposed with 69.34 feet of frontage along Mill Street where 80-feet of frontage is required.
3. Article 28-4-1(d), *Minimum Yard Requirements*, to allow the existing structures on both lots within the 50-foot front yard; 0.8 feet at the closest point.
4. Article 28-4-3, *Wetland Buffers and Setback*, to allow the existing structures on both lots within the 30-foot wetland buffer.

Craig Bailey, surveyor for the applicant, presented the case. He explained that these are extremely old structures which predate the Zoning requirements. As such, there is no way to make them conforming. Currently there are two homes on a single lot. This application is submitted with the goal of having each home on its own respective parcel.

Mr. Bailey continued that the owner resides in one home and the other is a rental. Mr. Rivero explained that it is easier to obtain financing and maintain the record with each home on its own parcel.

There is an "easement by time" across 7 Mill Street for the benefit of 11 Mill Street. There was written testimony from 14 Shawmut Street submitted questioning the accuracy of the survey given that the

parcel line is on the opposing side of the river and not the centerline of the waterbody. Mr. Bailey explained that this is correct for riparian rights with respect to mill development. It is unusual but it is, in fact, the case.

The Chairman summarized the application and intent of the applicant. Starting with Mr. Wallner the Board explained their views of the application.

Mr. Wallner stated that this is an unusually configured lot and is creating financing complications. Mr. Monahan questioned the ownership of 11 Mill Street. It was previously testified by Michael Swanwick that this was the first mill in Concord and it is unoccupied at this time.

Mr. Winters agreed with his colleagues' previous statements and asserted that it is impractical to have two homes bound by one parcel.

The Chairman asserted that the hardship is inherit in the configuration of the lot.

Mr. Wallner moved that the variance be approved because there is no effect on the community character, the spirit of the ordinance is observed, the hardship is the configuration of the lot, and the benefit to the owner outweighs any impact to the residents of Concord. Seconded by Mr. Monahan and passed unanimously.

Chairman Carley explained that all four variances are covered by the motion.

**0083-2023      40 Thompson Street; *RD – Downtown Residential District; Peter Blanchard, Owner:***

The owner wishes to build a 14'x40' tandem garage. The applicant seeks a variance to Article 28-4-1, *Dimensional Standards*, to be 5-feet from the side yard (at the closest point) where 10-feet is required.

Mr. Blanchard explained that he is looking to replace the current carriage house with a tandem garage. As the property line widens away from the front the easterly side setback gets larger, being approximately 8' at its greatest.

Chairman Carley asked about the hardship that exists. It was explained that the hardship is in the aesthetic to the neighbors and the structure is not usable as a 2-car garage. It was too aggressive to build a traditional garage with respect to the setbacks, so a tandem garage is proposed in an attempt to find the balance.

Mr. Monahan asked about the current carriage house dimensions, to which Mr. Blanchard responded that the carriage house is 19' x 24' now, and the proposed garage would be 14' x 40'. There was discussion of the placement on the parcel and the maximization of the setback.

It was noted that the proposed garage would be consistent with others in the neighborhood and the maximization of possible setback meets with the spirit of the ordinance.

Mr. Winters moved to approve the variance; seconded by Ms. Perkins. The motion passed by unanimous vote.

**0084-2023      135 Oak Hill Road; RO – Open Space Residential District; Edward and Amy King, Owners:**

The owners wish to create a second dwelling unit through conversion of the second story of the existing garage. The applicant seeks variances to:

1. Article 28-2-4, *Table of Principal Uses*, to allow a two-family dwelling in a RO District.
2. Article 28-5-2, *Duplex or Two-Family Dwelling*, to allow a duplex on a lot with approximately 175' of frontage where 300' is required; and
3. Article 28-5-2, *Duplex or Two-Family Dwelling*, to allow a duplex on a lot of approximately 1.12 acres where 3 acres is required.

Ms. King explained that they recently purchased the home with the hope of an in-law apartment for Mr. King's parents. The unfinished area above the garage is 1,024 sq. ft. and therefore is not qualified to be an Accessory Dwelling Unit. There will be no exterior changes except for egress needs. Because of this, the aesthetic of the home will not be altered and have no impact on the surrounding community.

She further explained that the hardship is the existing configuration of the house. Other buildings in the area have Accessory Dwelling Units, and therefore the use is reasonable.

The Board inquired if the Kings were amenable to a condition that the home be owner occupied, which they were.

Mr. Monahan moved to approve the variance with the condition that the structure remain owner occupied; seconded by Mr. Winters. Motion passes by unanimous vote.

**0085-2023      113 S Main Street; CU – Urban Commercial District; South Main Gateway LLC, Owners:**

The applicant wishes to establish a fitness center and seeks a variance to Article 28-7-2(e)(C), *Table of Off-Street Parking Requirements*, to permit 21 parking spaces where 34 are required.

Ari Pollack, attorney for the applicant, explained that this is a small gym that uses a personal training model as opposed to an open fitness center. The business is currently located at 85 South State Street where they have only 3 parking spots. That arrangement has met their needs to this point.

Attorney Pollack explained that the building, which is the subject of this application, is part of a group of four buildings in common ownership that share parking. This particular building contains the 4,600 square foot commercial space, six dwelling units, and a 700 square foot tattoo parlor. There is a quantity of spaces dedicated to each use, 21 parking spaces being allocated to this project. In addition, he continued, there is on-street parking in the immediate area.

In terms of the criteria, Mr. Pollack stated there would be no devaluation of surrounding properties as there will only be internal renovation and the proposed fitness center is a permitted use in the district.

Ms. Perkins made a motion to approve the variance for the reduced parking, noting the reasons

previously stated; seconded by Mr. Winters. The motion passed by a unanimous vote.

**0087-2023      18 Kensington Street; RS – *Single Family Residential District; Adam Pignatelli and Jessica Forrest, Owners:***

The owners wish to add an extension of the roof and a small deck to support a new entrance expanding the non-conforming structure, but being no closer to a setback than the existing structure and seeks a variance to Article 28-8-5(b) *Continuation of Non-conforming Structures*.

Adam Pignatelli explained his property is somewhat unique in that it has two front yards as it is a corner lot. The home sits about 18 inches downhill from the street. While the home does have a French Drain, this elevation change allows water to settle against the foundation. One of the goal of the 40 square foot entrance area is to shed water away from the home. The home, built in 1928, already has a chimney that sits closer to the road than the proposed addition is set to project.

Mr. Winters asked for further detail about the water in the basement. Mr. Pignatelli responded that the snow and ice that builds up in this area causes water in the basement that seeps in behind the electrical panel.

Mr. Monahan moved to approve the variance; seconded by Ms. Perkins. The motion passed by unanimous vote.

**0089-2023      21 Jackson Street; RD – *Downtown Residential District; Dale J Cunningham Revocable Trust & Charles B Woodhouse Revocable Living Trust 2014, Owners:***

The owner wishes to construct a shed and seeks a variance to Article 28-5-32, *Accessory Building and Facilities*, to allow construction 0 feet from the lot line where 5 feet is required.

Mr. Brehm, JB Design Build, representing the owner, explained that the purpose of the proposed accessory structure is to store small recreational equipment and other property out of sight. He continued that there is no access to the basement and, therefore, nowhere to store bicycles and such.

The Board inquired about the dimensions of the shed. Mr. Brehm explained that it is no higher than the window openings and is about as wide as the driveway. Mr. Brehm explained that there is a hardship due to the size of the lot and the setbacks. There is insufficient space for a garage and the storage area would improve the lots aesthetic to the neighbors by keeping the site clean. The structure will be set on cinderblocks and a 2" x 4" lumber base. Mr. Brehm explained this is a reasonable request give the lack of space on the lot.

Mr. Wallner moved to approve the application; seconded by Mr. Monahan. The motion passes with a unanimous vote.

There being no other business before the Board; Mr. Winters **moved** to adjourn at 8:20 pm and was seconded by Mr. Wallner. Motion passed by a unanimous vote.

Respectfully submitted,  
Tracey E. Hutton  
Zoning Board of Adjustment