

ZONING BOARD OF ADJUSTMENT

Wednesday, November 18, 2009
Belmont Corner Meeting House
Belmont, N.H.03220

Members Present: Chairman Peter Harris; Norma Patten, Pleasant Oberhausen and Marshall Ford.
Members Absent: Linda Couture (E).
Alternates Absent: Ed Hawkins (E).
Staff: Candace Daigle and Elaine Murphy.

The chairman opened the meeting at 7p.m. He explained that the Board usually consists of five voting members and that an affirmative vote of three is necessary to pass any motion or approval. The applicants have the option of going with a short Board or postponing. A short Board is not a reason for a rehearing.

Abutters' Hearing – Dennis Decato: Request for a Special Exception of Article 11.A.3.d of the Zoning Ordinance to construct an addition closer (39.1') to the front property line than allowed (50') but not closer than the existing building. Property is located at 327 Hurricane Road in an "R" Zone, Tax Lot 231-019, ZBA # 4309Z.

At least three members have viewed the site.

Mr. Dennis Decato presented the application and agreed to a short Board.

Mr. Decato explained he wants an office out front. It is a safety issue and insurance liability having customers entering the bays. The 8' x 12' office space will keep the customers out of the weather.

P. Oberhausen wanted to know if there are any sanitary facilities on site. Mr. Decato stated they are in the basement about 50' away in the house. It has been like that for years.

Mr. Jamie Decato, an abutter stated that he is in support of the application.

M. Ford wanted to know how they are going to heat it. Mr. Decato stated the heat will come from the garage.

P. Harris wanted to know about the snowloads. Mr. Decato stated that he put on a steel roof and the snow slides off of it so it became a safety issue and that is why they need the office to protect the customers from getting hit with sliding snow.

The chairman asked if anyone in the audience had any more questions or comments. There being none, he closed the public hearing.

BOARD ACTION – DENNIS DECATO:

MOTION: P. Oberhausen moved to grant a Special Exception of Article 11.A.3.d of the Zoning Ordinance to construct an addition closer (39.1') to the front property line than allowed (50') but not closer than the existing building as it meets all the criteria.

1. The use is allowed in the district
2. The Ordinance specifically allows the use when a Special Exception is granted.
3. The specific site is appropriate for the use.
4. No factual evidence is found that property values in the district will be reduced.
5. There is no valid objection from abutters based on fact. No abutters present.
6. No nuisance or hazard is involved.
7. Adequate and appropriate facilities will be provided.
8. There is adequate sewage disposal.
9. Structures must otherwise meet all dimensional requirements of the Ordinance.

Conditions:

1. No structures or additions (incl. decks, porches, landings, etc.) that do not meet setbacks except as approved are allowed.

The motion was seconded by N. Patten and carried. (3-0-1) P. Harris abstained

Abutters' Hearing – Tammy Dunn: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a contractors yard (heavy equipment parking) in a commercial zone. Property is located at 195 Laconia Road, Tax Lot 210-014, ZBA # 4409Z.

At least three members have viewed the site.

Mr. Calvin Dunn III, Mr. Calvin Dunn and Ms Tammy Dunn were present and agreed to a short Board.

Mr. Calvin Dunn III explained that for the past seven years he has been operating his business out of a residential neighborhood in Gilford. It is now time to move. He is the only employee of company. He lives off Cotton Hill Road near the Gilford/Belmont town line and that is why he chose this site because it is near his residence. He plans on using a 50' x 100' area in the back left corner of the property to park some of his heavy equipment. There will be a couple of commercial trucks and heavy equipment on site but no fuel storage.

P. Harris wanted to know how many pieces of equipment will be on site. Mr. Calving Dunn stated that it varies. One day there may be one truck and at other times there will be a couple.

N Patten wanted to know the size of the contractors yard. Mr. Calvin Dunn III stated that it is 50' x 100'. M. Ford wanted to know if it is possible to pave the area because the equipment could leak. Mr. Calvin Dunn III stated that his trucks don't leak, they are all new vehicles. This is a temporary site because he is working with Laconia to build a new garage. He plans to have it built within the next year to year and a half. He has to be out of Gilford by November 1st that is why he is moving to Belmont.

P. Harris wanted to know about R. Ball, Land Use Technician's, comment about having to cure the pre-existing nonconforming use. C. Daigle explained that the residence is nonconforming because it is not allowed in the commercial zone. She explained that when you re-develop a nonconforming lot you have to cure the nonconformity but this might not rise to a new development. M. Ford wanted to know if they approve the contractors yard on a temporary basis does it revert back to the nonconforming lot after the temporary approval expires. C. Daigle stated that if they set a time limit then the use has to cease by that time. Mr. Calvin Dunn III stated that he was agreeable to a temporary approval but would like it for more than one year so he won't have to come back through the process again if the garage is not completed.

Mr. Calvin Dunn wanted to address the issue of paving. The site is similar to his site on Rte 106 and if he paves the area then the runoff would go into the soil. If there is any leakage all the equipment has absorbent towels to handle the spillage. The pavement would not do any good because it is not a level lot. This is a temporary site so the pavement is not necessary. M. Ford stated the concern is because it is over the aquifer. If it were not going to be temporary they would apply more conditions. P. Harris stated that the property doesn't lend itself to be a true contractors yard. Mr. Calvin Dunn agreed stating it is more for office buildings than a contractors yard. This is a temporary arrangement.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

BOARD ACTION – TAMMY DUNN:

MOTION: N. Patten moved to grant a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a contractors yard (heavy equipment parking) in a commercial zone as it meets all the criteria.

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the temporary use.
3. No factual evidence is found that property values in the district will be reduced. There are similar uses in the area.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.

7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.
There are no structures.

Conditions:

1. Site Plan approval by the Planning Board required.
2. Contractors yard is allowed for two years (11-18-11).

The motion was seconded by M. Ford and carried. (4-0)

Abutters' Hearing – David A Libby: Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to allow a 24' x 28' commercial garage closer (28') to the front property line than allowed (50') (the original variance for this existing structure was based on a residential accessory use). Property is located at 25 Lamprey Road in an "C" Zone, Tax Lot 224-022, ZBA # 4509Z.

Mr. David Libby presented the application and agreed to a short Board.

Mr. Libby explained that he needs a job and is looking to start a small automotive business out of his garage. When he originally built the garage he did not intend to use it for a business. It is 40' from the road which was allowed by a town variance. There have been many occasions that he has numerous vehicles in his dooryard and the abutters have had no problems with them.

N. Patten wanted to know if the vehicles in the pictures he submitted are always there. Mr. Libby explained that he purposely put the vehicles there to show that he has ample parking for his personal vehicles and his customer's vehicles. He doesn't expect to have more than four vehicles on site at one time.

P. Oberhausen stated that the property has a residential use and a residential garage and he wanted to know if Mr. Libby wanted to turn the whole lot into a commercial use. C. Daigle explained that the lot is in the commercial zone. Mr. Libby stated that the commercial use would be for the garage and associated parking. The house will remain residential. P. Oberhausen stated that in the future if Mr. Libby sold the property than it could be used as commercial property. C. Daigle explained that they can't change the use without going to the Planning Board.

C. Daigle explained that they are not granting a variance for the business because the property is in the commercial zone. Mr. Libby previously received approval to build a residential garage for residential use only so they would be regrating the front setback variance as if the garage did not exist. The reason Mr. Libby is here tonight is to make sure the abutters are aware that the garage is for a commercial use not a residential use that was previously approved. M. Ford wanted to clarify that the variance is for the front setback. C. Daigle stated that is correct.

M. Ford wanted to make sure there was enough parking. Mr. Libby stated there is room for more

parking if he needs more but he is a one man operation and will not be storing cars. He is not asking to have a junkyard. He will fix the cars and return them to their owner.

P. Oberhausen wanted to know how this property became zoned commercial. Mr. Libby stated that it is because it is within 1000' from Rte 106 and that is how they did the zone lines back in 1986. P. Oberhausen stated that the Rolfe property is farm land.

Mr. Libby wanted to know how having the commercial garage would affect his taxes C. Daigle explained that taxes are based on market value and having a permitted commercial use on the property makes it more valuable.

Mr. Libby explained that the previous variance was granted because of the landscape and granite rock. The approval was based on hardship because of the ledge behind the garage. When he did the 8' x 16' he had to have one of the sona tubes on top of granite ledge.

N. Patten wanted to know if the Planning Board would decide how many vehicles can be parked on site. She is concerned that the area could become overcrowded when potential customers come to the site to check out the business. Mr. Libby stated the cars would be parked single file so there is adequate room to drive in. N. Patten stated that there are nice houses in the area and he needs to show respect for them. Mr. Libby stated that traffic tends to fly down Lamprey Road so he wants all his customer's vehicles off the road to prevent them from getting hit.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

BOARD ACTION – DAVID A LIBBY:

MOTION: M. Ford moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to allow a 24' x 28' commercial garage closer (28') to the front property line than allowed (50') (the original variance for this existing structure was based on a residential accessory use).

1. A Variance will not decrease surrounding property values because it allowed in the district.
2. A Variance is not contrary to the public interest.
3. Denial would result in unnecessary hardship to the owner because he needs a job.
 - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property.
 - and
 - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method because of ledge.
4. A Variance will result in substantial justice being done.
5. A Variance will observe the spirit and intent of the ordinance.

Conditions:

1. No structure or additions (incl. decks, porches. Landings, etc,) that do not meet setback, except as approved are allowed.
- 2, Site Plan approval by Planning Board is required

The motion was seconded by P. Oberhausen and carried. (4-0)

P. Harris stated that commercial use is allowed in the commercial zone and the garage is already there.

OTHER BUSINESS:

BOARD'S ACTION - MINUTES:

P. Oberhausen made a motion to approve the minutes of October 28, 2009. N. Patten seconded. Carried (4-0)

ADJOURNMENT:

MOTION: On a motion by P. Oberhausen, seconded by M Ford, it was voted unanimously to adjourn at 7:42 p.m. (4-0).

Respectfully submitted,

Elaine M. Murphy