



BELMONT LAND USE OFFICE

ZONING BOARD OF ADJUSTMENT

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

Present: Chairman P. Harris; Members P. Oberhausen and M. Ford; Alternates E. Hawkins and P. Palombo; Staff C. Daigle.

Absent: Members N. Patten(E) and L. Couture(E).

The chairman opened the meeting at 7p.m.

M. Ford expressed his concern that the Chairman should participate as a voting member on applications and P. Harris stated that he would be doing so.

Abutters' Hearing – Elizabeth & Rodney Bascom: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to initiate an assisted living facility for up to 14 seniors and 2 live-in staff in the “R” zone on property formerly occupied by Faith Christian Academy. Property is located at 87 Horne Road, Tax Lot 110-006, ZBA # 0109Z.

At least three members have viewed the site. Mrs. Elizabeth Bascom presented the application. She explained her proposal to convert the existing school into an assisted living facility. The first phase of the project would be an 804 project under the State’s standards. That means that occupancy was limited to residents of higher acuity who could self-evacuate and self-medicate. The initial units would be on the upper level of the building. Future phases may be developed as additional 804 units or may include 805 units which is a for residents of lower acuity who need assistance but do not require nursing care. There is a tremendous need throughout the state for this type of facility. There will be no changes to the outside of the building. Conversion to the interior will conform to applicable codes. She will be meeting with the Fire Marshal and State Life Safety Code people on Monday. She has already met with local officials.

Mrs. Bascom asked to amend her application to permit up to 18 seniors instead of 14. At this time the Planning Board has approved only for 10 units. She will have to return to the Planning Board for future phases, but a Special Exception approval tonight for 18 residents will eliminate the need to return to the ZBA.

P. Oberhausen asked about their experience in senior care. Mrs. Bascom noted that her husband is the Division Chief for the State of NH’s department that inspects this kind of facility throughout the State.

However, they have not personally done such a facility so they are working with Elder Care Solutions; Catherine Thorndike and Howard Chandler who have extensive experience. There is a low acuity of care necessary. The residents might need assistance in cleaning or meals, but they don't need medical care. The staff consists of a former pastor and a woman with over 35 years of experience of caring for the elderly in various capacities.

P. Oberhausen asked about the Planning Board conditions. In your reference to Phase 1 and Phase 2, he asked if there are sufficient financial resources to complete the project as he would not like to see it started and abandoned. Ms. Bascom noted she is working with a SCORE advisor and the Belknap County Economic Development Council who are backing the project based on their complete business plan. They are proceeding carefully especially in these unprecedented economic times. That's why the resident numbers have changed. They have gone through several floor plans and designs. They settled on somewhat less elaborate units. There are a lot of people in the area who thought they would be going into the Taylor Community but now can't afford to do so. This will provide them with an option. When Phase 1 is full and they have a waiting list then they will proceed. For instance they are now creating closets where eventually residents will have the option on converting them to private baths.

P. Oberhausen asked if the units are monthly rental or life-time units? Ms. Bascom answered that they are monthly rental units. She explained that the setup was more like a high-end bed and breakfast than an apartment complex because the units do not have individual kitchens and baths.

The top floor will have seven rooms, two of which can be doubles for a maximum of nine residents. In addition there will be two resident care staff members. M. Ford asked about the change to 18 residents plus two live-in staff. How will they care for 18 residents plus the other services that will be provided such as cleaning, meals and transportation? Ms. Bascom explained that the day staff will include more than just the two resident care-givers. The industry standard for this level of acuity is 1 staff person to every 2.5 people. Their level of staffing will be closer to 1 staff person to 1.5 to 2 residents.

The chairman asked if anyone in the audience had any questions or comments. Mr. Donald Binnette, an abutter stated it sounded like a good idea. He does ride his snowmobile across the property to the trail and hoped he would be allowed to continue that. Ms. Bascom said they would certainly try to make arrangements for that. P. Oberhausen asked how many children had attended the school. Ms. Bascom stated she believed it had been approved for up to 80 students at one time.

The chairman reviewed that points of the Ordinance that must met for the Special Exception. The members considered the request to amend the maximum number of residents to 18.

There being no further question or comment the chairman closed the public hearing.

BOARD ACTION – ELIZABETH & RODNEY BASCOM:

MOTION: P. Oberhausen moved to grant a Special Exception of Article 5 Table 1 of the Zoning Ordinance to initiate an assisted living facility for up to 18 seniors and 2 live-in staff in the

“R” zone on property formerly occupied by Faith Christian Academy 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 use. It went through the Planning Board and must comply with their list of conditions.
3. No factual evidence is found that property values in the district will be reduced.
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.

The following conditions apply:

1. All additionally required approvals and permits must be obtained.

The motion was seconded by M. Ford and carried. (5-0)

Abutters' Hearing – James Chapman: Request for:

- A. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a garage closer (23.1') to the front property line than allowed (50'). ZBA # 3908
- B. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a garage closer (9.8') to the side property line than allowed (12.5'). ZBA # 4008
Property is located at 26 Sunset Drive in an “RS” Zone, Tax Lot 104-058.

There was no one present for this application.

BOARD ACTION – JAMES CHAPMAN:

MOTION: On a motion by P. Oberhausen, seconded by M. Ford it was voted unanimously due to the inclement weather to table the application until the 7pm, March 25, 2009 meeting. (5-0)

Abutters' Hearing – John S Burbank: Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition closer (31.6') to the front property line than allowed (50') but not closer than the existing building. Property is located at 12 Stark Street in an “RM” Zone, Tax Lot 121-095, ZBA # 0209Z.

Mr. Burbank and his son were present for this application. The elder Mr. Burbank noted they had sized the addition to fit between the garage and shed. They are moving in with his son and part of the addition will increase the size of their bedroom, giving them more space and part will be a pantry. They could not consider replacing the existing single-wide unit with a double-wide without having to move the other structures on the lot.

P. Palombo asked why the setback measurement was dimensioned between the addition and edge of ROW

when the addition was existing dwelling was between the addition and the road. C. Daigle noted that the existing unit's footprint is grandfathered. The addition creates a new footprint and only that footprint is required to meet all current setbacks. In this instance, the addition is too large to be considered as a Special Exception and the proposal, therefore, requires a Variance.

P. Palombo asked about the existing pad behind the unit. Mr. Burbank noted it is 7' x 48'. P. Harris asked about the distance between the proposed addition and the garage. Mr. Burbank noted it is 6'.

P. Palombo asked if the proposed addition will be in character with the surrounding neighborhood. Mr. Burbank noted that it would be. He asked the Board if a double-wide would have been permitted on the lot as many in the subdivision have made that upgrade. The chairman noted it would also have required ZBA action.

The chairman asked if anyone in the audience had any questions or comments. There were no abutters present. The chairman closed the public hearing.

BOARD ACTION – JOHN S BURBANK:

MOTION: P. Palombo moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition closer (31.6') to the front property line than allowed (50') but not closer than the existing building as it meets all the criteria.

1. A Variance will not decrease surrounding property values because the addition is similar in nature to other structures in the area.
2. A Variance is not contrary to the public interest because there are similar properties in the area and it will increase the tax revenue to the town.
3. Denial would result in unnecessary hardship to the owner because the elder Burbanks are moving in with their son and they need additional space and privacy; and
 - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property because of the significantly restricted limitations of the lot in relation to size; and
 - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method, because the lot is what it is in relation to its nonconformity.
4. A Variance will result in substantial justice being done; because the injustice would be not being able to benefit from the property that they own.
5. A Variance will observe the spirit and intent of the ordinance, because it will allow the owners to be accommodated in their own home.

The following conditions apply:

1. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by P. Oberhausen and carried. (5-0)

OTHER BUSINESS:

1. **Membership:** P. Palombo stated that her term was up this year, but that she would like to continue as an Alternate.

MOTION: On a motion by M. Ford, seconded by P. Oberhausen it was voted unanimously to appoint P. Palombo to a three-year term as Alternate. (4-0-1 P. Palombo abstained)

2. **Procedures:** P. Palombo asked a procedural question related to a situation similar to the Burbank application; should the Board look at the setback variance request differently because the existing unit is between the addition and the front property line? The Board agreed that the Ordinance already takes that into consideration because for any such addition that is not more than 40% of the existing structure, the approval would be by a Special Exception. This factors in the fact that the addition is further away from (behind) the existing unit than the proposed addition. However, once the addition exceeds 40% the more strict Variance criteria is appropriate because of the significant increase in size to an already nonconforming structure.

BOARD'S ACTION - MINUTES:

MOTION: On a motion by P. Oberhausen, seconded by M. Ford it was voted unanimously to approve the minutes of October 22, 2008 as written. (3-0-2 E. Hawkins and P. Palombo abstained)

STAFF REPORT:

1. **Budget:** The Board received the year-end budget report.
2. **Annual Report:** The Board received a copy of the annual ZBA report.
3. **Handouts:** The Members received a set of updated tax maps and the new Land Use Law books.

ADJOURNMENT:

MOTION: On a motion by P. Oberhausen, seconded by M. Ford, it was voted unanimously to adjourn at 7:35p.m. (5-0).

Respectfully submitted,



Candace L. Daigle
Town Planner