

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
CITY COUNCIL CHAMBERS- CITY HALL
Wednesday, August 1st, 2012 at 7:00 p.m.**

MINUTES

Call to Order: The meeting was called to order at 7:19 p.m.

- Salute to the Flag**
- Roll Call**

Present: Chuck Farmer, Marty Russo Floyd Sargent, Donna Tully and Planning and Zoning Administrator Richard Lewis.

Absent: Kathlene Fleckenstein and Don Gagnon.

- Approval of Minutes: July 11th, 2012 Zoning Board Meeting**

MOTION: Member Sargent moved and Member Russo seconded to approve the minutes of the July 11th, 2012 Zoning Board regular meeting. All were in favor and the motion passed.

Old Business: None.

New Business

- Z12-06:** Christopher H. Kench and Alice M. Kench, Applicant/Owner, request a Variance from setback requirements for the placement of a 20' x 24' two-car garage with a 14' ridge, 13' from the side lot line, where the setback requirements are 25', on property located at 38 Mark Road, Tax Map/Lot # 147-035-00, New Map # M9, RS Zone (Single Family Residential District).

Chair Farmer asked the applicant if they wanted to continue with a board of four or wait until there was a full board present to be heard. The applicant, Mr. Kench, indicated he wanted to proceed tonight.

Mr. Kench stated he has lived in the house for 26 years. He wants to build a garage, 2 stall, detached.

Member Russo asked if the garage would be a timber frame, stick built building and Mr. Kench stated that it would be. Mr. Kench stated he would be relocating his driveway to where the garage would be built. Member Russo asked what the distance between the house and the garage would be and Mr. Kench stated it would be 6'. Chair Farmer asked for clarification on whether the garage would be attached or detached and Mr. Kench stated it would be detached. Member Russo asked if the trailer seen in the pictures was Mr. Kench's and he stated that it was. Member Sargent asked if the intention was to turn the existing driveway into lawn and Mr. Kench stated that it is and that currently with the two driveways abutting each other the driveways look like a used car lot.

Public Comment: None.

Board Discussion:

Chair Farmer stated that the existing neighbor's house does not meet the setback requirements.

MOTION: Member Russo moved and Member Sargent seconded that the Zoning Board of Adjustment approve the variance application request by Christopher and Alice Kench to construct a 20' x 24' garage with a 14' ridge, 13' from the side lot line. The current driveway would be removed and a new driveway would be constructed in front of the new garage. The property

is located at 38 Mark Road, Tax Map/Lot # 147-035-00, RS Zone (Single Family Residential District) and the setback requirements are 30' front and 25' side and rear; the application is referenced as Z12-06. The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance as spelled out in the draft decision to approve which has been reviewed and approved, including any modifications, by the Board.

Decision of Approval

Member Russo moved and Member Sargent seconded that the Zoning Board of Adjustment approve the variance application request by Christopher and Alice Kench for a variance to construct a 20' x 24' garage with a 14' ridge, 13' from the side lot line. The current driveway would be removed and a new driveway would be constructed in front of the new garage. The property is located at 38 Mark Road, Tax Map/Lot # 147-035-00, RS Zone (Single Family Residential District) and the setback requirements are 30' front and 25' side and rear; the application is referenced as Z12-06. The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance in that:

- a. The Variance will not be contrary to the Public Interest and the values of the Surrounding Properties are not diminished due to the facts that the proposed garage is a typical accessory structure for a residential property, the garage will provide for better maintenance of the property than currently exists, and will eliminate the over-crowded look and feel to the current layout of the two abutting driveways between the applicant and his abutter.
- b. The Spirit of the Ordinance is observed and Substantial Justice is done due to the facts that the garage is a typical structure associated with a residential home, it will be consistent with other homes in the neighborhood, and no descriptions of any injustice created through the granting of the variance have been brought forward to the Board.
- c. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:**

Unnecessary hardship means that, owing to the special conditions of the property that distinguish it from other properties in the area, then: i) No fair and substantial relationship exists between the general purpose of the ordinance provision and the specific application of that provision to the property; and ii) the proposed use is a reasonable one: This criterion is met as the garage would be consistent with other homes and garages located in this neighborhood, and the use is a reasonable one for a residential structure.

This approval is subject to the following conditions:

1. **The applicant or their designee shall obtain the necessary building permits for the proposed work and a Certificate of Occupancy once the work is completed.**

All were in favor and the motion passed.

- **Z12-07:** Deborah A. Rowell, Owner; Walter Cammack, Applicant, request a Special Exception to place a single residential unit in an existing building that will also be used for a Chiropractor's office. The lot is identified as 810 Central Street, Tax Map/lot # 147-004-00, B-1 Zone (Low-Density Business and Commercial District).

Chair Farmer asked the applicant if they wanted to continue with a board of four or wait until there was a full board present to be heard. The applicant, Mr. Cammack, indicated he wanted to proceed tonight.

Mr. Cammack stated that he is purchasing the property from Deb Rowell (who was also present). He stated he would be using the property for his home and his office, and would section off the house.

Chair Farmer asked if the upstairs would be the living area. Mr. Cammack stated the house is sectioned off into three areas. In the first area, the house would be upstairs and downstairs; and, in the second area, the office would be downstairs and the house upstairs. He stated a window will be removed and door will be put in for access into the Chiropractic office.

Member Russo asked if the main entrance into the house would be in the front of the building and Mr. Cammack stated that is correct.

Richard Lewis stated that, as is clearly shown on the sketch plan, there is ample parking for both the business and the house. He stated that there would be maybe 2-3 cars at any given time, as only one person would be seen at a time, with possibly one waiting to be seen.

Public Comment: None.

Board Comments:

MOTION: Member Tully moved and Member Russo seconded that the Zoning Board of Adjustment approve the Special Exception application request by Deborah Rowell (owner of the building) and Walter Cammack (business owner) for a single living unit in an existing building located in the B-1 Zoning District. The application is referenced as Z12-07. The Board finds that the application request meets the tests and criteria necessary for the granting of a Special Exception as spelled out in the draft decision to approve which has been reviewed and approved, including any modifications, by the Board.

Decision of Approval

Member Tully moved and Member Russo seconded that the Zoning Board of Adjustment approve the Special Exception application request by Deborah Rowell (owner of the building) and Walter Cammack (business owner) for a single living unit in an existing building located in the B-1 Zoning District. The application is referenced as Z12-07. The Board finds that the application request meets the tests and criteria necessary for the granting of a Special Exception in that:

- a. The specific site is an appropriate location for the proposed use or structure: The proposed use is a single family living unit and the definition of the B-1 zoning District is that it permits high-value business, commercial and restricted residential uses, for which this use would be a restricted residential use, restricted to the business owner.
- b. The proposal is not detrimental, injurious, obnoxious or offensive to the neighborhood due to the fact that the business use is an allowed use and the single family dwelling unit will not add any substantial traffic to the lot.
- c. There will not be any nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking, as the building is already existing and there is ample parking. The owner of the property will be at the location and will be the person residing within the unit, thus no additional vehicular traffic will be added by this use.
- d. Adequate and appropriate facilities and utilities will be provided to ensure the proper operation of the proposed use or structure as the building is already existing and no additional facilities or utilities will be added on site.

- e. **The proposed use or structure is consistent with the spirit of the Zoning Ordinance and the intent of the Master Plan is met as the building already exists and the business use (which will generate more activity than the single unit use) is an allowed use.**

This approval is subject to the following conditions:

- 1. The applicant or their designee shall obtain the necessary building permits for the proposed work and a Certificate of Occupancy once the work is completed.**
- 2. As put forward by the owner and the applicant, the residential unit will be used by the owner/manager of the business housed in the subject property. If a decision is made to put the unit on the rental market to an outside party then the owner shall submit a written request to the Planning and Zoning Administrator for the approval of this type of use. This request shall demonstrate that the residential unit is laid out in such a fashion such that the separate business and residential uses will not conflict in any manner. The request shall include information including, but not limited to: the number of bedrooms, location of egress points, and the adequacy and location of parking. If the Administrator does not approve the type of use, then the owner may seek a new Special Exception [or other applicable approval procedure] from the Zoning Board of Adjustment.**

All were in favor and the motion passed.

Planner's Update:

Richard Lewis stated that the Superior Court upheld the Zoning Board decision regarding Nawoj and Oliver. He stated that Nawoj did not appeal to Supreme Court and he expects a building permit within the next 30 days.

Other Business:

Member Tully asked about training. Richard Lewis stated that both he and Attorney Paul Fitzgerald have been really busy and he is hoping that things will slow down after Labor Day so that they can hold this training session.

Public Comment: None.

Adjournment

MOTION: Member Sargent moved and Member Russo seconded to adjourn the August 1st, 2012 meeting of the Zoning Board of Adjustment, at 7:40 p.m. All were in favor and the motion passed.

Respectfully submitted,

Angela M. Carey
Planning and Zoning Assistant