

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
CITY COUNCIL CHAMBERS- CITY HALL
Wednesday, December 4th, 2013 at 7:00 p.m.**

MINUTES

Call to Order: The meeting was called to order at 7:06 p.m.

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

Present: Kirk Johnston, Kathlene Fleckenstein, Donna Tully, and Sandra Hodgdon and Planning and Zoning Administrator Richard Lewis.

Absent: Chuck Farmer, Don Gagnon and Floyd Sargent.

Alternates: Alternate Member Sandra Hodgdon was seated in place of absent voting member Chuck Farmer and Member Kirk Johnson was seated in place of absent voting Member Don Gagnon to be voting members at tonight's meeting.

- **Approval of Minutes: November 6th, 2013 Zoning Board Meeting**

MOTION: Member Johnston moved and Member Fleckenstein seconded to approve the minutes of the November 6th, 2013 Zoning Board regular meeting. All were in favor and the motion passed.

Old Business: None.

New Business

- **Z13-07:** Industrial Park Investors, LLC, Owners; James Aberg, Franklin Business and Industrial Development Corporation (FBIDC), Applicant, request a Variance from front and side yard setback requirements for a 2,065 square foot addition, to the property located at 55 Industrial Park Drive, Tax Map/Lot # 101-009-00, New Map # R7, I-1 Zone (Industrial District).

Jim Aberg, Representative for Industrial Park Investors, LLC, was present to speak. He stated the property is owned jointly by Industrial Park Investors, LLC and FBIDC. He stated the property was developed ten years ago, where a 9000 square foot building was built at the top of the hill. Currently housed within the building are McBey Machinery, Fastenal Supplies and Solar Composites.

The business that wants to expand is Solar Composites. They distribute composite material. They started their business at Acme Staple, then at the business center and have been at their current location for 10 years. He stated they currently have 3,000 square feet and want to expand and stay in Franklin. They wanted to build a 2500 square foot addition but have agreed with the 2200 due to the constraints of the area.

Since the original application was submitted, the building was reconfigured so that the back corner does not infringe on the side setbacks. On the front portion of the lot, the building will be approximately 3-4 feet within the setbacks, but still will be a great distance from the roadway due to the right of way being very large.

Mr. Aberg stated he has staked out where the building would be placed and walked it with Richard Lewis. He indicated that this request is necessary due to the wetlands on the back of the lot which have pushed all development to the front of the lot and minimized the building area. The variance is also necessary due to the curve radius of the roadway for the frontage.

The addition will be steel to match the existing building. It will be used as warehouse area space for the tenant that is already there. It will be one level and the same elevation as the current building.

Member Johnston asked if the gas service will have to be moved. Mr. Aberg stated both the gas and the electric will have to be moved and they have consulted with PSNH and Liberty Utilities.

Mr. Aberg stated the pitch of the roof will run into the lawn area. He stated he met with the abutting lot owner, Primerica (Helen and Norman D'Silva) and walked the lot with them showing them the location of the addition and they had no objections.

Mr. Aberg stated that as a general comment, there is not a lot of industrially zoned land area left and the precious little bit that is left needs to be used to its fullest extent. He stated the boards may want to rethink the setbacks for the zone. He stated there are only 3-4 more lots on Commerce Drive and then Mr. Stanley Weglarz has land enough for about 2-3 lots due to the ledge and wetlands and once this is gone there is no more available industrial land. The City needs to allow every inch of the land to be used to the fullest extent.

Member Hodgdon asked what the distance from the roadway is. Mr. Aberg stated by building 4' into the setbacks, the distance to the property line is 16' and then from the property line to the edge of the roadway it is another 6-8'.

Public Comment: None.

Board Discussion

MOTION: Member Johnston moved and Member Fleckenstein seconded to approve the application by Industrial Park Investors, LLC, Owners; James Aberg, Franklin Business and Industrial Development Corporation (FBIDC), Applicant, for a variance from the front yard setback requirement for a 2,065 square foot addition, to the property located at 55 Industrial Park Drive, Tax Map/Lot # 101-009-00, New Map # R7, I-1 Zone (Industrial District). The application is referenced as Z13-07. 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 modifications to include changing the square footage of the building to 2,200 square feet and making sure the condition of needing a building permit be put into the approved decision, by the Board. All members were in favor and the motion passed.

DECISION OF APPROVAL

The Zoning Board of Adjustment moved to approve the application request by Industrial Park Investors, LLC, Owners; James Aberg, Franklin Business and Industrial Development Corporation (FBIDC), Applicant, for a variance from the front yard setback requirement for a 2,200 square foot addition, to the property located at 55 Industrial Park Drive, Tax Map/Lot # 101-009-00, New Map # R7, I-1 Zone (Industrial District). The application is referenced as Z13-07. The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance in that:

- 1. The Variance will not be contrary to the Public Interest and the Spirit of the Ordinance is observed due to the facts that the variance will allow an existing company to grow, add jobs, and stay in Franklin without the cost of relocating to a new property or building; and, the variance allows construction in the most useable portion of the property with minimal impact to the abutters.*
- 2. Substantial Justice is done due to the fact that the rear portion of the property is restricted from development because of a beaver pond; also, with the variance request meeting all of the other criteria, justice would not be achieved through a denial of the variance request.*
- 3. The values of the Surrounding Properties are not diminished due to the fact that the nature of the property will not substantially change and the addition will be in keeping with the surrounding properties. The addition will add overall value to the industrial park.*
- 4. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:*

 - (A) Unnecessary hardship mean 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. Literal enforcement of the provision would result in the loss of an established business in the Franklin Business Park, and such a loss is unnecessary given the nature of the lot. Several factors contribute to the creation of the unnecessary hardship for this case. First, the property is situated on an "S" curve of Industrial Park Drive. This curve creates a front setback line that is non-consistent over the width of the lot. Second, the subject lot, and the abutting lot [101-009-02 which was subdivided from the subject lot] are situated between this "S" curve and a wetland area associated with a beaver pond. This wetland line restricted the ability to develop both properties to the greatest extent permitted under the zoning at the time, and pushed the development towards the front of the lots as opposed to further back. The proposed use is a reasonable one for two key reasons: 1) The proposed addition will accommodate, and allow for, the expansion of an existing business in the park; and, 2) The addition will be located between the existing building and the common driveway that serves the subject lot and the adjacent lot so that any potential impacts to the abutters are eliminated.*
 - (B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. While the variance request meets the unnecessary hardship criteria above, and it is clear that the special and unique conditions outlined above do apply, it is important to emphasize that the ability to expand the existing building is limited from a financial perspective due to the costs of undertaking expensive modifications to the existing driveway and parking/delivery area at the rear of the building.*

This approval is subject to the following conditions:

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

Planner's Update

Richard Lewis indicated that the Planning Board is getting ready to begin an update to the Master Plan. He indicated that Jim Aberg, FBIDC, will be coming in to do a presentation regarding the Comprehensive Community Survey. Mr. Lewis indicated it would be the same presentation he gave to the City Council. He also stated he is going to ask Todd Workman to do a presentation on the Charrette he has been doing on downtown. He stated once they decide when the presentations will be done the other boards and committees will be invited to be present.

Mr. Lewis stated the formal public hearing meetings for the Vision will take place in either February or March.

Other Business

Angela Carey stated in the packets was the schedule for the 2014 meetings. She stated that Member Tully and Member Gagnon are up for reappointment and Ms. Tully was asked if she would like to continue on the board; to which she indicated she would talk to Angie and Richard later regarding this.

Public Comment: None.

Adjournment

MOTION: Member Hodgdon moved and Member Fleckenstein seconded to adjourn the December 4th, 2013 meeting of the Zoning Board of Adjustment, at 7:22 p.m. All were in favor and the motion passed.

Respectfully submitted,

Angela M. Carey
Planning and Zoning Assistant