

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
CITY COUNCIL CHAMBERS- CITY HALL
Wednesday, September 3rd, 2014 at 7:00 p.m.**

MINUTES

Call to Order: The meeting was called to order at 7:10 p.m.

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

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

Absent: Sandra Hodgdon and Donald Gagnon.

Member Weatherbee was seated in place of absent voting Member Donald Gagnon.

- Approval of Minutes: August 6th, 2014 Zoning Board Meeting**

MOTION: Member Fleckenstein moved and Member Johnston seconded to approve the minutes of the August 6th, 2014 Zoning Board regular meeting. All were in favor and the motion passed.

Old Business: None.

New Business

- Z14-07:** Vernie H. Bladecki and Beth A. Bladecki, Owner, request a variance to expand the paved parking display area into the residential zoned area of the property located at 835 Central Street, Tax Map/Lot # 147-403-00, RS Zone (Single- Family Residential District) and B-1 Zone (Low-Density Business and Commercial District).

Vern Bladecki was present to speak.

Chair Tully stated that a full board is five members and four members were present this evening. She asked if Mr. Bladecki would like to proceed or wait for a full board. Mr. Bladecki stated he would like to proceed.

Mr. Bladecki stated that half of the lot is commercial and half of the lot is residential. The dealership is currently solely in the commercial zone. The area of land in the residential zone is 57,000 square feet and he is requesting to use 18,000 square feet, which will be paved for a new display area. The area will blend into the commercial zone as one, favoring the commercial zone. The area behind the newly paved display area, in the residential zone, will stay forest. The maximum use is ½ of the residential area deep, depending on the survey. He stated a third of the residential area will be paved for the display area. He stated all the abutters are commercial properties except the residential multi-family behind them. It was indicated that the Feuerstein property which abuts this property to the west is also a residential property.

Mr. Bladecki stated he is trying to make the lot better, as it is crowded now.

Member Fleckenstein asked if 7,000 square feet would be paved. Mr. Bladecki stated that no more than 18,000 square feet would be paved. He stated that 7,000 square feet is the area that will be used, as the vehicles will be spaced out nicely. Once the property is surveyed, if he has to use the “if needed space” (as marked on the plan), at least the board has already approved it and they don’t need to come back to the board.

Member Johnston asked Mr. Bladecki if the amount he is requesting to pave is not more than 18,000 square feet and Mr. Bladecki stated that was right and this would be the maximum amount of pavement.

Chair Tully asked if the current commercial area is all paved now and Mr. Bladecki stated the current paving stops 27' feet short of the commercial/residential boundary line.

Richard Lewis stated that as is outlined in the memo, the applicant has to go to the Planning Board for Site Plan approval and a Special Use Permit. There is an overlap between the approval of the Planning Board and the Zoning Board. The language in the memo and the conditions and requirements takes this into account.

Mr. Bladecki stated he wanted to make sure that he received Zoning Board approval before spending the money to have a survey done and that if the board had changes, he would have to do a secondary survey and this would also be very costly.

Richard Lewis asked if the maximum was 18,000 feet or 160' in distance and Mr. Bladecki stated the maximum is 18,000 square feet of added pavement for parking of display vehicles.

Richard Lewis stated it is not uncommon for an applicant to come to the Zoning Board first, without a surveyed plan, get their approval then have the property surveyed and apply to the Planning Board.

Member Johnston asked if this approval would set precedence. Mr. Lewis stated that due to the size of the Family Dollar Store, they did not need to utilize the back residential land and are looking at subdividing and selling the back land to abutters. The CVS was able to fit everything into the commercial zone as well. Most large businesses do not want the hassle of having to come before the Zoning Board as the Zoning Board approval is less certain than Planning Board approval, especially if you stay within the parameters and guidelines of the regulations, then you are pretty much guaranteed Planning Board approval. He stated he has thought about changing the zoning lines in this zone, as the lines intersect the lots instead of following the lot lines.

Public Comment: None.

Board Discussion

Member Johnston stated that he assumes the abutters were all notified. Richard Lewis stated they were.

Chair Tully asked if the actual location of the paved area would be determined by the Planning Board and Mr. Lewis stated that it would be.

Member Fleckenstein asked if a condition about the paving only utilizing 18,000 square feet should be added to the conditions and it was stated that it should be. It was indicated the wording of the new condition would read:

Per the representation by the applicant the proposed parking area shall not exceed 18,000 square feet and shall be located as shown on the plan submitted subject to any further conditions or restrictions outlined above.

Motion: Member Fleckenstein moved and Member Johnston seconded that the Zoning Board of Adjustment approve the Variance application request of Vernie and Beth Bladecki (Certified Motors), Owners, from Zoning Section 305-13, Permitted Uses, Special Exceptions and Special Use Permits and from Zoning Section 305-20.F, Parking specifications, to extend the parking into the RS Zone (Single Family Residential District). The property is located at 835 Central Street, Tax Map/Lot # 147-403-00, B-1 Zone (Low-Density Business and Commercial District) and RS Zone (Single Family Residential District). The Board finds that the application request meets the tests and criteria necessary for the granting of the Variance as spelled out in the draft decision to approve which have been reviewed and approved, including the modification of the added condition, by the Board.

All were in favor and the motion passed.

Decisions of Approval

The Zoning Board of Adjustment approved the Variance application requests of **Z14-07**, for Vernie and Beth Bladecki (Certified Motors), Owners, from Zoning Section 305-13, Permitted Uses, Special Exceptions and Special Use Permits and from Zoning Section 305-20.F, Parking specifications, to extend the parking into the RS Zone (Single Family Residential District). The property is located at 835 Central Street, Tax Map/Lot # 147-403-00, B-1 Zone (Low-Density Business and Commercial District) and RS Zone (Single Family Residential District). 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 property is surrounded by other business/commercial properties, with the rear abutter being a multi-family (business) housing lot. The only residential lot is located to the westerly side of this lot, where the residential structure is located in the B-1 zoning district and the rear portion of the lot is undeveloped.
2. Substantial Justice is done due to the fact that the approval will not adversely impact any single family home property owners.
3. The values of the Surrounding Properties are not diminished due to the facts that: the parking area can be developed with appropriate buffering to protect the integrity of the abutting properties; the amount of residentially zoned land on the abutting lot with the residential structure is very minor; and this residentially zoned lot already abuts a significant area of the existing parking area on the applicants parcel.
4. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

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. The residential area of the subject lot would be considered unusable as there is no access to this portion of the lot. Also, the ordinance was created to protect single family homes from the extensive uses of businesses located near them. The frontage for the subject lot is zoned business, and the lot is surrounded by other business or multi-family lots that will not be adversely affected by the addition of the parking.

The Variance is subject to the following conditions:

1. The applicant must receive Site Plan approval and a Special Use Permit [SUP] from the Planning Board prior to the expansion of the parking area for the motor vehicle oriented use.
2. The consideration of the SUP will, as outlined in the Zoning Ordinance, take into account critical design issues such as impacts to the surrounding neighborhood and limits on the allowed lighting of developed areas.
3. The parking area can be located as close as 10-feet from the lot line if the Planning Board finds that the design will include proper and adequate screening and buffering for the abutting apartment complex and the walkway. This screening and buffering may include some combination of fencing and vegetation.
4. The Site Plan review process will take into account the proper management of storm water from the newly paved parking area.
5. The applicant shall submit a formal survey and engineered plan as part of the Site Plan and SUP applications.
6. If the owner of the subject lot wishes to expand the parking area in the future, the applicant must reapply to the Zoning Board of Adjustment for a new Variance.

7. Per the representation by the applicant the proposed parking area shall not exceed 18,000 square feet and shall be located as shown on the plan submitted subject to any further conditions or restrictions outlined above.
 8. The applicant shall obtain all other permits as required by City departments.
- **Z14-08:** Donald W. Cloutier Revocable Trust and Shirley A. Cloutier Revocable Trust, Owners, request a variance allowing a lot to be subdivided with only 65.54' of frontage on a Class V roadway, leaving 435.56' of frontage on a Class VI roadway. The frontage requirements are 200' of frontage on a City Maintained and Accepted Street. The property is located at 50 Sand Hill Road, Tax Map/Lot # 016-002-00, LP Zone (Lake Protection District).

Donald Cloutier was present to speak.

Chair Tully stated that a full board is five members and four members were present this evening. She asked if Mr. Cloutier would like to proceed or wait for a full board. Mr. Cloutier stated he would like to proceed.

Mr. Cloutier stated that he is a seasonal resident and he bought the property four years ago. He stated his grandson has put a deposit on another piece of property and the realtor had taken the money, which has since been returned to him, but that he had purchased the property for his grandson, who in turn would pay him off after being reimbursed. Since then, his grandson has applied for a loan; however, due to his financial situation over the last few years, like many others, the bank has indicated they wouldn't approve the loan for the total acreage, thus they are looking to subdivide, so that his grandson will receive bank approval and can purchase the front piece with the home.

The property was vacant, the back portion of the land has been used for years for dumping and the home was vandalized with the copper piping having been removed. By subdividing, they can sell the back portion of the land for a home, thus deterring future dumping and vandalism of the lot. The owner is looking into putting up a fence.

The brook runs on both sides of the property. By allowing the current house to have the necessary frontage, that leaves 65' of frontage for the back lot, where 200' is required, thus the variance is requested. The property will continue as single family residential property. An unofficial turnaround exists and a hammerhead would be put in after the subdivision is approved.

Richard Lewis stated that after the gate, the roadway drops off quite a bit. To upgrade this roadway would be very costly.

There use to be a bridge further down on the road, but that has been removed.

Member Fleckenstein asked if the City uses the turnaround and Mr. Cloutier stated they do, for maintenance of the road and trash pick up. He stated he is proposing a half hammer head.

The surveyor, Brian Crockett, stated this is a pretty straight forward application, and at the edge of the gate the roadway is too steep to improve.

Public Comment: None.

Board Discussion

Member Johnston asked if the land where the hammerhead is located is also owned by the applicant and it was indicated that it is.

Motion: Member Fleckenstein moved and Member Johnston seconded that the Zoning Board of Adjustment approve the Variance application request of Donald and Shirley Cloutier (Revocable Trust), Owners, from Zoning Section 305-13 to allow the creation of a new lot without the required frontage on a Class 5 Roadway. The property is located at 50 Sand Hill

Road, Tax Map/Lot # 016-002-00, LP Zone (Lake Protection District). The Board finds that the application request meets the tests and criteria necessary for the granting of the Variance as spelled out in the draft decisions to approve which have been reviewed and approved, with conditions, by the Board.

All were in favor.

Decisions of Approval

I move that the Zoning Board of Adjustment approve the Variance application requests of Donald and Shirley Cloutier (Revocable Trust), Owners, from Zoning Section 305-13 to allow the creation of a new lot without the required frontage on a Class 5 Roadway. The property is located at 50 Sand Hill Road, Tax Map/Lot # 016-002-00, LP Zone (Lake Protection District). 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 property will remain single family. The only concern of the board is access for emergency vehicles and any protective measures required by the Fire Department will ensure adequate access to the site during an emergency.
2. Substantial Justice is done due to the fact that the approval will not adversely impact any single family home property owners.
3. The values of the Surrounding Properties are not diminished due to the fact that the use is that of a single family home, which fits the area, adds value to the city tax records, and is an allowed use in this zoning district.
4. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

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. The property is special in that there are not many lots in the Lake Protection District that are this size, and this is a reasonable use of the property, to allow a subdivision to create a new lot and the building of a new single family home.

The Variance is subject to the following conditions:

1. The applicant must receive Subdivision approval from the Planning Board.
2. If required by the Fire Department, the applicant must record a Waiver of Municipal Liability at Merrimack County Registry of Deeds prior to the building permit being issued.
3. After receiving approval from the Planning Board and prior to building, all permits must be pulled for the new home.

Planner's Update

Richard Lewis stated that due to the office being very busy, the updates to the Master Plan have halted. The building permits for single family homes have been really picking up, with new homes proposed on Sky Meadow Lane, Dumont's subdivision, Gile Road, and Hampshire Drive. Chair Tully stated that Real Estate is really picking up to.

Other Business:

Member Johnston stated that he read the article that Mr. Lewis had in the Concord Monitor. Richard Lewis stated that this is a collaborative application with the City and the Hospital and Senior Health Related organizations. He stated the goal is to look at a positive solution to the elderly housing. A presentation was done by Merrimack County Nursing Home on the same type of effort. The collaboration includes keeping the seniors active.

Angie Carey stated the TRIPP Center is doing the tenant fit-up at Rowell Community Center and will be moving in there soon. The upgrades include egress, windows and upgrades to the ventilation system. Chair Tully stated that this then opens up more business space downtown, on Canal Street.

Public Comment: None.

Adjournment

MOTION: Member Johnston moved and Member Fleckenstein seconded to adjourn the September 3rd, 2014 meeting of the Zoning Board of Adjustment, at 7:55 p.m. All were in favor and the motion passed.

Respectfully submitted,

Angela M. Carey
Planning and Zoning Assistant