

Official

**HOOKSETT ZONING BOARD OF ADJUSTMENT
MINUTES
Tuesday, January 12, 2010
HOOKSETT MUNICIPAL BUILDING
35 Main Street**

CALL TO ORDER

Chairman C. Pearson called the meeting to order at 7:04 pm.

INTRODUCTION OF THE BOARD

Chairman Chris Pearson, Roger Duhaime, Richard Bairam, James Levesque, Gerald Hyde, Alternate Don Pare and Town Council Rep. James Gorton.

APPROVAL OF MINUTES

December 8, 2009

*R. Bairam motioned to approve the minutes. Seconded by R. Duhaime.
Vote unanimously in favor.*

APPEAL OF ZONING BOARD DECISION

CROWN COMMUNICATION, 210 Whitehall Road

An appeal of the Zoning Board of Adjustment's decision to deny the Special Exception as specified in Article 11, Section B.2 to install a wireless communication facility in the Industrial Zone. No ruling was made on the Variance request from Article 28, Section O.5:a which requires a front, side and rear yard setback equal to the height of the tower. The proposal is to construct a 150-foot monopole tower. The center of the tower is a greater distance than the height of the tower from the front and rear yards, but is 113.67 feet from the side yard to the east property line.

C. Pearson: The Board unanimously approved the first four (4) criteria. The fifth (5th) criteria was approved 3-2. The final approval was subsequently denied by a vote of 2-3. There was no decision on the Variance because the Board felt it was a moot point. The denial was based criteria five (5) although J. Levesque had voted in favor of criteria five.

*R. Bairam motioned to grant a rehearing. Seconded by G. Hyde.
This rehearing will include action on the Variance.
Vote unanimously in favor.*

Next schedule meeting is Feb. 16th, 2010 at 7:00 pm.

CONTINUED PUBLIC HEARINGS

PETERBROOK MOTEL

1373-1375 HOOKSETT ROAD

Map 18A, Lot 34 and 33

A request for a Variance from Article 10-A: Section E to redevelop the property using a mixed-use approach consisting of general office and retail space along the Route 3 corridor, along with twelve (12 apartment-style residential units) located in three (3) relocated and reconfigured buildings to the rear of the parcel.

Ari Pollack, representing 1373 Hooksett Road LLC

Also present: Paul Morin, Tarpa Homes and Jim Tenn, owner.

At a joint meeting of the Planning and Zoning Boards, we were directed to apply for a variance from Article 10-A rather than Article 26. We request that the minutes of that meeting be incorporated into this meeting and be made part of the record.

C. Pearson requested a brief overview of the proposal and then the criteria

A. Pollack: The property is across from Auto mania and adjacent to single and multi family residents including a neighboring motel. Most recently, this property was used as multi family and a motel. The apartments are scattered across the site. The septic is in failure and the property is bordered up and is under a “Cease and Desist Order”. To bring the property back to code is cost prohibitive. Our plan is to raise the buildings and clear the eyesore. The plan offers a performance style commercial building with 3 residential units in the rear. The conceptual plan is for three (3) buildings and the specifics of the layout would be worked out at the Planning Board level. We are looking for 12 units in some configuration.

Variance elements

- Diminution in property value - Any rehabilitation will improve surrounding property values. The existing conditions are deplorable. If the buildings are repaired to code, it will not improve the neighborhood.
- Public Interest – Nothing is advanced if the dilapidated buildings remain. To give an applicant the flexibility to bring forth a combination of development is only an improvement and in the spirit if the ordinance.
- Hardship – The uses permitted are simply economically unattainable. An in-kind replacement does nothing to advance the district. We have had parties contact us and there are no buyers for the area without some residential to balance the commercial.

C. Pearson asked for documentation to that supported the statement.

P. Morin: I am unaware of any specific documentation but they have been brought to the property and walked the property and were told this was unattainable. If this was a vacant piece, it could sit until the market improved. This has a time clock attached for repairs. I have had models for different scenarios and the only one that came up was some limited

residential behind the commercial. It is not documented but I did run the numbers and advised my client based on those numbers.

C. Pearson: If we are going to look at the hardship, it would be a benefit to see those numbers.

P. Morin: All the reclamation costs must be divided by the number of units you will build. I applied to do the minimum work to get those buildings, however, his understanding of the building code did not allow the application to go forward. We then looked at new construction, and that is where we are now. I don't have anything document because it is a moving target but what we have now is what will work.

A. Pollack: We don't have that type of information because we didn't know what was going to happen. We are not opposed to providing information, but we didn't want to throw things at you.

C. Pearson: You said it is not viable to market the property as is and we should be able to see that.

A. Pollack:

- Not causing injury to the right of others and substantial justice. This property needs an upgrade whether by variance or otherwise, it needs to be upgrade to bring this commercial property forward. I can't think of any reason why the neighbors would not embrace this.
The essence is to turn the dilapidated into the productive. There are permitted and not permitted and there is criteria with that but the ordinance is to make things better and orderly. We are asking for the flexibility that is discussed in the Performance Zone with land use control. We are happy to answer any questions.

C. Pearson: 6900 square footage is grandfathered. What is the difference between what you have and what you want?

A. Pollack: This is not set in stone. We don't have exact numbers. We want 12 units. Back several years ago, this property had 20 something units and this has gone down as the town deemed units as abandoned. There are eight (8) units preserved and that time line has been extended due to this application.

C. Pearson: We need to know the square footage of the units.

P. Morin: There is a great expense to engineering and we will work with the Planning Board.

P. Morin: I believe the units are all one (1) bedroom units and modest in size. We will not do two (2) bedroom units. We are talking about minimal footprints and we want to accommodate parking. If you are too specific in this variance, it will be difficult to work with the Planning Board.

R. Duhaime: We need to know the specifics because you are looking for something that is not allowed in this zone.

C. Pearson: You want expansion of use. We need to understand what the expansion is.

A. Pollack: This is the problem with focusing on the Non-conforming use. We want to expand the non-conforming use that was legal. We want to make the recognized eight (8) units into 12 and we can come up with the average square footage proposed and the number of bedrooms.

R. Duhaime: We don't want engineering plans but we want to know what we are approving.

A. Pollack: I can give you an estimate on the high side.

C. Pearson: We want this done properly.

R. Duhaime: With the spirit of the ordinance is the Commercial, so we want some detail on the commercial building.

P. Morin: The Commercial building is by right and we can't present that because the reason residential is needed is to support the commercial. We don't know what the commercial will be, it could be a car dealership or it could be retail.

C. Pearson: We understand the Planning Boards desire to develop commercial and we need to know when that will happen and the two need to go hand in hand.

P. Morin: The Variance and the Site Plan preserve that developable area and in the right time it preserves that area for the right development.

A. Pollack: We can get the developers best guess of what is possible and something that allows us to get through the planning cycle.

D. Pare: Did you get a renovation permit?

P. Morin: My application was denied.

P. Rowell: There were no egress windows; no ground faults and they are electrically heated buildings. I go by the building code and the fire department had input as well.

P. Morin: The Water Department wanted all the water mains put in. The cost began to approach new construction. If that is the case in a building that is poorly situated on the site and constricts the developable area for commercial, then it made no sense.

G. Hyde: They want a Use Variance to the Performance Zone. We are making a decision on residential?

A. Pollack: There is confusion on the two (2) applications. We were told to go away from expansion of non-conforming use and apply for a Use Variance under Article 10-A. We want residential in a zone that only allows commercial. We want permission for a residential component.

We are not asking to expand the non-conforming use. We are here to say we don't want to expand what is there. We want a Use Variance in a more modern configuration. We are putting 12000 square feet in a zone that doesn't allow residential.

P. Rowell: There are density requirement and limits of impervious area. The PZ has many trade offs.

C. Pearson: I have no problem granting mixed use, but when you say 12 units, I have difficulty.

P. Morin: If we say the average of the units there is 1000 square feet, then that is workable. These are one- (1) bedroom units and the site has some two (2) bedroom units.

A. Pollack: If we don't have a specific number, we may be required to go back to the 8. We can now state 12 units not to exceed 1200 square feet each and we will still meet all the Planning Board requirements.

R. Duhaime: To meet the spirit of the ordinance, there must be some commercial development. I want to know what size the commercial building will be to balance the residential. It must meet the spirit of the ordinance.

P. Morin: The most telling number is footprint and the footprint will not be even close to double and then you take out all the existing buildings that are not being used.

P. Rowell: They gave us the size of the commercial inadvertently with the parking.

R. Duhaime: I don't want the residential to outweigh the commercial.

G. Hyde: The purpose of this debate is for the ZBA to say to the Planning Board, this is a good idea and these are the reasons we are granting it. If we just grant the use, they can limit you anyway they want. If an official board states "x" amount of residential and "x" amount of commercial, that will give the applicant the best chance of getting what they want from the Planning Board.

A. Pollack: We will back into the size requirements for the commercial based on what we need for parking and landscaping, etc.

R. Duhaime: I want to make sure that at least half of that property will be in commercial development rather than residential.

P. Morin: The value of this property is to develop commercially, preserving the maximum commercial potential and developing the minimum residential to justify the reclamation of this property. We don't want to be tied too tight. We understand you are trying to do this right. We want some flexibility to go forward and the Planning Board needs that flexibility so their goals can be met. If you want to approve no more than 14,000 sf and no more than 12 units, that's entirely up to you, but that is the relief we are looking for to make it marketable for phase II.

C. Pearson: I don't want our board to tell you what to build. We want you to give us the footprint of residential and the total available commercial space.

P. Morin: We can provide you with a couple of scenarios.

J. Levesque: We are talking about doubling the living space and residential with no guarantee that this commercial will get built.

P. Morin: This is creating the potential for what you really want. You have given this property and this corridor the best opportunity for this to happen.

J. Levesque: I would like to see something that protects the town, like phasing. The Board could allow only the first two residential buildings to be built and require the commercial piece built prior to the completion of the third residential building. This would guarantee that the commercial gets built.

R. Bairam: I'm not comfortable with doubling the residential.

C. Pearson: That is why I want a footprint because they may be reducing the impact with a two-story.

P. Morin: We have water and sewer available. Proper configuration of this site allows for a promise of future potential. This has a market potential.

G. Hyde: I'm fine having just residential.

Open Public Hearing:

Abutter: I don't have anything against the unit and this is better than what we have but I don't want a gas station built there. If they build something there, I would like a fence around there that looks nice and all the stuff stays on their side.

C. Pearson: The following addition information is requested:

Evidence that the present property is not marketable as is.

Dimensions of the proposed residential and commercial buildings

A timeline for the development of the commercial piece.

CHARLES & DEBORAH HOLT Withdrawn

313 Londonderry Turnpike, Map 25, Lot 39 and 39-1

A Variance from Article 5, Section A to allow a 9,000 s.f. single-story office building with 45 parking spaces to be constructed in a medium density residential district.

ADJOURNMENT

Chairman Pearson declared the meeting adjourned at 9:30 pm.

Respectfully submitted,

Lee Ann Moynihan
Zoning Board Secretary