

TOWN OF JAFFREY
Jaffrey, New Hampshire

BOARD OF ADJUSTMENT
Meeting Minutes
June 1, 2010

Present: Chairman Sawyer, Members, Campbell, Dodge, DuMont, Webber

Absent: Member Belletete

Staff: Recording Secretary Lemire, Building Inspector Baron

MEETING MINUTES APPROVAL

On a motion by DuMont, seconded by Webber, the minutes for the May 4, 2010 meeting were approved as submitted. (4-0)

PUBLIC HEARING

Chairman Sawyer called the public hearing to order at 7:30 p.m. The rules of procedure were read aloud. Notice of hearing for case No. ZBA 10-04 and ZBA 10-07 as advertised in the *Monadnock Ledger-Transcript*; copies were posted in the Town Office building and the Library; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen; and notice of hearing was sent by certified mail to all abutters whose names were provided by the applicants.

Public Hearing - New Items

1. ZBA 10-04; Jaffrey Professional Realty Co.; 123 Main St., Map 238 / Lot 105; Zone Residence A (with town water)

Variance - The applicant proposes the expansion of a non-conforming use to include a new building. (Zoning Ordinance, Section XI, 11.1.2)

Presentation: Attorney David Tower

Appearance: Dr's. Marilyn Acker and Zane Broome

On a motion by DuMont, seconded by Dodge the board determined that the application was not one of regional impact. (5-0)

Attorney Tower stated that the property received a variance in 1986 for the existing building. The parcel is 3.67 acres and in spite of the wetlands to the rear of the property the proposed building will meet all setbacks. There is more than adequate parking and the existing driveway will be used. Up to this point the building has been shared by the dental office and the optometrist's office however due to growth in both the number of employees and the number of patients it has become evident that more space is needed. If the proposed 3,000 sf, single story building is approved Dr. Acker will move into the new building and the dental office will expand into the vacated area.

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While reviewing the variance criteria Attorney Tower pointed out that the area is very much a mixed use neighborhood that includes the ambulance garage, a music store and the public utility station. In defense of the issue that the proposal will not diminish surrounding property values a letter of opinion was submitted by Realtor, Marc Tieger. Attorney Tower pointed out that the landscaping is meticulously maintained and the property is kept in a very attractive and well kept manner. The present screening will preserve and continue to make the property attractive. Attorney Tower feels the proposal is in the best interest of not only the community but the town. Both practices have served the community and surrounding towns for many years. As for hardship, Attorney Tower stated that the purpose of the prohibition against expansion of non-conforming uses in the absence of a variance is to protect surrounding properties from development of incompatible uses. In this case, the property is already used for professional offices. Placement of the building on the lot is somewhat limited because of the wetlands. Another requirement is proving that granting the variance will do substantial justice. Attorney Tower believes granting the variance will be consistent with what the board found in 1986. It will not adversely affect any surrounding property and it will not be contrary to the spirit of the ordinance because the surrounding uses are compatible. Copies of the elevation were distributed. Attorney Tower spoke about case history (Town of New London) for non-conforming uses.

Dr. Acker addressed the board stating that since 1986 she has doubled the amount of space needed and would like to double it again. Her practice has outgrown her present office space in part due to more employees and more equipment such as computers, copiers and fax machines.

Dr. Broome addressed the board with much of the same sentiment. The dental office is in need of more space and the space Dr. Acker's practice would leave would be ideal; especially because it is on the first floor making it handicap accessible.

Member Dodge asked if approved, would there be any renovations to the existing building. Dr. Broome replied yes.

Member Campbell asked if use of the second floor would be discontinued. Dr. Broome replied unfortunately not. Although he would like to have everyone on the same floor he would need a much larger building to do that.

Member Campbell asked Attorney Tower if there was any recent case history on expanding a non-conforming use. Attorney Tower mentioned that the case spoken of earlier is not new. He also stated that the trend in the law on these cases recently has shown some relaxation. The courts have clearly said that they will not stop people from growing their business.

On a motion by Dodge, seconded by DuMont the board waived the site visit. (5-0)

There being no further comments, Chairman Sawyer closed the public hearing for this item.

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2. ZBA 10-07; Sieczkowski, Andrew & Deborah; 13 Parent St., Map 238 / Lot 206.2; Zone Residence A (with town water)

Variance - The applicant proposes to construct a shed with less than the required setback. (Zoning Ordinance, Section V, 5.1)

Presentation: Andrew Sieczkowski

Appearance:

Mr. Sieczkowski stated that they would like to replace a non-conforming, dilapidated shed on their property. The existing 12 x 12 shed is located behind the house and sits on the rear property line. The proposed 12 x 14 shed would be placed at the end of the driveway. The proposed shed would also be non-conforming with an eight foot rear setback and a twenty-five foot side setback. Setbacks for this area are thirty feet for both side and rear. The property behind the residence is owned by the town and there is one abutter to the side.

Member Webber commented that the board has been to this property previously.

On a motion by Dodge, seconded by DuMont the board waived the site visit. (5-0)

There being no further comments, Chairman Sawyer closed the public hearing for this item.

Public Hearing - Continued Items

None

DECISION

1. ZBA 10-04; Jaffrey Professional Realty Co.; 123 Main St., Map 238 / Lot 105; Zone Residence A (with town water)

Variance - The applicant proposes the expansion of a non-conforming use to include a new building. (Zoning Ordinance, Section XI, 11.1.2)

On a motion by Dodge, seconded by DuMont the application proposing the expansion of a non-conforming use to include a new building was granted as submitted and per testimony given. (5-0)

2. ZBA 10-07; Sieczkowski, Andrew & Deborah; 13 Parent St., Map 238 / Lot 206.2; Zone Residence A (with town water)

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Variance - The applicant proposes to construct a shed with less than the required setback. (Zoning Ordinance, Section V, 5.1)

On a motion by Webber, seconded by Dodge the application proposing to construct a shed with less than the required rear and side setback was granted as submitted and per testimony given. (5-0)

OTHER BUSINESS

ADJOURNMENT

The meeting adjourned at 8:08 p.m.

Submitted:

Erlene R. Lemire
Recording Secretary

Attest:

Lee A. Sawyer
Chairman,
Jaffrey Zoning Board of Adjustment

Decisions of the Zoning Board of Adjustment are subject to a 30-day appeal period for rehearing.