



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

Memorandum

Date: March 22, 2016

To: Fran L'Heureux, Chair, & Members, Zoning Board of Adjustment

From: Jillian M. Harris, AICP, Planning & Zoning Administrator

Subject: **Bernstein, Shur, Sawyer & Nelson, PA. (petitioner) and 427 DW Highway, LLC. (owner)** – Variance under Section 3.02 to permit the creation of a third dwelling unit in an existing detached garage on a property with 15,200 square feet whereas 120,000 square feet is required. The parcel is located at 427 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation, Elderly and Town Center Overlay Districts. Tax Map 5D-4, Lot 76. Case #2016-011.

The following information is provided to aid in your consideration of the above referenced case. Additional background and application materials are included in your packet.

Background:

This case is continued from the February 24, 2016 ZBA Meeting. The subject property is an approximately 0.35 acre lot located at 427 D.W. Highway. The property lies within the C-2 (General Commercial) District, and Elderly, Town Center and Aquifer Conservation Overlay Districts. The property is abutted by a multi-family residential building to the Northwest, Rivet's Funeral Home to the Southeast, and vacant land to the North/rear as well as across the street from the Prime Gas Station. The parcel is currently serviced by MVD water and municipal sewer.

The petitioner seeks a variance under Section 3.02 to permit the creation of a third dwelling unit in the existing detached garage on a property with 15,200 square feet whereas 120,000 square feet is required (40,000 sq.ft. per dwelling unit).

The Board may recall that the applicant received a variance in March 2015 (Case #2015-09) to construct a 24' x 36' three car garage 2.3 feet from the side property line whereas 15 feet is required and 5 feet from the rear property line whereas 40 feet is required. The applicant also received a variance in August 2015 (Case #2015-30) to permit the construction of a farmers porch 21.80 ft. from the front property line whereas 30 ft. is required and again in November 2015 (Case #2015-44) to permit the construction of an additional 24'x32' two car garage 2.3 feet from the side property line whereas 15 feet is required.

Standard of Review:

It is the burden of the petitioner to demonstrate that the five criteria for the granting of a variance from Section 3.02 of the Zoning Ordinance have been met. Granting the variance will allow the petitioner to present a site plan to the Planning Board with a lot consisting of less than the required amount of lot area, side and rear setbacks.

Staff recommends, should the Board vote to grant the variance, it is granted with the following condition:

- The applicant shall obtain site plan approval from the Planning Board for the proposed multi-family residence.

cc: Correspondence & Zoning Board File
ec: Gregory Michael, Esq., Bernstein-Shur
Mark Rivet, 427 DW Highway, owner
Carol Miner and Fred Kelley, Building Department
John Manuele, Fire Marshal