



Town of Merrimack, New Hampshire

Community Development Department

603 424-3531

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Town Hall - Lower level - East Wing

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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: Timothy J. Thompson, AICP, Community Development Director

Subject: **Fieldstone Land Consultants, PLLC. and College Bound Movers (petitioners) and Sam A. Tamposi, Harold Watson and Benjamin & Clegg Bosowski (owners)**
– Variance under Section 3.02 of the Zoning Ordinance to permit the construction of a 4,800 square foot building addition with a front setback of 39 feet whereas 50 feet is required. The parcel is located at 14 Continental Boulevard in the I-1 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lot 089. Case #2016-013.

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:

The subject property is located at 14 Continental Boulevard in the I-1 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. The subject parcel, 3C/89, is currently occupied by Mears Construction (Unit 2 of the building) and College Bound Movers (which recently received administrative approval from the Community Development Department to occupy Unit 1 of the building). The surrounding area is made up of a mix of commercial and industrial uses along Continental Blvd. The property is served by municipal water (MVD) and sewer.

The petitioner was before the Board on February 24, 2016 for a variance to construct a 3,000 square foot addition within the front setback (see attached memo and minutes from the previous petition). Following approval of that variance, the petitioner has modified the plan, and is now calling for a 4,800 square foot addition instead of the 3,000 square foot addition (the revised plan also calls for internal modifications to the interior of the facility, however that work does not require any action from the ZBA).

Standard of Review:

It is the burden of the Petitioner to demonstrate that the five requirements for the granting of the Variance under Section 3.02 of the Zoning Ordinance to permit the construction of a 4,800 square foot building addition with a front setback of 39 feet whereas 50 feet is required have been met.

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

- The petitioner shall obtain Site Plan approval for the proposed project from the Planning Board.

cc: Correspondence & Zoning Board File

ec: Edward Smith, College Bound Movers, Petitioner
Sam A. Tamposi, Harold Watson and Benjamin & Clegg Bosowski, Owners
Chad Branon, Fieldstone Land Consultants
Building Department Staff
Robert Best, Chair, Planning Board

1 **7. Fieldstone Land Consultants, PLLC. and College Bound Movers (petitioners)**
2 **and Sam A. Tamposi, Harold Watson and Benjamin & Clegg Bosowski**
3 **(owners) - Variance under Section 3.02 of the Zoning Ordinance to permit the**
4 **construction of a 3,000 square foot building addition with a front setback of 39 feet**
5 **whereas 50 feet is required. The parcel is located at 14 Continental Boulevard in the**
6 **I-1 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area.**
7 **Tax Map 3C, Lot 089. Case #2016-010.**

8 This agenda item was taken up after agenda item #8.

9 Chris Guida, Wetland and Soil Scientist, Fieldstone Land Consultants, PLLC, said the
10 applicant wants to build a 3,000 square foot addition to the front of Unit 1 within the front
11 setback to house administrative office space associated with the moving and storage
12 business.

13 Chris Guida read the statutory criteria into the record.

14 As to #3, substantial justice, Richard Conescu asked how the project would add to the
15 Town's tax base, since someone is paying taxes on it now. Chris Guida replied there
16 would probably be a tax adjustment for the building overall. Patrick Dwyer said that is
17 not substantial justice.

18 Fran L'Heureux asked if the facility is rented. Chris Guida stated that he believed the
19 applicant is in the process of buying the building.

20 Fran L'Heureux asked whether pods or trailers would be stacked outside that would
21 attract break-ins. Chris Guida said there would be pods, but he is not sure how they
22 would be managed. Most would be indoors, where the current warehouse space is.
23 Jillian Harris explained that it was her understanding storage would be inside. The
24 applicant did not specify whether there would be pods outdoors, but it would be on the
25 site plan.

26 Chris Guida explained there is no office space available. The warehouse is needed for
27 operations. The addition would be identical to the addition on Unit 2, with a walkway
28 and spaces for the handicapped.

29 There was no public comment.

30 Patrick Dwyer said it is a good idea and the symmetry looks good.

31 **The Board voted 5-0-0 to grant the Variance, with the condition that the petitioner**
32 **shall obtain site plan approval for the proposed addition from the Planning Board,**
33 **on a motion made by Patrick Dwyer and seconded by Richard Conescu.**

34 **Findings of Fact**

35 1. The granting of the variance would not be contrary to the public interest because
36 it would allow for the productive use of the existing property and allow for
37 responsible and reasonable development and expansion. The proposed addition
38 would enhance the visual appearance from the street and be consistent with the
39 office space that currently exists in front of Unit 2 and with the surrounding

1 properties. It would substantially improve the aesthetics of the parcel and the
2 surroundings. The proposal would not alter the essential character of the
3 neighborhood nor threaten the health, safety or general welfare of the public;

4 2. The spirit of the Ordinance is observed because the proposal is consistent with
5 the surroundings and with what currently exists on site and would substantially
6 improve the aesthetics of the parcel. It would enhance visual appearance from
7 the street and be consistent with the office space that currently exists in Unit 2.
8 The use is permitted in the zoning district. The addition is consistent with
9 existing development on the parcel and in this area of Merrimack. There is
10 adequate space on the properties to support this development. The proposal
11 would not alter the essential character of the neighborhood nor threaten the
12 health, safety or general welfare of the public;

13 3. Granting this variance would do substantial justice because it would allow a local
14 business to grow and address an increasing demand. The applicant wants to
15 grow in this location, considering its proximity to the highway. There would be no
16 negative impacts to the neighborhood, since the property has always been
17 occupied by a commercial or industrial use, which is consistent with its
18 surroundings. It would have no negative impacts on local services and would
19 increase the Town's tax base. Granting the variance would allow for the
20 productive use of the property while providing responsible growth in the
21 community;

22 4. The values of the surrounding properties would not be diminished because Unit 2
23 already has a 3,000 square foot addition. This proposal would provide each unit
24 with office space and provide symmetry and curb appeal from Continental
25 Boulevard. It would improve the property, associated values and local tax base,
26 which is a positive impact on the community. The construction would be
27 consistent with the surrounding uses and is a permitted use in the zoning district.
28 New construction and development often increase the value of surrounding
29 properties, as it would rejuvenate the site and its surroundings;

30 5. A. Owing to special conditions of the property that distinguish it from other
31 properties in the area, denial of the variance would result in unnecessary
32 hardship because:

33 1) No fair and substantial relationship exists between the general public purpose
34 of the Ordinance provision and the specific application of that provision to the
35 property because the proposed addition would enhance the visual
36 appearance from the street. It has been situated to match (mirror) the office
37 that currently exists for Unit 2, which would offer visual symmetry from the
38 street;

39 2) The proposed use is a reasonable one because it meets the spirit and intent
40 of the Ordinance. The proposed development would not alter the essential
41 character of the neighborhood nor threaten the health, safety or general

1 welfare of the public. The project would rejuvenate an existing parcel and
2 substantially improve its aesthetics and those of its surroundings. There is
3 adequate space on the properties to support this redevelopment, which will
4 improve the neighborhood, be consistent with the surroundings and not result
5 in negative impacts to the public.

6 **9. Arthur D. King (petitioner/owner)** - Variance from Section 2.02.1.A.2(a) to permit a
7 home occupation with more than one employee not residing at the premises
8 whereas only one person not residing at the premises is allowed. The parcel is
9 located at 43 Bates Road in the R-2 (Residential) District. Tax Map 3A, Lot 008.
10 Case #2016-12.

11 This agenda item was taken up after agenda item #7.

12 Arthur King, 43 Bates Road, is part of a family-owned construction management firm
13 whose office is in his elderly parents' Nashua home. He wants to build an office/garage
14 on his Bates Road property and move the company there. Most of the work is done
15 offsite; the office is only for design and bidding. The company has two part-time
16 engineers and a part-time secretary.

17 Arthur King read the ordinance criteria into the record.

18 Patrick Dwyer asked how one would go from the home to the garage. Arthur King said
19 there would be two driveways, one of which would go around the garage where there is
20 now a gravel drive. He would not expand the business, although he does hire and train
21 UNH interns.

22 There was no public comment.

23 **The Board voted 5-0-0 to grant the Variance, with the following conditions, on a**
24 **motion made by Richard Conescu and seconded by Patrick Dwyer.**

- 25 1. The petitioner shall obtain Home Occupation approval from the Planning Board;
26 and
- 27 2. Following Planning Board approval of the Home Occupation, the petitioner shall
28 obtain all required permits from the Building Division for both the new
29 garage/office and septic system proposed as part of the project.

30 **Findings of Fact:**

- 31 1. Granting the variance would not be contrary to the public interest because the lot
32 is more than adequately sized to fit the new garage. The new garage area will
33 not cause increased disturbance to abutters due to traffic or appearance. The
34 proposed construction will be for engineering and office work only. No fabrication
35 will be done on site.
- 36 2. The spirit of the ordinance is observed because all other zoning requirements are
37 met. The plot contains adequate land and abutment distances to not disturb the
38 abutters, and the construction is in similar design to the surrounding area, which



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Memorandum

Date: February 17, 2016

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

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Background:

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Following the Administrative Approval for College Bound Movers, the petitioner is now seeking to construct a small 3,000 square foot building addition to the front of Unit 1, to house administrative office space associated with the moving and storage business (see plans and photographs included in the meeting packet). The proposed addition would be essentially identical to the small office addition in front of Mears' Unit 2. The construction of this addition, however, would be located 39 feet from the front property line, whereas 50 feet is required.

Standard of Review:

It is the burden of the Petitioner to demonstrate that the five requirements for the granting of the Variance under Section 3.02 of the Zoning Ordinance to permit the construction of a 3,000 square foot building addition with a front setback of 39 feet whereas 50 feet is required have been met.

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

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Carol Miner and Fred Kelley, Building Department
Robert Best, Chair, Planning Board