



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK ZONING BOARD OF ADJUSTMENT

APPROVED MEETING MINUTES

WEDNESDAY, JANUARY 25, 2017

Members present: Patrick Dwyer, Tony Pellegrino, Richard Conescu and Alternate Leonard Worster.

Members absent: Fran L'Heureux and Lynn Christensen.

Staff present: Planning and Zoning Administrator Jillian Harris and Recording Secretary Zina Jordan.

1. Call to Order

Patrick Dwyer called the meeting to order at 7:00 p.m. and designated Leonard Worster to sit for Fran L'Heureux.

2. Roll Call

Tony Pellegrino led the pledge of allegiance, Richard Conescu read the preamble and Patrick Dwyer swore in members of the public who would be testifying.

3. The Specialists Automotive & Truck NH, LLC. (petitioner) and Bosowski Properties, LLC. (owner) - Special Exception under Section 2.02.3(C)(1) of the Zoning Ordinance to permit the sale and storage of new and used motor vehicles. The parcel is located at 422 Daniel Webster Highway in the C-2 (General Commercial) District, Town Center Overlay and 500-year Flood Hazard area. Tax Map 5D-4, Lot 004. Case # 2017-01.

Dustin Jackson, 422 Daniel Webster Highway, who proposes to supplement the existing automotive service and repair business with low-volume sales and storage of new and used motor vehicles, read the statutory criteria into the record. Low volume refers to 5-7 cars. Most sales are online, so no cars would be put out front. Deliveries come on small trailers. There would be no new employees.

There was no public comment.

The Board voted 4-0-0 to grant the Special Exception, with the condition that the petitioner shall obtain site plan approval from the Planning Board for the proposed use of the site, on a motion made by Richard Conescu and seconded by Tony Pellegrino.

Findings of Fact

1. The specific site is an appropriate location for the proposed use in terms of overall community development because it would provide an additional service to the community the business already serves with no adverse impacts such as additional construction, noise and traffic;

2. The proposed use, as developed, will not adversely affect the neighborhood because the existing location is already home to a vehicle repair business that can accommodate the additional use;
3. There will be no nuisance or serious hazard to vehicles or pedestrians because there are no crosswalks or major foot traffic at the current business. There would be no significant addition to business-generated traffic;
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed uses because the existing repair business property offers adequate storage capacity and has everything needed to add the new service.

5. Franklin Savings Bank (petitioner) and KRG Merrimack Village, LLC. (owner) - Variance under Section 17.10.3(d) of the Zoning Ordinance to permit a second ground sign on a parcel whereas a ground sign already exists. The parcel is located at 1 Dobson Way in the C-2 (General Commercial) and Aquifer Conservation District. Tax Map 4D, Lot 080. Case # 2017-03.

This agenda item was discussed before agenda item #4 because the petition for the setback would be moot if this petition for the additional freestanding sign were denied.

Ron Magoon, President and Chief Operating Officer, Franklin Savings Bank, gave the history of the community bank.

Richard Pilla, Paramount Partners, said the parcel is an undeveloped pad site associated with the adjacent Shaw's Plaza shopping center. The leased parcel fronts on Dobson Way. The project has received Planning Board approval. The applicant proposes to construct a bank building and requests a modest sign that would not overwhelm the building. A pole sign is critical for motorists to identify a new business and make it successful.

Richard Pilla read the statutory criteria into the record.

Jason Hill, Civil Engineer, T.F. Moran, Inc., showed the locations of various abutting signs. The proposed sign would be 80' north of the Shaw's Plaza sign on Camp Sargent Road.

Richard Pilla said the Shaw's pole sign has nothing to do with the bank, which would not have two pole signs. The applicant requests a sign specific to the bank.

There was no public comment.

Leonard Worster characterized the large sign as a directional sign for the complex. It is fair and reasonable for the bank to have a sign to identify its particular business. Richard Conescu said the bank cannot reasonably use the large sign. The proposed sign is really the bank's only sign.

The Board voted 4-0-0 to grant the Variance, with the condition that the applicant obtain the variance requested in Case #2017-02, which would allow the proposed sign to be located within the required setback from the right-of-way, on a motion made by Tony Pellegrino and seconded by Leonard Worster.

Findings of Fact

1. The granting of the variance would not be contrary to the public interest because it would not substantially alter the characteristics of the neighborhood nor threaten public health, safety or welfare;
2. The spirit of the Ordinance is observed because the bank would be a benefit to the community and for the particular location. The building had to be angled because of sight restraints and pushed back to accommodate circulation of fire trucks. The Planning Board did not approve the originally planned curb cut on Camp Sargent Road. Instead there is a second cut on Dobson Way because there is diminished access and visibility on Camp Sargent Road. The bank is over 20' from the roadway, so this sign would be farther back than the one on the abutting property. It would face north-south and conform to requirements;
3. Granting this variance would do substantial justice because there are a number of businesses in the area. There are several post signs at the intersection that block visibility. The proposed sign would be considerably smaller and comply with zoning use. The applicant is leasing the property. The owner placed a ground sign on the parcel to advertise other tenants within the shopping center. That sign is on the same parcel but not on the bank's leased premises. Neither the existing ground sign nor the one at the Industrial Drive entrance allows for the applicant's signage. Proposed is one sign exclusively for the bank's use;
4. The values of the surrounding properties would not be diminished because all surrounding properties are commercial. The proposed sign would enhance abutting properties. A bank is a low-intensity business that would be built on fallow land. The bank is offering to maintain the public right-of-way along Camp Sargent Road;
5. A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
 - 1) No fair and substantial relationship exists between the general public purpose of the Ordinance provision and the specific application of that provision to the property because the property is a leased parcel that currently has a ground sign advertising tenants for the abutting shopping center. However the area on which that sign is located is not part of the applicant's leased premises, but belongs to the shopping center. Its purpose is strictly to advertise its tenants;
 - 2) The proposed use is a reasonable one because a retail bank branch with a drive-thru facility is allowed by the zoning Ordinance.

4. **Franklin Savings Bank (petitioner) and KRG Merrimack Village, LLC. (owner)** - Variance under Section 17.10.3(b) of the Zoning Ordinance to permit a ground sign within 20 feet of the Right of Way. The parcel is located at 1 Dobson Way in the C-2 (General Commercial) and Aquifer Conservation District. Tax Map 4D, Lot 080. Case # 2017-02.

This agenda item was discussed after agenda item #5 because the petition for the additional freestanding sign must be granted before this petition can be acted upon.

Richard Pilla, Paramount Partners, read the statutory criteria into the record.

There was no public comment.

The Board voted 4-0-0 to grant the Variance, on a motion made by Richard Conescu and seconded by Tony Pellegrino.

Findings of Fact

1. The granting of the variance would not be contrary to the public interest because the sign's design and size would not negatively impact the community;
2. The spirit of the Ordinance is observed because the public right-of-way was created when the highway and exit ramp were constructed. The sign should not be measured from there but from the original property line;
3. Granting this variance would do substantial justice because the abutters' pole signs are on their property line while the proposed sign would be set farther back;
4. The values of the surrounding properties would not be diminished because they are commercial. The sign would be substantially set back from Camp Sargent Road and would not interfere with abutters or businesses on the other side of Dobson Way;
5. A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
 - 1) No fair and substantial relationship exists between the general public purpose of the Ordinance provision and the specific application of that provision to the property because the property is a narrow corner lot that cannot be reasonably used in strict conformance with the Ordinance;
 - 2) The proposed use is a reasonable one because it is allowed by the zoning Ordinance. Given the size and dimensions of the parcel, its development potential is limited, which is why it has remained vacant since the abutting shopping center was first constructed and has generated minimal economic benefit to the Town.

6. Discussion/possible action regarding other items of concern

Jillian Harris summarized changes in the updated Zoning Ordinances. New Accessory Dwelling Unit (ADU) procedures were adopted by the Town in October 2016 and are already in effect. The Community Development Department has already made an administrative decision on 2-3 requests.

Referring to agenda items #4 and #5, Richard Conescu asked the Community Development Department to supply the Zoning Board of Adjustment (ZBA) with the variance application along with applicant's narrative in the future.

7. Approval of Minutes – December 28, 2016

The Board voted 4-0-0 to postpone this item to February 22, 2017, on a motion made by Richard Conescu and seconded by Tony Pellegrino.

8. Adjourn

The meeting was adjourned at 8:05 p.m., by a vote of 4-0-0, on a motion made by Tony Pellegrino and seconded by Richard Conescu.