



Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MERRIMACK ZONING BOARD OF ADJUSTMENT

APPROVED MINUTES

WEDNESDAY, FEBRUARY 26, 2020

Board members present: Richard Conescu, Kathleen Stroud, Patrick Dwyer, Rod Buckley, Lynn Christensen and Alternates Leonard Worster & Drew Duffy.

Board members absent: Alternate Ben Niles

Staff present: Planning & Zoning Administrator Robert Price

1. Call to Order

Richard Conescu called the meeting to order at 7:00 p.m.

2. Roll Call

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

3. **Streif, LLC (petitioner/owner)** – Variance under Section 3.02, Note 6 of the Zoning Ordinance to permit the construction of a 3,000 sq. ft. building 30 feet from Daniel Webster Highway whereas 50 feet is required. The parcel is located at 406 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 5D-4, Lot 099. Case # 2019-39. **This item is continued from the November 20, December 18, 2019, and January 29, 2020 meetings.**

This item was withdrawn by the petitioner.

4. **Streif, LLC (petitioner/owner)** – Variance under Section 3.02 of the Zoning Ordinance to permit the construction of a retaining wall 10.88 feet from the front property line whereas 30 feet is required. The parcel is located at 406 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 5D-4, Lot 099. Case # 2019-40. **This item is continued from the November 20, December 18, 2019, and January 29, 2020 meetings.**

This item was withdrawn by the petitioner.

5. **Streif, LLC (petitioner/owner)** – Special Exception under Section 2.02.3(C)(1) of the Zoning Ordinance to allow for a residential use in the C-2 (General Commercial) District. The parcel is located at 406 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 5D-4, Lot 099. Case # 2019-41. This item is continued from the November 20, December 18, 2019 and January 29, 2020 meetings.

At the petitioner's request, the Board voted 5-0-0 to continue this item to March 25, 2020, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Patrick Dwyer and seconded by Rod Buckley.

6. **Streif, LLC (petitioner/owner)** – Variance under Section 3.02 of the Zoning Ordinance to permit a density of 3 multi-family residential units in the C-2 (General Commercial) District whereas 1 per 40,000 square feet is allowed. The parcel is located at 406 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 5D-4, Lot 099. Case # ZBA 2020-03.

At the petitioner's request, the Board voted 5-0-0 to continue this item to March 25, 2020, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Patrick Dwyer and seconded by Lynn Christensen.

7. **Streif, LLC (petitioner/owner)** – Variance under Section 3.02, Note 6 of the Zoning Ordinance to permit the construction of a 2,950 sq. ft. building 22 feet from the Daniel Webster Highway right-of-way whereas 50 feet is required. The parcel is located at 406 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 5D-4, Lot 099. Case # ZBA 2020-04.

At the petitioner's request, the Board voted 5-0-0 to continue this item to March 25, 2020, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Patrick Dwyer and seconded by Lynn Christensen.

8. **David Theide (petitioner/owner)** – Special Exception under Section 2.02.2(C) of the Zoning Ordinance to permit an existing single-family dwelling use to continue on a commercially-zoned parcel that is proposed for a mixed (residential and commercial) use. The parcel is located at 575 Daniel Webster Highway in the C-1 (Limited Commercial), Aquifer Conservation, and Elderly Housing Overlay Districts, and Wellhead Protection Area. Tax Map 6D-1, Lot 102. Case # ZBA 2020-05.

David Theide & Robert Spencer, petitioners & owners were present to speak about the project. Mr. Theide began by explaining that their intention is to use the first floor as an apartment and the commercial space (located in the basement) as a tattoo parlor. Mr. Theide noted that the first floor has an existing living space and was previously rented out as such and the commercial space was formerly a massage parlor. He also went on to explain that the lot (located at 575 Daniel Webster Highway) is on a corner and is surrounded by both residentially- and commercially-used lots. There are no sidewalks, however he did indicate that there is plenty of off-street parking. The petitioner then read through the application criteria that was submitted with the Special Exception application (outlined below) and answered questions from the Board regarding what type of facilities a tattoo parlor needs and how many chairs they are expecting to have. Mr. Theide agreed with the needs outlined by Patrick Dwyer (a sink, a bed and a bathroom) and added that the commercial space does have a half bath that is handicap accessible. He also explained that there will be two tattoo chairs/beds with the possibility of a third as well as seating for 8-10 people.

Chairman Conescu opened the public hearing.

Rachel Watkins (7 Rainbow Avenue) expressed concerns about off-street parking. She indicated that there is ample parking in the driveway however previous owners have had people parking in the street which makes it hazardous for people turning onto the street. Chairman Conescu clarified that the Board is hearing evidence related to the residential component only because the commercial use is already allowed. Patrick Dwyer added that this will also need to go in front of the Planning Board and the parking concern would be something she should bring up at that meeting.

Mr. Theide reiterated that there is ample off street parking for 8 vehicles with the potential for more if needed. He also stated that they are a family run business and have no intentions of blocking up the neighborhood. Robert Spencer added that he was in favor of the project being accepted and is available if anyone has any questions.

Chairman Conescu closed the public hearing.

The Board voted 5-0-0 to grant the Special Exception, on a motion made by Patrick Dwyer and seconded by Kathleen Stroud with the following condition:

1. The petitioner shall obtain site plan approval from the Planning Board for the proposed mixed use (residential/commercial).

Special Exception Criteria Findings of Fact

- a) The specific site is an appropriate location for such a use or uses in terms of overall community development because:***

The property is located in front of and beside existing single family homes.

- b) The use as developed will not adversely affect the neighborhood because:***

The property is located in front of and beside existing single family homes as well as commercial property across the street.

- c) There will be no nuisance or serious hazard to vehicles or pedestrians because:***

The property has sufficient off-street parking and no pedestrian sidewalks.

- d) Adequate and appropriate facilities will be provided for the proper operation of the proposed use or uses because:***

The property is already equipped with a full kitchen with stove, one full bathroom and a washer and dryer.

- 9. Christopher Ross, LLC (petitioner/owner)** – Special Exception under Section 2.02.2(C) of the Zoning Ordinance to allow a residential use in the C-1 (Limited Commercial) District. The parcel is located at 401 Daniel Webster Highway in the C-1 (Limited Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 4D-3, Lot 083. Case # ZBA 2020-06.

At the petitioner's request, the Board voted 5-0-0 to continue this item to March 25, 2020, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Patrick Dwyer and seconded by Kathleen Stroud.

- 10. Christopher Ross, LLC (petitioner/owner)** – Variance under Section 3.02 of the Zoning Ordinance to permit a density of 12 multi-family residential units in the C-1 (Limited Commercial) District whereas 1 per 40,000 square feet is allowed. The parcel is located at 401 Daniel Webster Highway in the C-1 (Limited Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 4D-3, Lot 083. Case # ZBA 2020-07.

At the petitioner's request, the Board voted 5-0-0 to continue this item to March 25, 2020, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Patrick Dwyer and seconded by Lynn Christensen.

- 11. Christopher Ross, LLC (petitioner/owner)** – Variance under Section 3.02 of the Zoning Ordinance to allow the construction of an addition 12.33 feet from the side property line whereas 20 feet is required. The parcel is located at 401 Daniel Webster Highway in the C-1 (Limited Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 4D-3, Lot 083. Case # ZBA 2020-08.

At the petitioner's request, the Board voted 5-0-0 to continue this item to March 25, 2020, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Kathleen Stroud and seconded by Patrick Dwyer.

- 12. Discussion/possible action regarding other items of concern.**

None.

- 13. Approval of Minutes – January 29, 2020**

The minutes of January 29, 2020 were approved as submitted, by a vote of 5-0-0, on a motion made by Patrick Dwyer and seconded by Kathleen Stroud.

- 14. Adjourn**

The meeting was adjourned at 7:24 p.m. by a vote of 5-0-0, on a motion made by Patrick Dwyer and seconded by Kathleen Stroud.