



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK ZONING BOARD OF ADJUSTMENT

APPROVED MINUTES

WEDNESDAY, MARCH 28, 2018

Members present: Patrick Dwyer, Richard Conescu, and Alternates Leonard Worster and Kathleen Stroud.

Members absent: Fran L'Heureux, Tony Pellegrino, Lynn Christensen, and Alternate Rod Buckley.

Staff present: Assistant Planner Kellie Shamel 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 and Kathleen Stroud to sit for Fran L'Heureux and Tony Pellegrino, respectively.

2. Roll Call

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

- 3. Arne, LLC. (petitioner/owner)** —Request for Re-Hearing regarding Case #2018-02, in which the Board denied a Variance under Section 3.02 of the Zoning Ordinance to permit a two-lot subdivision with one lot having 159.22 feet of frontage whereas 250 feet is required. The parcel is located at 63 Wilson Hill Road in the R-1 (Residential) and Aquifer Conservation Districts. Tax Map 4B, Lot 130. Case # 2018-05.

Leonard Worster stated that, based on information provided by the petitioner's attorney, it would be fair to have a re-hearing.

Kathleen Stroud agreed with Leonard Worster.

Richard Conescu disagreed, stating that a 30-year old petition does not set a precedent. He voted in opposition because the petitioner did not meet the hardship criterion. He said he would have voted the same in 1989 had he been on the Board at the time. This is not just a variance to subdivide a lot, but to share a single driveway. He said there is no new information and other cases do not apply to this one.

Patrick Dwyer agreed with Richard Conescu.

Richard Conescu said the Zoning Board (ZBA) should deny the re-hearing on the basis that their decision was neither unreasonable nor unlawful, the hardship criterion was not met and that no new information has been presented by the petitioner.

A motion to grant the re-hearing failed, 2-2-0, on a motion made by Richard Conescu and seconded by Kathleen Stroud. Richard Conescu and Patrick Dwyer voted in opposition.

A motion to deny the re-hearing failed, 2-2-0, on a motion made by Patrick Dwyer and seconded by Richard Conescu. Leonard Worster and Kathleen Stroud voted in opposition.

- 4. NeighborWorks of Southern NH (petitioner) and The Granite YMCA (owner) —** Variance under Section 3.02 of the Zoning Ordinance to permit the construction of multi-family residences with an approximate residential density of 5.5 units per acre whereas 1 unit per 40,000 square feet is permitted. The parcel is located at 315 Daniel Webster Highway in the R-4 (Residential) and Aquifer Conservation Districts and portions in the 100 and 500 Year Flood zones. Tax Map 4D-4, Lot 043-01. Case # 2018-06.

Withdrawn by the petitioner.

- 5. 376 D.W. Hwy, LLC. (petitioner/owner) —** Special Exception under Section 2.02.3(C)(1) of the Zoning Ordinance to permit an automobile service and repair station. The parcel is located at 376 Daniel Webster Highway in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 4D-3, Lot 002. Case # 2018-07.

Owner Ronnie Ghannem, 6 Woodbury Street, runs a car wash. He stated the car wash is becoming too expensive to keep up with on its own and that adding the automobile service and repair station would help his business. He prefers to install a four-bay body shop because he has experience in that type of business. There would be no change in the nature of the business and no extra traffic.

Ronnie Ghannem read the Ordinance criteria into the record.

In answer to questions, he stated that there would be two side-by-side and two deep bays measuring 35' x 40'. Two bays already exist on the site. One of the existing bays would be a paint booth. There are 30 parking spaces currently on the lot; 10 more could easily be added. Ronnie Ghannem explained the four-lane traffic pattern and said he would still do detailing. The facility has an oil-water separator/filtration for paint and very little would go into the ground.

Richard Conescu said this is a perfect place for such a business and there are other similar businesses on this area of D.W. Highway.

There was no public comment.

The Board voted 4-0-0 to grant the Special Exception, with the following conditions, on a motion made by Richard Conescu and seconded by Leonard Worster.

1. The applicant shall obtain site plan approval from the Planning Board for the proposed automobile service and repair station;

2. There shall be no dispensing of automotive, or any other, fuels on the site.

Findings of Fact

1. The specific site is an appropriate location for the proposed use in terms of overall community development because the site is currently being used as a car wash. Adding a body shop would not change the traffic nor affect the current usage;
2. The proposed use, as developed, will not adversely affect the neighborhood because it is related to the same auto service industry. All work would be done inside. There would be less noise than with a car wash. There are other similar businesses in this area of D.W. Highway;
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the business would not affect traffic in any way or cause any hazard;
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed uses because there are currently two bays that have not been fully utilized. Adding a body shop would not affect the operation.

6. Discussion/possible action regarding other items of concern

Chairman Dwyer informed the Board that Legal Counsel is reviewing the David and Toni Paul case. The Board should hear his opinion at a non-meeting in the near future.

7. Approval of Minutes – February 28, 2018

The minutes of February 28, 2018, were approved as submitted, by a vote of 4-0-0, on a motion made by Richard Conescu and seconded by Kathleen Stroud.

8. Adjourn

The meeting was adjourned at 7:28 p.m., by a vote of 4-0-0, on a motion made by Patrick Dwyer and seconded by Leonard Worster.