



TOWN OF HUDSON

Zoning Board of Adjustment



Gary A. Dearborn, Chairman

Marilyn E. McGrath, Selectmen Liaison

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MEETING MINUTES – November 12, 2020 – Approved

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

Chairman Gary Dearborn called the meeting to order at 7:03 PM and invited everyone to stand for the Pledge of Allegiance.

Mr. Dearborn read the COVID-19 meeting procedure that in conformance with the NH State of Emergency Order #12 confirmed the following: (a) providing public access to meeting by telephone and video access; (b) provided public notice on how to access the meeting; (c) mechanism to advise if there is a problem with accessing meeting and (d) should there be an issue with accessibility, the meeting will need to be adjourned and rescheduled; and (e) that voting would be by roll call vote. Mr. Dearborn stated that the Board would go into recess so that the public could call in their questions or concerns during public testimony and added that if anyone cannot gain access, that the meeting would need to be adjourned. Mr. Dearborn noted that specific instructions for meeting access was included in both the Applicant Notification and the Abutter Notification and were posted on the website.

Mr. Buttrick, Zoning Administrator, read the Preamble into the record, identified as Attachment A of the Board's Bylaws, which included the procedure and process for the meeting, and the importance of the 30-day time period for appeal.

Clerk Etienne took attendance. Members present were Gary Dearborn (Regular/Chair), Brian Etienne (Regular/Clerk), Ethan Severance (Alternate), and Jim Pacocha (Regular). Also present were Bruce Buttrick, Zoning Administrator, and Louise Knee, Recorder (via remote access) and Kara Roy, Interim Selectman Liaison. Excused were Gary Daddario (Regular/Vice Chair) and Marilyn McGrath, Selectman Liaison. Absent was Leo Fauvel (Alternate). For the record, Alternate Severance was seated as a Voting Member.

Mr. Dearborn stated that with only four (4) voting Members present, the option to defer hearing of a Case to the next meeting is available and noted that should a vote be cast as 2:2, the item would be defeated.

III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. Case 176-007 (11-12-20): Travis Spaulding of Spaulding Investment Properties, LLC, 37 Ponemah Road, Amherst, NH requests a Variance for 184 Central Street to construct a vacuum station with 3 vacuums which

Not Official until reviewed, approved and signed.

Approved 12/17/2020, as edited.

encroaches the side yard setback leaving 4.9 ft. where 15 ft. is required and encroaches the front yard setback leaving 37.3 ft. where 50 ft. is required. [Map 176, Lot 007-000; Zoned Business (B); HZO Article VII, Dimensional Requirements, §334-27, Table of Minimum Dimensional Requirements].

Mr. Buttrick read the Case into the record. Mr. Dearborn asked if they wished to present their Case or defer it to next meeting. Both the Property Owner and his representative agreed to proceed with the hearing.

Brent Cole, PE, Granite Engineering, LLC, introduced himself and the new Property Owner, Travis Spaulding of Spaulding Investment Properties, LLC. Mr. Cole identified the location, stated that the site has been a carwash since it received Planning Board approval in 1984 and noted that there exists two (2) separate vacuum stations on site, each within the setbacks – one being 4.9' from the side property line and the other being 37.3' from the front property line. Mr. Cole stated that his client purchased the site approximately one year ago and has been renovating, received Planning Board approval in September 2020 for the addition of an automated carwash bay and the consolidation of the vacuum stations. Mr. Cole stated that the location for the vacuum stations was selected for traffic flow to allow for the cueing while providing safety for the users of the vacuums. Mr. Cole posted the Site Plan that showed the new approved automatic wash bay and the proposed location of the three (3) vacuums on an existing concrete foundation.

Mr. Cole stated that the vacuum stations are considered a structure in the Ordinance and are before the ZBA seeking a Variance to place the vacuums into the front and side setbacks. Mr. Cole addressed the Variance criteria and the information shared included:

(1) not contrary to public interest

- carwash has existed in this neighborhood since 1984
- two separate vacuum locations/stations will be consolidated into one station which will help public health and welfare by providing a safer area for public to wash their car

(2) spirit of Ordinance observed

- principal use is the carwash and vacuums are a typical accessory use
- location selected to allow cars to maneuver and queue through the carwash while another is vacuuming
- the two existing vacuums were approved and located closer to the property line, and will be removed, consolidated and repositioned to be less non-conforming
- fencing and landscaping along the property line to be installed and provide a visually appealing barrier to the abutter

(3) substantial justice done to property owner

- will allow property owner to update and existing business

(4) will not diminish surrounding property values

- site has been a carwash since 1984

- overall project will include new landscaping, fencing, façade, sign and pavement which will improve property value and should enhance surrounding neighborhood property values

(5) *hardship*

- the addition of an automated carwash bay requires additional queue length and maneuvering space and has forced the relocation of the existing vacuum stations for safety sake
- existing building structure limits options and the option to relocate the vacuum stations out of the setback is not possible
- the relocation of the vacuums will impede the setback less than what was approved in 1984

Mr. Dearborn declared a five-minute recess at 7:20 PM for the public to call-in. No one called. Mr. Dearborn opened public testimony and no one addressed the Board.

Mr. Etienne stated that the hardship criteria is based on the land and noted that the wetlands would not be impacted with the proposed location of the vacuum stations, and that, in his opinion, is good and satisfies the criteria. Mr. Pacocha questioned other possible locations for the vacuum stations and Mr. Cole explained the impact to queuing. Mr. Pacocha noted that the vacuum picture on the plan shows more than three (3) stations. Mr. Cole responded that the picture represents the type of vacuum and demonstrates the openness of the area and that only three (3) vacuum stations are proposed for this site.

Mr. Dearborn questioned the fence and noted that to the right of the site is a large commercial building. Mr. Cole stated that it would be a split-rail fence, that the carwash has existed since 1984, and that there will be no more noise produced than what occurs today. Mr. Spaulding stated that there used to be a two-foot brick wall, that he is not aware of any complaints regarding noise from the site and added that that new machines will be much quieter than the machines currently in use.

Mr. Etienne made the motion to grant the Variance as requested with no stipulations. Mr. Pacocha seconded the motion. Mr. Etienne spoke to his motion stating that all the conditions have been met, that traffic flow improvement considered and wetland avoided. Mr. Pacocha stated that the variance will not be contrary to public interest, it does observe the spirit of the Ordinance as vacuums is accessory to carwashes, substantial justice is done, that there will be no impact to property surrounding values and hardship is met with the avoidance of the wetland and limited physical options. Roll call vote was 4:0. Motion passed. Variance granted. The 30-day appeal period was noted.

2. Case 234-041 (11-12-20): Michael McKeown, 28 Winding Rd., Bedford, NH requests a Variance for 288 Lowell Rd., to allow one (1) additional 32 sf. building mounted sign for a total of two (2) building mounted signs (64 sf. total) where one wall sign is permitted. [Map 234, Lot 041-000; Zoned Business (B); HZO Article XII, Signs, §334-63, Business and industrial building signs].

Mr. Buttrick read the Case into the record and noted that the Zoning Board approved a Special Exception to redevelop the site on 3/12/2020 and the Planning Board approved the Site Plan on 5/13/2020; that one (1) building sign of a maximum of 124 SF (Square Feet) is allowed and that the Applicant seeks two (2) building signs for a total of 64 SF.

Mr. Etienne declared, in the light of full disclosure, that his veterinarian is Dr. Komma, that he feels he can vote impartially on the Case and asked if he should recuse himself. Michael McKeown, Applicant's representative, stated that he has no objection to Mr. Etienne voting.

Michael McKeown of Dennis Mires, PA, The Architects, introduced himself, identified the location of the property and displayed several pictorial views of the building and noted that the design of the building, with its pointed front, would prevent a single sign from being seen when driving in one direction. Mr. McKeown stated that the Ordinance, based on the square footage of the front of the building would allow for a single sign of approximately one hundred twenty four square feet (124 SF) and what is proposed is to allow two (2) building thirty two square feet (32 SF) signs, on either side of the pointed front, and noted that the total of sixty four square feet (64 SF) of signage is approximately half of a single sign that is allowed.

Mr. McKeown addressed the criteria for the granting of a Variance. The information shared included:

(1) not contrary to public interest

- request is not contrary to public interest, health, safety or character of the neighborhood
- proposal is for approximately half of the square footage allowed by the Ordinance for an exterior building sign
- proposed signage is more contiguous with the exterior building design
- proposed sign is more characteristic of residential signage and keeps the character of the residential neighborhood

(2) spirit of Ordinance observed

- proposed signage is approximately half of what is allowed in Ordinance

(3) substantial justice done to property owner

- main public entrance to the building does not run parallel to Route 3A
- allowing a small building mounted sign on each of the angular faces of the main entrance will allow fair and just visibility from both northbound and southbound traffic pathways

(4) will not diminish surrounding property values

- smaller and well placed building mounted signage provides a desirable and thoughtful exterior building design characteristic of residential style signage and be in character with the neighborhood

(5) hardship

- main building entrance is not parallel to Route 3A and placement of just one sign inhibits visibility from one travelway

- strategically placed signs for maximum visibility with less SF than allowed by the Zoning Ordinance

Mr. Dearborn declared a five-minute recess at 7:40 PM for the public to call-in. No one called. Mr. Dearborn opened public testimony and no one addressed the Board.

Mr. Pacocha asked how the size of a sign is calculated and Mr. McKeown responded that the square footage is based on the size of the street facing façade and for this building that yields an allowable size of 124 SF. Mr. Severance noted that what is being requested totals to just over half of what the Ordinance would allow. Mr. Dearborn questioned the size of the proposed signs. Mr. McKeown responded that they are circular with a diameter of 6'4" to yield a square footage of 32 SF each and with two (2) identical signs being proposed the total square footage of the building mounted signs is 64 SF.

Mr. Etienne asked if the signs would be illuminated. Mr. McKeown responded that the signs would be backlit. Mr. Etienne noted the residential setting and asked if the signs would be continuously lit or set on a timer. Mr. McKeown stated that the signs would be connected to an automatic timer and set to turn off when the building is closed and added that the business closes at 6:00 PM.

Mr. Pacocha inquired if the two proposed signs would be the only signs for the business. Mr. McKeown responded that there is a free standing sign on site. Mr. Etienne confirmed that it is on the right side and is difficult to see and asked if it would be decommissioned. Mr. McKeown stated that he was not sure. Mr. Buttrick noted that the freestanding sign is there, is allowed and is approved and that no relief is required for it. Mr. Etienne stated that the business would then have a free standing sign and two (2) signs up on the building.

Mr. Pacocha made the motion to grant the Variance as requested and with no stipulations. Mr. Etienne seconded the motion. Mr. Pacocha spoke to his motion noting that it would not be contrary to public interest, the issue is the Zoning Ordinance only allowing one building mounted sign but this building is unique, that the plan proposed is pleasing and better fits the neighborhood and will not diminish property values, that justice to the applicant is done with no harm to others and that the hardship is caused by the design of the building. Mr. Etienne concurred and added that with regard to hardship, the view shed is blocked. Roll call vote was 4:0. Variance granted. The 30-day appeal period was noted.

3. Case 230-021 (11-12-20): Joseph G. Deluca, 21 Clement St., Nashua, NH requests an Appeal from an Administrative Decision for 6 James Way, which deemed an existing dwelling unit above the detached garage as illegal. [Map 230, Lot 021-000; Zoned Residential-Two (R-2); HZO Article V, Permitted Uses, §334-21, Table of Permitted Principal Uses].

Mr. Buttrick read the Case into the record and noted that the appeal is in regard to the illegal dwelling unit above the detached garage.

Mr. Dearborn asked the Applicant if he wished to present his Case at this meeting with only four (4) Voting Members or request deferment to the December meeting in

hopes of having a full Board present. Mr. Deluca stated that he has spoken with legal counsel and he understands that his options are either to defer or seek a variance and stated that he has additional material to share with the Board. Mr. Buttrick stated that if the Applicant intends to submit a Variance application, the Appeal could be withdrawn instead of deferred. It was noted that a variance had been denied for this dwelling unit in the past and unless something has changed a second variance may not be possible. Mr. Deluca asked for a deferment. Mr. Dearborn stated that additional material could be submitted. Mr. Deluca submitted material.

Side discussion occurred on the Date of the December meeting – see Agenda item VI.1. Mr. Buttrick stated that at the time the Agenda was created, the Budget Committee claimed this meeting room and thought to offer the alternate date of December 17th; however, the School Board has claimed this meeting room on that date. December 10th is the scheduled date. The 12/10/2020 ZBA will have to be held in the Buxton Room at Town Hall, 12 School Street.

Mr. Severance made the motion to grant the request to defer the hearing to the December 10, 2020 meeting. Mr. Etienne seconded the motion. Roll call vote was 4:0. Motion passed. Case deferred.

IV. REQUEST FOR REHEARING:

No requests were presented for Board consideration.

V. REVIEW OF MINUTES:

10/22/20 edited Minutes

Motion made by Mr. Etienne, seconded by Mr. Severance and unanimously voted to approve the 10/22/2020 Minutes as edited.

VI. OTHER:

1. Dec 10th vs 17th ZBA meeting schedule?

The option for the 17th was offered with the hope that the large meeting room would be available to easily accommodate social distancing due to Covid-19; however it is not. Consensus reached to keep the schedule as published. It was noted that the next meeting on December 10, 2020 will be held at the Town Hall in the Buxton Room at 12 School Street. Mr. Etienne stated that he would not be at the 12/10/2020 meeting

2. 2020 Virtual Land Use Law Conference recap/material

Mr. Buttrick stated that he attended and has reference materials to share with Members and could provide links.

3. Bylaws- order of succession of the Officers

Board reviewed, discussed and amended the proposed addition of item 143.5B Officer Vacancies. Mr. Dearborn added the word “unexpired” prior to the word ‘position’. Ms. Roy noted that the ZBA has no “Co-Chairman” but a “Vice Chair”. Mr. Buttrick asked

to make the changes and post for its first of two required public hearings on the December 10, 2020 Agenda.

4. Forms – Home Occupation Special Exception

Board reviewed the current Application Form and noted that all the criteria in the Zoning Ordinance were not on the Form – specifically Retail Sales, criteria 334-34.F. Discussion arose on the need to have “Retail Sales” defined in the Ordinance. Mr. Buttrick noted that all changes to the Ordinance must come from the Planning Board. Mr. Dearborn noted that the postal rate is subject to change and Mr. Buttrick responded that the current rate is automatically updated and added that only the Selectmen have the authority to set the Application Fees.

5. Town Email Addresses

Mr. Buttrick provided an update on who has requested a Town email address.

6. NH RSA 673:3-a Training

Mr. Buttrick offered/noted that ZBA training is available for new Members

Motion made by Mr. Severance, seconded by Mr. Etienne and unanimously voted to adjourn the meeting. The 11/12/2020 ZBA Meeting adjourned at 8:30 PM.

Respectfully submitted,

G. A. Dearborn, Chairman