

project has already been approved by DES. They will install permeable paver walk to the shore. He showed the stairs and where they will come out to the walk.

2010-0007: In the front, the plan is to expand the area to the width of a small gable and cover it to alleviate ice build up on the steps and create an architectural element.

2010-0008: They plan to convert the existing carport to a one car garage. It is now 3' into the Paugus Park Road Right Of Way. They will move it back, but it will still be in the front and side setbacks. They will remove the asphalt drive and replace with a permeable paver drive. They will have more landscaping in the front. It will bring the area more into conformity.

S. Saunders asked how the water will be routed to the rain garden and was told there will be gutters, with stone to stop erosion. There will be a patio under the deck, which will slightly pitch to the rain garden. The deck won't be covered.

D. Greski asked the distance from water to deck and was told the closest spot is about 32'. He asked about the ROW in the front and was told they are moving the garage back and squaring it off, so it won't be in the front ROW.

R. Tautkus asked about the front walk and was told it will be permeable pavers. All of the existing walk and drive will be changed.

Public: No one spoke for or against the application.

S. Perley closed the hearing to the public at 7:10.

Board: D. Greski said he feels this is an improvement to the area. The front cover is a good thing, and moving the car port back out of the ROW, is an improvement, as it could be hit by a vehicle. These are all positive things. R. Tautkus asked if the added greenery is a requirement and S. Saunders said no, they are doing that on their own.

S. Perley said she visited the property and took pictures of her own. E. Buck explained the garage. It is being moved back 3 feet. It is now 20', but will be 17'. There will be no entrance into the home from the garage.

Motion: 2010-0006: D. Greski moved to approve 2010-0006. The applicant has the shoreland permit in hand. They are adding complex landscaping to mitigate any drainage issues.

This would not be contrary to public interest and no abutters spoke for or against the proposal.

The spirit of the ordinance is observed as this is an older house in an established neighborhood, with no adverse impact.

Substantial justice is done as it is positive to replace the existing deck and there are no problems putting it across the entire length of the house. The values of properties are not diminished by the proposal and there is no negative impact to the surrounding properties. This is all positive as they are improving the property.

There is no fair and substantial relationship between the ordinance and specific application as the deck change is minor and the state has approved the permit. The new landscaping will handle any additional runoff.

R. Tautkus seconded the motion and all voted in favor, 5-0.

Motion: 2010-0007: P. Lambert moved to approve application 2010-0007. They are seeking to enlarge the front stoop and cover. This won't be contrary to public interest as the Board has granted similar relief in the past. This will enhance the home and its efficiency.

The spirit of the ordinance will be observed as the front steps are not being overly enlarged. The relief is being granted to accommodate both aesthetic values and safety issues. This is a minor relief.

Substantial justice is done as we are giving relief necessary to add an addition to the home without affecting the neighborhood.

Property values will not be diminished as this will enhance the appearance and bring in line with other properties being upgraded in the neighborhood.

Literal enforcement won't result in an unnecessary hardship. No substantial relationship exists between the public and application of the provision as the relief being asked for is minor and would create a hardship of sorts if not granted. The use is minor and reasonable.

D. Greski seconded and all voted in favor of approval, 5-0.

Motion: 0010-0008: R. Tautkus moved to approve application 2010-0008. Granting this variance won't be contrary to public interest as approving the variance will allow the garage to be less non-conforming than the existing carport. Adding of the permeable pavers to the site enhances the green space.

The spirit of the ordinance is observed as the structure will be less non-conforming and more aesthetically pleasing, and will fit in with others in the area.

Substantial justice is done as this will improve the look of the neighborhood.

The proposal won't diminish any property values as they are making the entire site more aesthetically pleasing.

No fair and substantial relationship exists between the public purposes and the ordinance as the ordinance is written to protect public structures in a setback. The owner is reducing that footprint, adding landscaping, and improving environmental functions.

The use is reasonable as they are making improvements to the property.

D. Greski seconded and all voted in favor of approval, 5-0.

Application # 2010-0009
William Cook

MSL 426-91-27
50 Girard St

RG Zone
Variance

The applicant is requesting a variance from 235-35 (A), side setback, in order to construct a storage shed. The shed would be located approximately 4 feet from the property line. There is a 10' side setback. The shed will be located outside the 75' setback from Jewett Brook.

Applicant: William Cook appeared. He wants to construct a 10 x 20 storage shed to house tools. He stated he has two problems in his yard. Jewett Brook is along the side and there is a 75' setback from the brook and when the brook overflows, 80% of the yard floods so this is the only place to put a shed. Where he wants to place it is along the city property line, and that area is not being utilize, as it is a paper street that was never developed.

D. Greski asked for clarification on the map. W. Cook said there is a tree line, on the city property, which he won't be impacting.

The shed will be placed on blocks or pavers. J. Tivnan asked if the city used the abutting property, and was told no. W. Cook said that one end is blocked off, and he has never seen it used. You can't drive through the area.

S. Perley asked if he will have electricity in the shed and W. Cook said no. The floor joists will be pressure treated lumber on a plywood base, stick frame, with plywood on the outside. He will paint it to match the house, and raise it a bit to keep the water out.

Public: No one spoke for or against the application.

S. Perley closed the hearing to the public at 7:25 pm.

Board: D. Greski said he feels this is a reasonable proposal. When looking at the property this is the only place to put a shed. There will be no impact on the tree line and you won't see it if you are on the other side of the path.

Motion: D. Greski moved to approve application 2010-0009. The proposal won't be contrary to the public interest as no one spoke for or against the proposal.

The spirit of the ordinance is observed as the property owner is allowed the opportunity to have a shed, and this is the only place to put it. It will be 10 x 20, on pavers with pressure treated timbers, and no foundation so it can be moved.

Substantial justice is done as this is the only place to put the shed as the rest of the yard floods out. This is not a negative to the neighbors.

The property values won't be diminished. This abuts unused city property, and the neighbor on the other side won't be able to see due to the tree line.

Literal enforcement of the ordinance would result in an unnecessary hardship as there is no reason to deny it. There is no fair and substantial relationship between public purposes and the ordinance as this is a minor use of a portable shed, so there is no reason to say no. The use is a reasonable one.

J. Tivnan seconded, with all voting in favor, 5-0.

**Application # 2010-0010
Laconia Clinic Prop Inc**

**MSL 424-142-54
734 Main Street**

**P Zone
Variance**

The applicant is requesting a variance from 235-35 (A), front setback, in order to erect a sign within the front setback. The front setback in the Professional Zone is 15 ft.

Applicant: Steve Smith appeared for the application. He is representing the women's clinic which is located in the Professional Zone beside the Laconia Clinic. He showed the plans, which include the intersection, and the rest of the site. There are two frontages, one on Harvard, the other on Main.

He showed the location of the building on the site. Previously there were two points of access. They re-developed the site. They added landscaping and closed the entrance on Main Street, so the access is now on Harvard.

They want to install a sign, but the setback is 15 feet and there is no way to put it up on the site. A freestanding sign would be in the parking area and a wall sign on the building would not be visible. They want to put the sign 8' from Main Street and 3.5' from Harvard, in the center of a landscaped area. If placed on the other corner, the building on that corner would block it.

S. Smith passed out pictures for the board members to see. He asked members to look at the pictures provided in the packet of the other signs in the neighborhood. D. Greski asked about the original plans for the sign and S. Smith said they had initially thought about one on the building but realized you can't see it until you are past the structure.

D. Greski asked if placing the sign here would cause problems for people pulling out of Harvard Street and was told no that is why it is pulled back from the front corner, 8 ft off the sidewalk. S. Smith said to add another 10-15 ft with sidewalk and green area. D. Greski said this is a congested area and he didn't know that Harvard Street was there until a few months back. S. Smith agreed that it is a busy area and that is why they need the sign and a reasonable distance in order to see it. It is required to direct traffic in a safe and orderly manner. If placed according to the required setback, the sign would not be visible from the street.

S. Smith read their answers to the variance criteria. He said this is a heavily traveled artery, near a 4 way intersection, near Salem Street and a RR crossing. They need a sign to direct public to the site. The applicant did the best they could with balancing what is needed and what is there. There is only one logical place to put the sign on the site.

Public: No one spoke for or against the application.

S. Perley closed the hearing to the public at 7:45 pm.

Board: S. Perley asked if this is a corner lot and was told yes. She asked if this is then prohibited. S. Saunders said she was just reviewing the ordinance and realized that there is a 20' area that the sign needs to be out of per sign ordinance for sight distance. This proposal meets it on Main Street but not on the Harvard side.

S. Smith said that the Laconia Clinic and Rehab Facility are in violation of this provision and was told they are grandfathered. S. Saunders said the intent is for the sight distance. This is 20' feet from the edge of Main Street.

J. Tivnan asked if this is a shared lot with Christopher's and was told no.

D. Greski stated that he recommends that Paul Moynihan, of DPW, looks at the site and gives it his blessing. S. Saunders suggested we continue the hearing and re-post with the provision regarding the 20 foot area, ordinance 235-57 (A), as well, get DPW's input and take up the issue next month. Steve Smith agreed with that recommendation.

Motion: R. Tautkus moved to continue application 2010-0010 in order to allow the Laconia Department of Public Works look at the sign placement and submit a letter of support. J. Tivnan seconded and all moved to continue, 5-0.

Application # 2010-0011

MSL 447-126-2

RS Zone

Brett Beliveau

141 Lafayette St

Variance

The applicant is requesting a variance from 235-35 (A), front setback, in order to add a porch and front stairs. The porch will encroach into the front setback of 25' slightly in one corner only while the stairs will be wholly in the setback. The total encroachment should be no more than 5'.

Applicant: Brett Beliveau stated they want to construct a porch which will encroach into the front corner. He wants to alleviate problems with moisture. They bought the house 3 years ago and have had to replace the front sill. The overhang drips and the house is only 6 years old.

In front of the foundation there is a slight slope. With heavy rains they have had water back up against the foundation and enter the basement. He hopes that bringing this out 7-8 feet will help the drainage issue here. He said it will add value to the house and boost the aesthetics of the neighborhood.

When they bought the house they had always pictured it with a porch but economics didn't lend itself then but now know they need this done. He showed a map of Lafayette Street. Most of the houses already sit forward of the setback line. He stated that he included pictures of other houses that encroach to show that their house won't stick out and be out of character with the neighborhood. He showed a rendering of what their house will look like with the porch added on.

P. Lambert asked the depth of the porch and was told it will be 8'. R. Tautkus asked about the setback, and was told it will encroach in just a tiny portion but they would still need a variance because of the stairs. B. Beliveau said a four foot wide deck isn't usable. The deck will encroach 2' in one corner, and the stairs will be 3' into the setback.

Public: No one spoke for or against the application.

S. Perley closed the public portion of the hearing at 7:50 pm.

Board: There were no further questions. D. Greski said he feels it will improve the property.

Motion: P. Lambert moved to approve application # 2010-0011. The proposed porch won't encroach any more than 5'. At the stairs the area will be 3-5' total.

This won't be contrary to public interest. As shown by the material provided, many homes already encroach into the front setback area. An 8' porch is minimally usable. The stairs are needed and won't protrude any more than is necessary.

The spirit of the ordinance is observed as the property owner is asking for minimum relief to make the house functional.

Substantial justice is done as this grants minimum relief, and will protect the house by covering the front against snow and rain.

Values of surrounding properties will not be diminished as this will enhance the value of the home and of the neighborhood.

Literal enforcement would result in an unnecessary hardship as the property owner is asking for the minimum relief needed with the porch and stairs.

No fair and substantial relationship exists between the public purposes or the ordinance and the application. The ordinance is needed for a front setback to allow for openness, and the house sets back more than adequately. They are asking for minimum relief for a reasonable use.

D. Greski seconded the motion and all voted in favor of approval, 5-0

Application # 2010-0012
Nicole DuBois Rogers

MSL 455-54-40
254 Court Street

C Zone
Special Exception

The applicant is seeking a Special Exception from Table I, Table of Permitted Uses, in order to run a Nursery School from the property on Court Street. This is an allowed use with the granting of the Special Exception.

Applicant: Nicole Rogers appeared for the hearing. She stated she is the owner of Jack & Jill Nursery School, which has been in existence for 40 years, and located in the same building for 30 of those years. The Catholic Church is re-structuring and the building needs financial repairs which the church has decided they won't make. The applicants first choice for a location to move her preschool to is Court Street. As school re-opens in September, she is on time constraints.

S. Perley asked why she is applying for two Special Exceptions this evening, in two locations (as the next Special Exception request is also the applicant's but for a separate building), and N. Rogers said because of the time constraints. There are other issues, such as Fire, Code, and State licensing, so if one property doesn't work out, hopefully the other will.

D. Greski stated that this property is for sale and asked if she were purchasing or leasing. N. Rogers said she plans to lease. It is only 3 minutes from where they are currently located. She wants to keep the business in Laconia.

D. Greski asked if there are two entrances to the property and was told there is parking in front and behind, and there is a road that comes up and around. R. Tautkus asked about the parking and S. Saunders said Planning will look at the parking at the administrative review.

P. Lambert asked if she is leasing the entire building and was told no, the lower level only. There are apartments upstairs.

D. Greski asked how many children attend the school and N. Rogers said there are never more than 24 children in a day. They are dropped off at different times, as well as being picked up at different times.

P. Lambert asked if there is an outside play area required and was told no, per the license. P. Lambert said he is concerned with this mixed use and the safety of the kids.

R. Tautkus asked how many teachers and N. Rogers said 4 full, and one part time. D. Greski said this is close to Court Street which has a high traffic volume. N. Rogers said they would use the side door for drop off and the teachers walk the students in/out. The parents don't even get out of the car.

D. Greski asked about the layout and was told the apartments upstairs are to the left of the space she is looking to lease.

Donna Tulley, the realtor, said that part of the second floor is currently empty. P. Lambert asked if criminal record checks are being done on the tenants in the apartments and was told that one was done because they rented the apartment after the current owner purchased the building, but the other tenant was "inherited" from the previous owner so no background check was performed. She added that there is no access from the apartments and no outside play area. N. Rogers said her license doesn't allow her to have more than 24 children.

D. Greski said this location is zoned Commercial and the use is allowed by the Special Exception.

R. Tautkus asked about parking. She was told there are 18 total, 9 in front and 9 in back per D. Tully. S. Saunders said the apartments need 3. There is 1900 sq ft for the school so that should be ok per S. Saunders.

N. Rogers stated that right now a teacher escorts the pupils into the building, so the parents don't even park, they just drop off and leave. D. Greski asked how they handle parking for special functions and N. Rogers said they only have one, at the end of the year, and she rents Leavitt Park for that.

P. Lambert asked if other agencies are involved with this and was told that Fire does a Life Safety inspection, and the State does inspections (Health and Human Services).

Public: Esther Gouette has a business across the street at 263 Court Street. She said her concern is with the children. This is a congested area. One of the vehicular egress areas belongs to another property. There is a lot of traffic now and this will create additional congestion. Another concern is with the parking as the front is completely paved. The front has a narrow drive leading to the rear of the building. The paved area leading to West Street belongs to a different property.

E. Gouette said that the apartments and the commercial units need parking. She wondered how many children were involved as she heard the applicant say 24. If there are 20 children, the applicant needs 5 parking spaces, according to State regulations. She read the ages of the children and the number of teachers needed from state information she obtained. There is now only one space for them to come in, drop off or pick up children.

She showed the MLS listing and said that a license is not transferrable. If the school moves, they must return to the state. She asked about the Special Exception and if once it is put into place, is it always there with the property. She wondered what the impact on the children would be if the building is sold and again they had to move.

She said there is only one bathroom, and according to NH code of administrative rules, they need one for the adults, and one toilet for 20 children. If there are younger kids, there are other requirements, such as smaller toilets. She said she doesn't feel a child care facility is good here, as there are already traffic jams. They own Bobs Lock and Key on Court Street.

She said she feels there are enough other locations in the City that meet requirements for day care or nursery school and she is opposed to granting this.

S. Perley said the board cannot answer any of the State Licensing questions. S. Saunders said the Special Exception does go with the property. Once granted the approval is good for a year. If not put into effect, it lapses.

Cathy DuBois said she has been a teacher at Jack & Jill for over 15 years and she is N. Rogers' mother. This is not a day care. It is a nursery school for 3, 4, and 5 year olds; there are no infants. There is no one there after 2 pm so they aren't there during high traffic times. The hours are 9 – 11:30, and a few children do stay later for the Lunch Bunch. There are no babies. There are 2 bathrooms. There is a large open space between the day care and the apartments. When the parents bring the kids to school, a teacher escorts them in and out. This is a school, not a day care.

The location is now on the corner of Messer and Court, which is a very busy spot as well. The school has been here a long time. The church closing the building has left them in a lurch. 20 kids are registered for next September, and they are excited to attend. This is a great program. She said she doesn't foresee any more traffic with this than with any other business that might rent here.

Donna Tully is the realtor handling the building. She said there are 2 bathrooms located in the nursery space. The tenants are separated from the nursery space by a common staircase, so there are no safety issues. The tenant parking is in the rear which leaves the front and side doors for pickups. There are staggered times for drop off and pick up. This is not a day care - it is a learning school to ready children for

school. The drive to West Street is not on this property, and they are not proposing to use it as the main entrance. There has been a gentleman's agreement over the years for the use of the drive by this property. They do have parking in the rear, and there is access to drive around the building and get to it without using West Street. They are not asking for any more than other businesses in area. Cumberland Farms is nearby. People go in there and pick something up and leave. The parents here do the same thing, they drop their children and later pick them up and leave.

Tom DuBois, N. Rogers' father, said that when the building is sold, the lease and licensing will go until the license expires. It does not need to be renewed if moving to another location. He said he feels this will be better than the current location which has existed for 30 years. It is hard to find a good location, as they need large rooms for classroom use. It has been a difficult search over the past months.

S. Saunders asked if the property owner would be amiable to approaching the West Street property owner to formalize the gentleman's agreement for the driveway/egress. An access easement would benefit both owners. The applicant said yes.

D. Greski had a parking question. He asked if the parking spaces fall into the yellow highlighted area shown on the map and was told yes. He asked if all of the parking for staff is on this area and N. Rogers said yes. He asked if the parking for the tenants and the businesses are supported and was told yes. They come in on Court Street, go out on West Street, using the gentleman's agreement. D. Tulley said this is not a deeded ROW but it is currently being used that way, and has been for some time.

S. Perley said the other property owner is not in attendance so apparently doesn't have an issue with this application. She said the parking isn't the issue, the flow is.

E. Gouette asked about what happens when a tenant goes into the second floor. D. Tully said there is no tenant now and it is a small office. Those people would park and stay if it is rented.

S. Perley closed the hearing to the public at 8:30 pm.

Board: D. Greski said it seems to meet the parking. The use is nursery school not day care, with limited hours, 9 – 11:30, with only a few children remaining past that time. The time doesn't fall into the heavy rush hours which are 7 am and 3 pm. This seems like it would have the same impact as other small businesses in the area. He said he feels it seems to meet the criteria.

R. Tautkus said she is still uneasy as this is a busy area and she is not sure if it is the best location. P. Lambert said if they clear up the West Street access that would revolve that issue.

P. Lambert said he feels this is still better than the Community Center location.

D. Greski asked if the West Street issue is resolved, do they still need to do the other Special Exception application. He was told yes as other things could happen. This location could fail life safety, etc. J. Tivnan said feels this is better than the Union Ave location.

N. Rogers said she invested her life savings in this school when she purchased the business. She needs state approval by July or she will not be able to open. She will lose her money and her house.

Motion: P. Lambert moved to approve 2010-0012. The use is authorized and allowed with the granting of the Special Exception.

The use will not create congestion if the easement can be obtained to access West Street. We can make that a condition of approval.

This won't overload public water or other municipal systems as this is an already established use in the city and the property is an existing commercial building, so it can handle the use.

Again, on the demand for Police or Fire, this is an established school in the city so it is already part of the infra-structure.

There are no special provisions for the use in this chapter.

The use will not create hazards to the public as this is in a commercial district so is being utilized for its highest use. Safety is an issue and needs to be resolved with the easement. The State of NH will determine if there are Health issues.

There will be no impact on the neighborhood, as this will all be inside. This is a commercial area.

The location is appropriate if they meet the licensing requirements.

This is consistent with the spirit and intent of the chapter as it meets the requirements set forth.

He proposed a condition of approval: In order for this to be validated, a formal easement must be obtained for the use of the West Street driveway/egress. S. Saunders made an additional recommendation: the nursery school be allowed before the agreement is finalized, as that could take some time; however if the West Street property owner rescinds the "gentleman's agreement" for any reason prior to the formal agreement's execution, this approval becomes null and void. P. Lambert agreed with this provision.

J. Tivnan seconded and all voted in favor of approval, 5-0.

Application # 2010-0013

MSL 411-220-18

C Zone

Nicole DuBois Rogers

306 Union Avenue

Special Exception

The applicant is seeking a Special Exception from Table I, Table of Permitted Uses, in order to run a Nursery School from the Union Avenue property. This is an allowed use in the Commercial Zone with the granting of the Special Exception

Applicant: Nicole Rogers appeared. She stated she had already given the reasons for re-locating the school. This is a fall back location. She could not risk one location being turned down. She is looking at the basement level of the Community Center facility. It is already used for Santa's Village, dance classes, and other events. There are several rooms off to the side, which she would use.

S. Perley asked if they would access the area through the front and was told yes. There are a small set of stairs. The parents would have to park. There is another access in the rear, which they would use for emergencies only. City vehicles park in that area in the rear.

P. Lambert said this is a city owned building, so how can we put a business there. N. Rogers said she won't interfere with other things happening and she believes other organizations rent space to use for their programs.

Public: Cathy DuBois said they looked at the space, and there is a lot that could be used. There is a huge lot in the rear for parking, so their staff would park back there. She said this is not their first choice, but it is a large space. It is already open to the public to be used. She said that Parks approached them in order to use the space. T. DuBois spoke to Fire and they said the downstairs area would be approvable, but not the upstairs area because of the egress issues.

S. Perley closed the hearing to the public at 9:50 pm.

Board: R. Tautkus said there are still traffic issues at the Community Center and it does get crowded. She said that the parking in the rear for the staff is good as it wouldn't interfere with parking in the front. This is a Commercial part of the city. P. Lambert said the times they are open are good as it is after regular school starts, and they would be leaving before it gets out. He feels this is easier to get in/out than the other location.

Motion: R. Tautkus moved to approve application 2010-0013.

The use is authorized in the chapter with granting of the Special Exception. The structure houses other activities and rents out space to others.

This is a Community Center, with a lot of traffic congestion now. Pedestrian safety is minimal. There are already lots of people in/out of the building so she doesn't feel this use would increase traffic extensively.

This would not overload municipal systems as this is an established building which is already on City water and sewer. Overloading those won't be an issue.

This won't create an excessive demand for police or fire. The Community Center has been there a long time. It is an established use so there would be no additional demand for those services here.

There are no special provisions for the use in this chapter.

There will be no hazards to health or safety as this is a Community Center now, located across the street from a school, and is an established use in this neighborhood. The children will be escorted in and out of the building.

The location is an appropriate one since the building is already a Community Center.

This is consistent with the spirit and intent of the chapter as this is currently a Community Center and they are asking to run a preschool in a established Community Center.

The second was made by J. Tivnan and all voted in favor of approval, 5-0.

(Steve Bogert entered the meeting at 8:45.)

OTHER BUSINESS: S. Perley said when the Board members met with J. Whitelaw, they were told not to quote the master plan while doing the conditions of approval. She asked why and S. Saunders clarified.

S. Saunders let the Board members know that she had been approached by CVS asking about their options for more signage. They are asking for just one or two. She told them she thought the board would entertain a reasonable request and asked if that is a fair statement. S. Saunders said she doesn't feel their request it is out of line. They have a freestanding sign and one wall sign now with frontage on 3 streets. She was asked if they could re-apply as they had been denied and responded that if the request was significantly different they could. The board agreed that they would entertain a reasonable request.

D. Greski had a question on the signage at Dairy Queen. He asked if the size is appropriate and was told it was grandfathered but that they had made it smaller and therefore more conforming.

MINUTES: The minutes from the ZBA meeting of May 17, 2010 were voted upon. P. Lambert moved to approve with the second by R. Tautkus. All voted in favor, 5-0, of approval.

ADJOURNMENT: The motion to adjourn was made by P. Lambert and seconded b R. Tautkus. All voted to adjourn, 5-0, and the meeting adjourned at 9:15 pm.

Submitted by:

Kristine Y Snow
Zoning Technician