

ZONING BOARD OF ADJUSTMENT
MINUTES MEETING OF JULY 18, 2011
APPROVED MEETING OF OCTOBER 21, 2011



Present: S. Bogert, **Chairman**; S. Perley, **Vice-Chairman**; D. Greski; O. Gibbs; M. Foote

Absent:

Staff: S. Saunders, **Planning Director**; K. Snow, **Zoning Technician**

S. Bogert called the meeting to order at 7 pm and welcomed the public to the July 18, 2011 meeting of the Laconia ZBA.

He let the applicant for the first 4 items on the agenda know that these could be heard together and then separate motions be made if that is acceptable with them. The applicant agreed and the meeting proceeded.

S. Bogert read the 4 proposals into the hearing. He asked why this project needs an extension if being this is being actively built upon.

S. Saunders said that a project isn't vested until it is considered substantially complete. This site isn't substantially complete; only the sewer lines have been brought to the property at this point. Planning Board approval would expire without this extension approval. The Variance approval had a different date as it had been continued because of the balloon test.

HEARINGS:

Extension Request:

Application 2009-00027	MSL # 120-234-001	SFR
Akwa Waterfront, LLC	50 Lighthouse Cliffs	Special Exception

The applicant is requesting an extension from an approval granted by the ZBA on July 20, 2009 to allow the use of multi-family dwellings. The requested date for the extension request is July 20, 2012.

Application 2009-00028	MSL # 120-234-003	SFR
Akwa Waterfront, LLC	50 Lighthouse Cliffs	Special Exception

The applicant is requesting an extension from an approval granted by the ZBA on July 20, 2009 to allow the use of multi-family dwellings. The requested date for the extension request is July 20, 2012.

Application 2009-00029	MSL # 117-234-001	SFR
Akwa Waterfront, LLC	50 Lighthouse Cliffs	Special Exception

The applicant is requesting an extension from an approval granted by the ZBA on July 20, 2009 to allow the use of multi-family dwellings. The requested date for the extension request is July 20, 2012.

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Application 2009-00030
Akwa Waterfront, LLC

MSL # 120-234-001
50 Lighthouse Cliffs

SFR
Area Variance

The applicant is requesting an extension from an approval granted by the ZBA on July 20, 2009 to allow the height of the proposed structures to exceed the 35' limit allowed in the zone. The requested date for the extension request is September 21, 2012.

Applicant: Chris Duprey appeared on behalf of Akwa Waterfront. He feels they meet the criteria to be granted an extension. The approvals have not yet expired and they have made a good faith attempt for the project.

They went into active design, they submitted their application to the Planning Department and went through TRC meetings. They had two third party reviews. The proposal was presented to the Planning Board and received conditional approval in October 2010. They did plan revisions. This was submitted to NH DES in January 2011, and they received the permit on June 24, 2011.

The Scenic Road landscape has changed significantly with the other project that is currently going on. Sewer installation has been done on Scenic Road up to the hill which will service both projects. In about a month they begin the water line that will service the projects.

They have invested hundreds of thousands of dollars to this point and plan to begin construction here this fall. They began the Lookoff Rock project last fall. They want to stabilize that project before beginning this one.

S. Perley asked if a one year extension is sufficient and was told that was all they could do at a time. D. Greski asked if the application had changed and was told no. M. Foote asked if these were multi level homes and was told yes and he was shown pictures. He asked how many buildings and units there are in the two projects, and was told that Lookoff Rock is 19 units in 5 buildings and this project is 72 units in 3 buildings.

S. Bogert explained that we allowed application 2009-00030, for the height, because the balloon test was done and it was determined that the buildings did not interfere with the line of sight.

S. Saunders also mentioned that the units at Lookoff Rock, although applied for at the same time, did not require the extensions as they are considered substantially complete.

S. Bogert asked if anything has changed with this project and was told no. S. Saunders said that the city had a lot of concern with the Lookoff Rock site due to its location right on the water. She said the team has been very professional and immaculate with the Lookoff Rock project so they expect the same with the other.

Public: No one spoke for or against the applications.

There were no further questions from the board so S. Bogert closed the hearing to the public.

Motion: 2009-00027: S. Perley moved to approve the extension request for the Special Exception for application 2009-00027, allowing the use of multi-family dwellings. The new expiration date will be July 20, 2012. The second was made by O. Gibbs and all voted in favor of granting the extension, 5-0.

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Motion: 2009-00028: S. Perley moved to approve the extension request for the Special Exception for application 2009-00028, allowing the use of multi-family dwellings. The new expiration date will be July 20, 2012. The second was made by O. Gibbs and all voted in favor of granting the extension, 5-0.

Motion: 2009-00029: S. Perley moved to approve the extension request for the Special Exception for application 2009-00029, allowing the use of multi-family dwellings. The new expiration date will be July 20, 2012. The second was made by O. Gibbs and all voted in favor of granting the extension, 5-0.

Motion: 2009-00030: S. Perley moved to approve the extension request for the Variance for application 2009-00030, allowing the height to exceed the permitted 35' limit in the zone. The new expiration date will be September 21, 2012. The second was made by D. Greski and all voted in favor of granting the extension, 5-0.

New Hearings:

Application 2011-0015

MSL # 428-283-39

RS

Marie Leahy

51 Champagne Avenue

Variance

The applicant is requesting a variance from 235-35 (A), front setback, in order to install a roof over an existing brick patio. The front setback in this zone is 25' and the house already encroaches 6' into the front setback; this project will not encroach any more into that setback.

Applicant: Marie and Rick Leahy appeared for the proposal. M. Leahy said that have a brick patio at the entrance to their house. They want to place a roof over this and add railings. When the builder went to get the permit he was told the city has an ROW across the yard so they only have a 19' setback instead of the required 25'.

S. Bogert asked if the patio is even with the bedroom and was told yes. M. Foote asked how far it would extend, and was told to the window. M. Leahy said the entrance is unsafe in the winter, as they have ice build-up, and cannot use salt on it. S. Bogert asked if they have any plans to enclose this in the future and make it a room and was told no by M. Leahy.

Public: No one from the public spoke for or against the proposal.

Board: S. Perley said she had no issues with this proposal. It is well documented, intrudes no further into the setback, makes the property safe, and she feels it is a good project. The other board members agreed.

There were no further questions from the board so S. Bogert closed the hearing to the public.

Motion: D. Greski moved to approve application 2011-0015 in order to install a roof over the existing brick patio.

The applicants are short 6 feet. This proposal won't be contrary to public interest as it won't alter the character of the neighborhood and won't hurt public welfare.

The spirit of the ordinance is observed as there won't be any negative impact. This is an established neighborhood and this is a permitted use.

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Substantial justice is done in approving the variance as there will be no impact to the surrounding properties. The proposal should make the entrance safer during the winter months when there is snow and ice from the roof.

The values of surrounding properties are not diminished. This is an established neighborhood, and this proposal will improve the area. It is a positive move. The roof will cover the existing footprint of the brick patio so the applicant won't be adding any additional area that doesn't currently exist.

Not approving this would cause unnecessary hardship to the applicant as the house already protrudes into the required setback. This project takes 6 ft out of the required 25.

There is no fair and substantial relationship that exists between the general public purpose and the specific application of the provision as this is a minor change to the property which will improve it. It will blend into the neighborhood, and gives the applicant safer access to the home.

The proposed use is a reasonable one. This proposal will not negatively impact the character of the neighborhood and should be a positive improvement.

M. Foote seconded the application.

Board Discussion: S. Bogert asked if in the future any owners wanted to enclose this area what would they need to do in order to do that. S. Saunders said they would have to apply for a building permit but they would not have to come to the ZBA as the project would not require any additional structural beams as they would be in place.

The ZBA voted 5-0 to grant the proposal.

MINUTES: S. Bogert moved to accept the minutes of the July 20, 2011 meeting as written. S. Perley seconded, and all voted in favor, 5-0.

OTHER BUSINESS: S. Bogert said his term is up in August and K. Snow said she would contact M. Bradley on Tuesday to have her e-mail him the needed paperwork.

D. Greski mentioned he won't be available for the September meeting.

ADJOURNMENT: D. Greski moved to adjourn the meeting with the second by M. Foote. All voted in favor and the meeting adjourned at 7:45 pm.

Submitted by:

Kristine Y. Snow
Zoning Technician