



ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING JULY 19, 2010
APPROVED AT MEETING OF SEPTEMBER 20, 2010

Present: S. Bogert, **Chairman**; S. Perley, **Vice Chairman**; P. Lambert; D. Greski; Jay Tivnan, **Alternate**; O. Gibbs, **Alternate**

Absent: R. Tautkus, S. Saunders, **Planning Director**

Staff: K. Snow, **Zoning Technician**

S. Bogert called the meeting to order at 7 pm. S. Bogert said that S. Perley served as Chairman at the last meeting, which included the first hearing, but S. Bogert will serve as chair this evening for both hearings. He will not cast a vote on the first hearing, as he was not in attendance, but S. Perley will vote. S. Bogert said that J. Tivnan would be seated as a full member for the first hearing, as it is a continuance from the June 21 meeting, where Tivnan had been seated.

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, and 235-57 (A), prohibited signs, in order to erect a sign within the front setback. The front setback in the Professional Zone is 15 ft.

D. Greski reminded the board that the second part of the application had not been discussed, 235-57 (A) as it had not been posted and that should be reviewed this evening.

Applicant: S. Smith appeared for the hearing. This was continued from the June meeting to allow the Laconia Department of Public Works time to review the site and see the best placement for the sign. A letter was submitted to the Board members from Luke Powell stating that the location the applicant had indicated on the plan is the best location for sight distance and pedestrian safety. At the meeting 235-35 (A), front setback, had been discussed but not 235-57 (A). The application was amended and they met with DPW. S. Smith submitted a letter to the Planning Department regarding the continuance and the abutters were re-noticed with both of the ordinances indicated.

S. Smith showed the site and explained the lay out. There was initially an access point off of Main Street and all of Harvard Street was open. They reorganized the parking, which had been an issue. They lost a few spaces during the re-organization. There are dedicated spaces at the main clinic and at the rehab facility across the street for the employees. They added green space and changed the access to Harvard Street.

After finishing the facility they realized that a wall sign could not be seen until you are very close to the building. They determined the free standing sign would be better. Placement of it splits the island of green

space on the corner. This won't impact people entering or leaving Harvard Street. Pictures had been submitted at the previous meeting.

S. Smith showed a shaded area on his plan which is the 20 foot prohibited area. They met with DPW review the site and it was determined this is the best location. Moving it further down the frontage would impact sight distance to the intersection. This allows traffic to see the sign in time to signal and safely turn.

The ordinance is there to protect sight distance. Moving it further down does prohibit the sight distance. You cannot put the sign in the middle of the parking lot. This placement allows clients to slow down, signal, and enter safely. Major improvements were made on the site when they did the upgrade. They eliminated the point of access off of Main Street, re-did the parking, and fixed the Harvard Street egress.

At the previous meeting S. Smith had submitted pictures of other signs on the street which show that the other businesses have signage in this general location.

S. Bogert let S. Smith know that there will be only 4 members this evening, 2 each is a tie, so it would be an automatic denial. He let S. Smith know that he can choose to continue the hearing until the August meeting or continue on this evening.

S. Smith said he would continue with the meeting this evening. The sign application still needs to be submitted and approved.

Public: No one spoke for or against the application.

Board: S. Perley said she feels this application satisfies the requirements. J. Tivnan said he feels it meets the requirements the same as other businesses on the street.

S. Bogert closed the hearing to the public at 7:15 pm.

Motion: D. Greski moved to approve application 2010-0010 for the variance from 235-(A) setback and 235-57 (A) for prohibited signs. This won't be contrary to the public interest and no one spoke for or against the proposal. This won't alter the character of the area and there are no issues with health, safety, or general welfare.

The spirit of the ordinance is observed. The front setback was established to provide a sufficient setback. Signs are placed for the maintenance of streets and sidewalks and the placement of this sign was reviewed by the Department of Public Works. We received their approved in writing stating this is the best location for sight distance and pedestrian safety.

Substantial justice is done in granting the variance as this allows the property owner to make full and safe use of the property.

Values are not diminished. According to 235-57 (A) on prohibited signs, you need 20 ft in either direction to allow for sight distance. The proposed location is the only place on this site for the sign to be placed and it will follow suit with others on the street.

Literal enforcement of the provisions of the ordinance would result in unnecessary hardship as there is no other place to put a sign without it being located in the middle of the lot, and be visible to clients. Any other location could be a safety hazard.

There is no fair and substantial relationship as the Main Street area is heavily traveled. The placement will meet safety requirements and become consistent with other properties on the street, making this a reasonable request.

The use is a reasonable one as the use is allowed. This was redevelopment of an existing structure. The property owner renovated, changed the exit and egress into the property, and generally improved the area.

J. Tivnan seconded the motion and all voted in favor, 4-0.

The hearing was over at 7:20 pm.

Both J. Tivnan and O. Gibbs were seated as full board members on the following hearing.

**Application # 2010-0014
M & C Fleming**

**MSL 440-77-12
79 Fenton Avenue**

**RG Zone
Variance**

The applicant is requesting a variance from Chapter 235-35(B), side setback, in order to add a two car garage. The garage will be located at the end of the existing drive way. The side set back in the RG Zone is 10 feet. The proposed location will allow a 1 -2 ft setback. There is a fence along the side of the property where the structure is being proposed.

Applicant: Michael and Cynthia Fleming appeared for the application. They purchased the property a year ago. It was then uninhabitable. They gutted it, redid plumbing, siding, and new electrical. Now they want a 2 car garage. That will be the final touch to the property. Several homeowners in the neighborhood already have garages so they feel this is in keeping with the neighborhood. The garage will enhance this property which will in turn enhance the other properties. To keep to the required setback they would have to move the garage over quite a bit, which would require more paving and take away from their green space. This will keep them within the 60% greenspace requirement in the zone.

D. Greski said he drove by the property and thinks at one point there might have been a garage here as this is a straight drive way. He asked about the shed, and M. Fleming said it was gone as of this morning.

S. Bogert asked if it is the intent to build at the very end of the drive way and was told yes. D. Greski asked how far it would be from the side property, and was told 1-2 ft from the side but 30 ft from the rear.

O. Gibbs said a number of the properties already have garages near the side setbacks or actually encroaching. D. Greski asked if there is a fence along the property line and was told yes, that it appears to run down the property line. D. Greski asked how close they plan to build and was told 1-2 ft from the fence by M. Fleming.

S. Bogert asked if the edge of the drive runs close to the fence line and M. Fleming said yes, about 6 or 7 inches from the fence now. He wasn't positive on the measurement and said it could be even less.

P. Lambert asked how they will maintain that side of the building and M. Fleming said that is why they need the 1-2 ft in order to access the side. P. Lambert asked if it is possible to maintain a 3 ft buffer. D. Greski said to skew this to the driveway, that he thinks this is already a problem now. He thinks with an overhang the water will shed onto the neighbor's property. He said he feels this would be an issue, and thinks the 3 feet is a better idea.

S. Bogert said that is a good question and asked how the roof will be pitched. M. Fleming said he hadn't thought about the water shedding off either. S. Bogert said to maybe put gutters on that side.

Public: John Moriarity appeared along with his wife. He resides at 12 Fenton Avenue. He stated he and his wife are in favor of the project. All of the lots in this area are non-conforming or non-standard for various reasons. There are currently a number of garages that are in the same situation as the one being proposed here.

Whether or not the garage requires the variance, the vehicles will be parked in the neighborhood, and are now parked on the street. The structure will improve the neighborhood and get the vehicles off the street.

No one else from the public spoke for or against.

Board: J. Tivnan asked if there is a way to suggest that the building plans show the gutter and S. Bogert said it could be part of the motion. We can make it a condition of approval. J. Tivnan said he feels doing that would be an asset with a close neighbor.

S. Bogert closed the hearing to the public at 7:30 pm.

S. Bogert said gutters will help the water shedding and that this can be a condition of approval. D. Greski said he feels 3 feet is a good idea for the setback.

Motion: P. Lambert moved to approve application 2010-0014, from 235035 (B), side setback to allow a garage. The garage can be located no closer than 3 feet and a gutter is to be placed on that side that keeps the water on the property are to be conditions of approval.

This proposal won't be contrary to public interest. This is a known entity in the neighborhood, other residences in the neighborhood have the use.

The spirit of the ordinance is observed. The garage will be situated at the end of the drive way and there is no place better suited for it on the lot.

Substantial justice is done in granting the variance. This gives relief to the property owner, allowing them to have a garage and store vehicles off of the street.

The values of the surrounding properties will not be diminished. The property owners have re-habbed the property since they purchased it. This property has gained in value and others in the neighborhood should as well.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The ordinance allows for this type of variance to be granted as there is nothing unusual in the request.

There is no fair and substantial relationship between the public purpose and the application of the ordinance to the property. There is currently a fence along the property line and the garage will be located 3 feet away, allowing the homeowner room to maintain the structure. The garage will be located at the end of the driveway, and not allowing that would be unreasonable.

This is a reasonable use for a home in this neighborhood. It is a reasonable use for a home in the neighborhood to have a garage. It will be located at the end of the existing driveway and will meet the rear setback for the zone.

J. Tivnan seconded the motion, along with the two proposed conditions, and all voted in favor, 5-0, of approval.

OTHER BUSINESS: J. Tivnan asked about the steep slope ordinance being approved, and was told it was not yet approved. The City Council needs to make the final approval, which has not yet been done.

J. Tivnan asked about a lot in Long Bay, which had a view easement. He asked where the property owner would find a copy of that and O. Gibbs said should be in the deed. She said they should go to the Registry.

P. Lambert asked about the plane running out of Barton's. K. Snow explained what is going on and that S. Saunders is working on the issue. P. Lambert said that type of operation had been deemed unsafe to operate about 7 or 8 years ago because of boat traffic. D. Greski said a plane lands on Winnisquam all the time for training purposes and he was told they are supposed to do a pass first.

The signage at Dunkin Donuts was brought up by K. Snow. She said they had been approved for an additional 20 square feet of signage but the application came in at 21 sq feet. D. Greski said he feels this was approved for the 20 ft. P. Lambert said he feels the letters on the awning are only about 2 sq feet. K. Snow explained how the figures are arrived at; it isn't the entire awning just the letters. The board asked for clarification so K. Snow said she would verify that it is not the entire awning but only the lettering and bring this back to the Board next month.

K. Snow mentioned 145 Daisy Gardner Road and explained that the department had received a complaint about a home based business being run and in the process discovered the height of the structure, which had been approved at one story.

P. Lambert said he has seen the structure and feels it is higher than one story. The roof would have to be at a 12 pitch, with a truss. S. Bogert said he is familiar with the building, as well, and agrees that it is not one story.

P. Lambert asked if the original structure was 26 ft high and D. Greski said no. He said at best the owner kept a small tractor in it. It was one story with a hay loft. He said when the old building was there, there was no equipment, like the cranes, housed here. Now there are 2 trucks with cranes. One is kept inside the building, and the other parked beside it. Information on this approval will be supplied for the next meeting.

P. Lambert asked about the bar located at 279 Lakeside. He wondered how Tolios obtained the private meters on a public street. He asked what is going on with the bar on the second floor and asked if S. Saunders ever contacted the liquor board on this. He asked staff to check with P. Moynihan at DPW on the parking meters and who owns the street there. He wondered if the City maintains the street.

He also asked for 631 Weirs Boulevard to be checked on. These are the people who wanted to go up to a two story structure and the board made it a condition that engineering studies of footings and the soils needed to be done before work was begun. **(NOTE by K. Snow: this is actually 556 Weirs Blvd that is meant by P. Lambert.)**

S. Bogert reminded the other Board members that this is Paul Lamberts last meeting and thanked him for his service over the past three years. He thanked him for all of his assistance on the Board.

P. Lambert asked for an update on what is going on with the WOW Trail and was asked to contact S. Saunders on that.

MINUTES: The minutes from the ZBA meeting of June 21, 2010 were voted upon. It was noted that the second on the vote for the last hearing needed to be added. S. Bogert moved to approve as amended, with the second by D. Greski. All voted in favor of approval, 5-0.

ADJOURNMENT: The motion to adjourn was made by P. Lambert and seconded by D. Greski. All voted to adjourn, 5-0, and the meeting adjourned at 8:15 pm.

Submitted by:

Kristine Y Snow
Zoning Technician