



**ZONING BOARD OF ADJUSTMENT**  
**MINUTES APPROVED MEETING OF APRIL 19, 2010**  
**MEETING OF FEBRUARY 22, 2010**  
**(Rescheduled from February 16, 2010)**

**Present:** S. Bogert, **Chairman**; S. Perley, **Secretary**; P. Lambert; R. Tautkus; O. Gibbs (alternate)

**Absent:** D. Greski; J. Tivnan; S. Saunders, Planning Director

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

S. Bogert opened the meeting at 7 pm. O. Gibbs was seated as a full board member for the evening.

**HEARINGS:**

<b>Application # 2010-0001</b>	<b>MSL 450-74-12</b>	<b>RG Zone</b>
<b>Debra Lacey</b>	<b>40 Fair Street</b>	<b>Variance</b>

The applicant is requesting a variance from 235-33, Table of Dimensional Standards, in order to change a single family to a two-family residence. The use is allowed in the zone; however the property does not meet the density requirement. 7260 SF is needed per unit, for a total of 14,520 SF; the applicant has 8276.4 SF.

**Applicant:** Debra Lacey appeared for the application. She said this has been a single family home for 15 years and is a very large home. She would like to change this to a 2 family, allowing for a one bedroom apartment on the first floor, of approximately 577 SF. The drive is large enough to support the use. She has been living alone here and now the house needs some repairs/renovations, so she would like to add the apartment in order to get some extra money. Her neighbors have less land, and are parking in their yard. She gave details on neighboring properties; one with 0.5 has 2 units, another with 0.25 has 2 units, and an 0.23 lot has 4 units. Hers is the only single family residence on this side of the street. She has sufficient parking for this one bedroom unit.

She will just have to add a few interior walls, and there will be no outside dimensional changes to the outside. S. Bogert asked if all of the modifications will be on the first floor and D. Lacey said yes, with the exception of renovating the upstairs bath. She will add a kitchen to the first floor. The unit will have an open concept kitchen and living area, and one bedroom, all on the first floor. The Board looked at the plan provided to understand the layout.

S. Perley asked about entrances and D. Lacey said she will be replacing what is now a window with a door so there will be 2 entrance doors on the first floor. There is already a back door so the unit will have the 2 required means of egress. S. Perley asked if the house is currently on city water and sewer and was told yes. D. Lacey said she has elderly parents, so at some point she would probably move them in. D. Lacey said she can park 8 cars here.

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

**Board:** S. Bogert asked if the board members had any additional questions and S. Perley asked for clarification on the square footage of the proposed unit. D. Lacey said it will be 566 sf. It will be a 1 bedroom unit with a full bath and an open concept kitchen/ living room and will be located on the first floor.

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

The new criteria for a variance were reviewed by the board members. K. Snow explained that the law changed January 1 and we are still dealing with legal on this wording. The applicant actually answered the questions for the Area Variance, which were more stringent than the new criteria.

**Motion:** S. Perley moved to approve Application # 2010-0001 for the variance from 235-33 allowing this use.

The variance will not be contrary to the public interest; no one spoke for or against the proposal.

The spirit of the ordinance is observed as this is a residential general district, with the use of multiple family allowed in the district.

Substantial justice is done in granting the variance as at some point in the past it is believed that this was a multiple family home, and the applicant is converting it back.

The values of the surrounding properties are not diminished as most of the other homes in the area are multi-family homes.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. There is no fair and substantial relationship between the general purposes of the ordinance provision and the specific application of that provision to the property; the proposed use is a reasonable use. The applicant will add the 1 bedroom apartment on the first floor, of 566 sf, with no exterior changes, other than changing a window to a door. There is enough area on the site to support additional parking. This will be a one bedroom unit with a full bath, and an open kitchen/living room. These uses are enjoyed by all of the abutters.

P. Lambert seconded the motion and all voted in favor of approval, 5-0, for the following reasons:

This is to certify that at the meeting held on **February 22, 2010** the City of Laconia Zoning Board of Adjustment voted to **approve** your request for a Variance to allow for the addition of a first floor apartment, of 566 square feet, to this single family residence. This will be a

one bedroom apartment, with no exterior changes to the residence. The approval will be based on the following criteria:

- (1) **The variance will not be contrary to the public interest because;** No one from the public spoke for or against the proposal.
- (2) **The spirit of the ordinance is observed because;** This is a residential general district and multi-family residences are allowed in the zone.
- (3) **Substantial justice is done because;** At some point in the past it is believed that this was a multiple family home; the applicant is converting it back to its original use.
- (4) **The value of surrounding properties will not be diminished;** The values of surrounding properties will not be diminished as most of the other homes in the area are multi-family homes.
- (5) **Literal enforcement of the ordinance would result in unnecessary hardship because: (Use A or B)**

**The special conditions of this property that distinguish it from other properties in the area are:**

**(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:**

- (i) **No fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because:** This is an allowed use in the zone.
- (ii) **The proposed use is a reasonable one because:** The other homes in the area are already multi-family homes. There will be no exterior changes to the structure, except changing a window to a door. There is ample parking that exists on this site. This use is enjoyed by all of the **abutters**.

**If the criteria in subparagraph A are not established, an unnecessary hardship Will be deemed to exist, if and only if:**

**(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:**

**Application # 2010-0002  
Genesis Healthcare  
Exception**

**MSL 395-336-7  
175 Blueberry Lane**

**RA Zone  
Special**

The applicant is requesting a Special Exception as stated in 235-70 (C) to expand the existing Assisted Living Facility. The use of an Assisted Living Facility is allowed in this zone with the granting of the Special Exception according to Table I, Table of Permitted Uses. The entrance road and parking will be re-configured.

**Applicant:** S. Smith appeared for the application. He passed out pictures of the facility and let the Board members know that the facility is located at the end of Blueberry Lane right before Holman Street. It was constructed, as far as they can tell, in 1970. It is currently a 108 bed facility. S. Smith showed the layout on the plan. The building is located in the RA zone on 5.6 acres of land, with 380 ft of road frontage. There are 70 existing parking spaces.

There are 2 entrances to the property now; one is the service entrance. The buildings are on city water and sewer. S. Smith said he has talked with water, sewer, and DPW, and there are no issues with this proposal.

In 1995 there was an improvement plan submitted and in 2001 they got approval to add additional parking. Assisted living is allowed here by Special Exception. Back in August of 2008 they received a Certificate of Need to add 14 beds. S. Smith said that the application he submitted, and the plan, stated 12, but there was confusion between Smith's office and the applicant and the application should have read that 14 beds were to be added.

This is for a 14 private room addition of 11,000 SF. The service road will be relocated and parking will be reconstructed. Drainage currently goes to a catch basin and then right into the system with no protection. They will add a storm water system under the parking lot to collect, detain, treat and release storm water into the system so there will be no increase in run off. The sidewalk now ends before the service entrance, and they will be extending it the entire length of the property. They will also have to go before the Planning Board for site plan approval before they are able to move forward with the application. This will be reviewed by the TRC and Planning Board.

The use is authorized in the chapter by Special Exception.

There will be no undue traffic congestion and the use will not unduly impair pedestrian safety. A new entrance is proposed. They met with Fire who is in agreement with the plan as they will be able to enter and circle the site, which they can't currently do. They will also extend the sidewalk. There are lots of apartments located in the area.

The proposed use won't overload any of the municipal systems. They met with Water and Sewer. They are updating the drainage. They have been told the proposed services are appropriate. The proposed drainage will be a major improvement over what is there now.

The proposed use won't create excessive demand on police, fire or schools. There is an existing facility now of 108 beds and they are only adding 14 more, so they don't feel that will be a major increase in demand on those services. This won't affect the schools.

There are no special provisions other than having to meet Zoning regulations and site plan. This does meet Zoning, and they will go to the Planning Board for site plan approval.

The proposed use creates no hazard to health, safety or welfare of the public. This is an existing use. This is located in the RA zone, and this use provides a good buffer from this to the single family homes in the neighborhood. There is a ROW between this and single families. The apartments are first, then this facility, then the ROW, and then the single family residences. The use is allowed by Special Exception, is now existing and has been since 1970.

This is consistent with the spirit of the chapter and the Master Plan. This use is allowed in the table of uses. The ordinance is drafted based on the Master Plan so is consistent with the spirit. Under economic development the Master Plan talks about assisting businesses with new goals. It talks about health care being a driving economic force in Laconia. It states that the service sector, hospital and affiliated medical businesses, employs 51% of Laconia's service jobs. The Master Plan speaks to the decline in industry, and the increase in medical related businesses.

Jordan O'Connor, the architect for the project, is also in attendance this evening and can answer any questions. He said they are carrying the theme of the existing building, which they have to do as this is a substantial structure now. This plan places the parking and the activity area towards the rear of the lot so it won't be seen; the property will appear more passive.

S. Bogert asked about the open areas shown on the plan and was told they are courtyards, which are not used in the winter. They provide an open area for residents and also provides for natural light all year round.

S. Perley asked if the addition will just be bedrooms and was told no, there will be a nurse's station, a dining area, and recreation room. The addition will be 11,000 SF with the 14 beds. S. Perley asked about parking and was told they will have more than required by ordinance.

S. Perley stated that another board member, who is absent this evening, questioned why they are not going up with this structure. J. O'Connor replied that it is because it is assisted living. They prefer no stairs. In more urban locations they do go up when less land is involved. With multiple floors there is a decreasing number of people per floor but supervision numbers have to go up. S. Perley asked about the drainage shown on the plan and was told it will be under the parking lot, and is not an actual structure.

S. Perley said she is finding it hard to understand how the structure will look like the pictures provided and J. O'Connor reviewed the plans. He said they will be doing landscaping. This will be the same type of one-story, brick facility as currently exists.

S. Bogert asked about setbacks and S. Smith said they will all be met with this proposal.

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

**Board:** S. Bogert closed the hearing to the public at 7:55 pm.

S. Perley said she feels this is a reasonable proposal.

**Motion:** P. Lambert moved to approve Application # 2010-0002 for the Special Exception from 235-70 (C) to expand the facility to add 14 beds and 11,000 SF.

The use is authorized in the chapter with the Special Exception.

This use will not create traffic issues or impair pedestrian safety. Traffic patterns will be re-configured and enhanced, and sidewalk will be added.

There should be no issues with public water, sewer or other municipal systems. The plan will go before Planning for site plan approval. The runoff has been addressed, with the system located under the parking lot.

The requested use will not create excessive demand on police, fire, waste or schools. This will be addressed by the Planning Board but this additional use does not appear to add much to what currently exists on the site.

There are no special provisions here.

The requested use will not create hazards to the health, safety or general welfare of the public nor will it be out of character with the neighborhood. The adjacent neighborhood is multi-use so this fits in.

The proposed location is appropriate for this use; the area is zoned for this.

The use is consistent with the spirit of the Master Plan and the intent of the chapter. This use would fall into the Master Plan in accordance with the area and the use.

R. Tautkus seconded the motion and all voted in favor of approval, 5-0, for the following reasons:

**(a) The use requested is specifically authorized in this chapter.** The use is allowed in this zone with the granting of the Special Exception.

**(b) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.** The entrance is being re-configured which will allow better access for emergency vehicles. The sidewalk is being extended which will ensure better pedestrian safety as there are many apartments located in this area.

**(c) The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets.** The appropriate departments have been notified and no problems were identified by them. Drainage is being updated, which will be a major improvement over what is currently there.

**(d) The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.** The addition of 14 beds to the current 108 will not create a major increase in demand on Police or Fire and will not affect the schools.

**(e) Any special provisions for the use as set forth in this chapter are fulfilled.** There are no special provisions. They meet the Zoning regulations and will go to Planning Board for site plan approval.

**(f) The requested use will not create hazards to the health, safety or general welfare of the public nor be detrimental to the use of or out of character with the adjacent neighborhood.**

This is a currently existing use located in the RA Zone. The adjacent neighborhood is multi use so this fits into the area.

**(g) The proposed location is appropriate for the proposed use.** The location is appropriate for the use. The area is zoned for this and it is allowed with the granting of the Special Exception.

**(h) The requested use is consistent with the spirit and intent of this chapter and the Master Plan.** The requested use falls into the Master Plan in accordance with the area and the use.

**NEW BUSINESS:** Elections of ZBA officers was discussed. It was determined to go ahead and hold the election. S. Perley nominated S. Bogert to remain as Chair; that was seconded by P. Lambert. All voted in favor.

P. Lambert nominated S. Perley as Vice-Chair. S. Perley asked P. Lambert why he did not want the position and P. Lambert stated that he may not remain on the Board as he is thinking of going to Florida for the winter in the future. S. Perley accepted the nomination which was seconded by S. Bogert. All voted in favor.

S. Perley nominated R. Tautkus as Secretary with the second by S. Bogert and all voted in favor.

The new board members are Steve Bogert, Chair; Suzanne Perley, Vice-Chair; and Robin Tautkus, Secretary.

**MINUTES:** The minutes from the ZBA meeting of the site walk of October 27, 2009 were reviewed. The motion to approve the minutes was made by S. Perley with the second by P. Lambert. The motion passed with all voting in favor, 5-0.

The minutes from the ZBA meeting of January 19, 2010 were reviewed. The motion to approve the minutes was made by S. Bogert and seconded by O. Gibbs. The motion passed, 3-0, as only 3 board members could vote.

**OTHER BUSINESS:** P. Lambert went to the auction for the hotel on Lakeside. It was foreclosed on and sold for 675K.

**ADJOURNMENT:** S. Bogert made the motion to adjourn the meeting with the second by R. Tautkus. All voted in favor and the meeting adjourned at 8:15 pm.

Submitted By:

Kristine Y. Snow, Zoning Technician