

These minutes are subject to possible corrections/revisions at a subsequent
Exeter Zoning Board of Adjustment meeting.

EXETER ZONING BOARD OF ADJUSTMENT AUGUST 16, 2011 MEETING MINUTES

Present:

Chairman: John Hauschildt.

Regular Members: Patrick Driscoll, Hank Ouimet, Martha Pennell.

Alternate Members: Marc Carbonneau.

Building Inspector/Code Enforcement Officer: Douglas Eastman.

Deputy Code Enforcement Officer: Barbara McEvoy.

The meeting convened at 7:09PM.

Agenda:

1. Case #1425: 5 Heritage Way - Equitable Waiver request.
2. Case #1426: 27 Hampton Road - Variance request.

New business:

1. Case #1425:

The application of Norman Schimmel for an Equitable Waiver of Dimensional Requirements to permit an existing structure (barn) that encroaches within the required minimum side yard setback to remain as situated. The subject property is located at 5 Heritage Way, in the R-1, Low Density Residential zoning district. Tax Map Parcel #81-75.

Mr. Norman Schimmel of 5 Heritage Way approached the board and read a letter of explanation (dated 7/6/11) into the record regarding the encroachment of his barn in the side yard setback. He also stated that there would be considerable expense to move the barn.

Mr. Carbonneau asked if there was a building permit issued for the barn and the answer was yes.

Mr. Ouimet asked about the survey information at this time.

Mr. Schimmel stated that it was originally thought that the corner was 21' off the line.

Chairman Hauschildt asked for clarification that the closest distance is 10' to the line.

Mr. Schimmel answered yes.

Mr. Ouimet mentioned that the location for the barn was drawn on the plot plan and attached to the building permit application.

Mr. Schimmel mentioned that a neighbor at 7 Heritage Way had work done and had a survey completed.

Ms. Pennell asked if there was any change to the original lot line of the subdivision with the new survey and the answer was no. It was then asked how the applicant measured the distance for the building permit application and Mr. Schimmel stated that he used the subdivision map and an incorrect pin when he measured. He also mentioned that he has never been able to find the proper real pin.

At this time the chairman opened the hearing to public testimony. The abutter at 7 Heritage Way was present at the meeting but indicated that he was all set and did not need to address the board. The public hearing was then closed.

DELIBERATIONS

Mr. Ouimet stated that the board needed to walk through the criteria and Mr. Carbonneau stated that the applicant acted in good faith and that this would be a good administrative correction. The board then reviewed the criteria for Equitable Waiver and it was mentioned that there would be no diminution to surrounding neighbors.

**MOTION: Mr. Ouimet made a motion to approve the Equitable Waiver request as presented.
Mr. Driscoll seconded.
The motion passed unanimously.**

2. Case #1426:

The application of Ashley Bowley for a variance from Article 5, Section 5.1.4 for the continuance of a non-conforming use to permit the property at 27 Hampton Road to be utilized as a child day care facility. The subject property is located in the R-2, Single Family Residential zoning district. Tax Map Parcel #87-36.

Protocol: Mr. Carbonneau disclosed that the mother of the applicant is an abutting neighbor of his. The board decided that there was no conflict of interest. Mr. Ouimet requested to step down whereas he is an acquaintance of the property owner. The applicant agreed to have her case heard with four members of the board.

Mr. Ouimet stepped down at this time.

Mr. Carbonneau clarified that the applicant was seeking relief for use only.

Ms. Ashley Bowley approached the board at this time. She described to the board her child day care plan and mentioned that she would have a maximum of eight (8) employees (3-4 at one time) and a maximum of twenty five (25) children. Continuing, she stated that there is currently fifteen (15) parking spaces up at the top of the site and three (3) below in the rear for a total of eighteen (18) spots.

Chairman Hauschildt mentioned that thirteen (13) spaces are required for the facility.

Ms. Bowley then stated that she will need to reconfigure the parking area (affecting four spaces) for a play area in the rear. This change would then provide the business with fourteen (14) spaces total.

Ms. Pennell asked for clarification on the maximum number of children the applicant will have at her business. It was mentioned that twenty five were mentioned at the meeting and twenty four were listed on the application. It was clarified that twenty five (25) is the correct number. Ms. Pennell then asked about the total number of educational meetings including children and parents that the applicant expected. Ms. Bowley stated that she expected 20 people once every couple of months. She also mentioned that she may offer yoga and music classes as an after school option for children.

At this time, the Chairman opened the hearing to public testimony.

Mr. Mark Sopher, owner of the property, stated that the building has been a medical office for thirty years and that he is in support of the proposal. Another resident addressed the board and was in support of the proposal, particularly the after-school program.

The public testimony portion of the hearing was closed after these comments.

Ms. Pennell stated that she had a problem with the parking, traffic flow and egress/ingress.
Mr. Carbonneau mentioned that another day care in town, Appleseed's, was a much more intense user.

Ms. Pennell then recommended that the board require the applicant to go to the Planning Board.
Mr. Carbonneau suggested that the applicant go to the Town Planner and Code Enforcement Officer for parking review.

Chairman Hauschildt recommended that the board take a vote to allow the applicant and property owner to address these issues.

MOTION: Mr. Carbonneau made a motion to open the public hearing portion of the meeting to allow the applicant and property owner to address the board.
Mr. Driscoll seconded.
The motion passed unanimously.

Ms. Bowley approached the board and stated that she plans a staggered drop off and pick up at the facility. It was also mentioned that Rockingham County Community Action hosts seminars at the site and that a limit can be placed on the number of attendees due to the size of the building.

Mr. Sopher stated that he has never had any issue over the years with the building being used as a medical office even with two doctors and busy practices.

The public hearing was closed at this time.

DELIBERATIONS

Ms. Pennell read through the criteria for variance and the board agreed that the applicant met all of the conditions.

MOTION: Mr. Carbonneau made a motion to approve the variance request, as presented, limited to twenty-five children maximum and subject to Town Planner and staff review of the parking configuration, traffic flow and ingress/egress.
Ms. Pennell seconded.
The motion passed unanimously.

Other business:

1. Minutes: Approval of July 19, 2011 Minutes.

Mr. Carbonneau recused himself from the vote.
The board agreed to the following changes in the minutes:

Page 1, last paragraph: It was suggested that clarification be inserted to reflect the procedural discussion the board had on the topic of the applicant's request to revise the relief being sought for 110 Linden Street application (Case #1421). It had been represented that an extension(s) of variance approvals had been granted on two occasions to other Applicants (in accordance with Section 12.4 of the ordinance). Amend the last paragraph to read as follows:

“Mr. Hauschildt mentioned that the variance application was requesting the same relief as previously sought from Article 5.3.3 (A & B) which addresses the requirement for compliance with the regulations governing lots not served by municipal sewer systems (as outlined in the Planning Board Subdivision

regulations) and not relief from Article 12, Section 12.4 Limits of Approval, as Attorney Somers had spoke of. It was represented that whereas different relief was being requested, it would be advisable to renotify abutters and repost the legal notice with the correct description of the relief being requested (and to be scheduled for the September meeting). Mr. Ouimet indicated that the Board could acknowledge the verbal amendment and move forward as the Applicant has requested, although cautioned that there would be the risk of the decision being appealed due to incorrect notification. The Applicant decided to go forward with the application as originally submitted and as noticed.”

Page 2, 4th paragraph: Add: “the state standard was stricter than the town...”

Page 3, 1st paragraph: Add: “the Planning Board was not germane on these zoning issues involving storm water etc.”

Page 4, 7th paragraph: Add: “...Mr. Wilson answered that the barn may not be converted at all. If it is, there may be one or two units depending on the costs. If was also mentioned that the exterior renovations will need HDC approvals.”

Page 5, 3rd paragraph: Change: “Ms. Mary Houston, a member of the Folsom family and an 83 year old...”

**MOTION: Mr. Ouimet made a motion to approve the July 19, 2011 minutes, as amended.
Mr. Driscoll seconded.
The motion passed unanimously.**

2. Form based codes update:

Chairman Hauschildt gave the board information regarding form based codes. He stated that this type of zoning is successful in Stratham and is being researched in Exeter by both the Heritage Commission and Historic District Commission. He gave an update from the Heritage Commission meeting on the topic and mentioned that this zoning option will be going to the Zoning Ordinance Review Committee in the fall for discussion.

**MOTION: Mr. Ouimet made a motion to adjourn
Mr. Driscoll seconded.
The motion passed unanimously.**

The meeting adjourned at 8:02PM.

The next meeting of the Exeter Zoning Board of Adjustment will be held Tuesday, September 20, 2011 at 7:00PM in the Novak Room at the Exeter Town Offices.

Respectfully Submitted,

Christine Szostak
Planning & Building Department Secretary