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Exeter Zoning Board of Adjustment meeting.

EXETER ZONING BOARD OF ADJUSTMENT SEPTEMBER 20, 2011 MEETING MINUTES

Present:

Chairman: John Hauschildt.

Regular Members: Patrick Driscoll, Martha Pennell, Bob Prior.

Alternate Members: Steve Cole, Rick Thielbar.

Building Inspector/Code Enforcement Officer: Douglas Eastman.

Deputy Code Enforcement Officer: Barbara McEvoy.

The meeting convened at 7:00 PM.

Agenda:

1. Case #1427: 81 High Street – Variance request.
2. Case #1428: 42 Lincoln Street- Variance request.

New Business:

1. Case #1427:

The application of 81 High Street LLC for a variance from Article 4, Section 4.3 Schedule II: Density and Dimensional Regulations – Residential for the proposed construction of an 18' x 80' detached garage (providing 9 parking spaces) with less than the required minimum side yard setback. The subject property is located at 81 High Street, in the R-2, Single Family Residential zoning district. Tax Map Parcel #71-97.

(Mr. Cole was not a voting member for this case.)

Appearing before the board on behalf of the applicant were Mr. Steve Wilson, owner, Attorney Ed Woicak of Marshall Law and Mr. Paul Brown an appraiser. Attorney Woicak gave the board a description of the previous variance approval for the planned seventeen unit elderly housing project for the site and mentioned that there is a gravel parking area currently up to the westerly property line.

Attorney Woicak then outlined the applicant's request to construct a nine (9) space parking garage 5' from the property line when fifteen (15) feet is required. The proposed garage would be 82' long and 13' 1" in height. He also stated that the garage would be fifteen (15') from the line and far into the property creating safety issues with travel flow. Attorney Woicak then addressed the variance criteria and stated that this would be a reasonable use for the residential property.

Appraiser Paul Brown addressed the board at this time. He mentioned that he had submitted a letter with the application.

Mr. Cole asked about the fence materials and height. Mr. Wilson stated that it would be a solid wooden privacy fence, 4-5' high with a decorative top. He also mentioned that it would be 4' closer to the street. Mr. Cole then mentioned that the application stated that the garage would be 18' x 80' and the plan shows 20' x 82'. Mr. Wilson stated that the difference encompasses the overhang on the architectural drawings.

Mr. Cole then asked for the height of the proposed building to be verified. It was clarified that the garage would have a peaked roof, an eight (8) foot wall and thirteen feet, one inch (13' 1") overall height.

Mr. Prior asked if the addition was only going to be with the garage. He asked if there was going to be any parking relief requested. He also inquired about a snow removal area.

Mr. Wilson stated that this will be an apartment building, not condos and that a management company will be removing snow.

Mr. Prior then asked about the retaining wall and Mr. Wilson stated that it will be a defining area of the driveway and it will increase the green space around the building.

Mr. Thielbar mentioned that he was concerned with the maintenance of the five (5) foot area behind the garage and a guarantee for abutters it will be taken care of.

Ms. Pennell inquired to the overhang in the rear. She asked if it is another foot into the setback and the answer was no. It was mentioned that the building will be twenty (20) feet wide and includes 2' of overhang.

Mr. Wilson then stated that there will be one space for storage and only 8 vehicles parked in the building.

Chairman Hauschildt mentioned that he was concerned about snow on the back side of the building with the fence and with the upkeep of the rear of the garage if the property is sold. It was clarified that any approval runs with the property and not with the owner.

Ms. Pennell inquired about the handicapped parking.

Mr. Wilson stated that the spaces in the garage are adequate, although not large enough for a handicapped van.

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

Ms. Cassandra Rudier of Emerson Commons approached the board. She first welcomed Mr. Wilson as her new neighbor and then mentioned that she is concerned with the garage. She stated that there is no hardship and that there is adequate room on the property for it to be placed elsewhere. She then mentioned that the project would change the view of High Street from Emerson Commons and that she was concerned about the noise factor with vehicles.

Mr. Prior asked for a description of the layout of the three buildings at this time.

Another resident addressed the board and mentioned that she was concerned about the visual, aesthetic of the proposal and that at a previous meeting using pavers instead of asphalt was mentioned. She also stated that she was concerned with drainage and that landscaping on the opposite side of the five (5) foot fence was previously proposed.

Ms. Donna Harrison of Emerson Commons approached the board at this time. She stated that she was concerned with the value of surrounding properties being affected, the visual impact, drainage and potential wetlands impacts.

Ms. Kate Cook of 86 High Street (across the street) addressed the board and stated there was a promise to preserve the beautiful meadow. It was also mentioned that most houses do not have garages in the front of the property and are generally set back behind the main structure and that the barn is beautiful. In addition, it was stated that the proposal does not meet the criteria for variance and the spirit of the ordinance needs to be applied consistently.

At this time, the Chairman closed the public testimony section of the hearing.

In rebuttal, Mr. Wilson addressed many of the points mentioned during public testimony and Attorney Woicak clarified that this was a variance request and the issue was setback distance, not for a garage use.

DELIBERATIONS

(Mr. Cole stepped down during deliberations and voting.)

Mr. Prior mentioned that the building has no hardship and that there would be 820 square feet of encroachment.

**MOTION: Mr. Prior made a motion to deny the variance request based on the applicant not meeting variance criteria #5, #2 and #4.
Ms. Pennell seconded.**

In discussion Chairman Hauschildt commented that in regard to criteria #4 (diminution of value) there was expert testimony but not conclusive and none to the contrary.

The motion passed 4-1. (Mr. Hauschildt voted Nay)

(At 9:05 PM the board took a break and re-convened at 9:12 PM)

2. Case #1428:

The application of Frederick Amey for a variance from Article 4, Schedule 4.3 Schedule 4.3 Schedule II: Density and Dimensional Regulations-Residential for the proposed construction of a 24' x 32' detached garage with less than the required rear yard setback. The subject property is located at 42 Lincoln Street, in the R-2, Single Family Residential zoning district. Tax Map Parcel #73-270.

(Ms. Pennell was not a voting member for this case. Mr. Cole became a voting member.)

Mr. Amey approached the board to present his case. He mentioned that he wanted to construct a 24' x 32' detached garage on his property and that there would only be a 10' setback on the rear whereas 25' is required. He then began a discussion of the criteria for variance.

Mr. Amey provided a 3-D model of the proposal and described the topo/elevation change at the rear of the property to Garfield Court. He also provided photos to the board and stated that the vegetative buffer will remain. Mr. Amey also mentioned that he did look at an alternative which would be connectivity from the garage to the rear of the home and mentioned that there would be issues including with the driveway with this alternative.

Mr. Prior asked if additional pavement will be required and the applicant answered that he did not think so.

Ms. Pennell asked about moving the garage directly into the property and connecting to the house. Mr. Amey stated that there would be drainage/water issues, a problem with the driveway location and sunlight issues. He then mentioned that it would be a totally different project if it is necessary to attach the garage to the home. He also stated that it most likely would be a two-story garage.

Ms. McEvoy described a previous case for the board to consider.

At this time, the Chairman opened the hearing to public testimony and there was none.

DELIBERATIONS

(Ms. Pennell stepped down at this time.)

Mr. Driscoll led the board through a discussion of the criteria for variance at this time.

MOTION: Mr. Driscoll made a motion to approve the variance request as submitted.
Mr. Cole seconded.
The motion passed unanimously.

Other Business:

1. Minutes, August 16, 2011.

It was clarified that the minutes should reflect the title of Doctor Marc Sopher who was at the meeting.

MOTION: Ms. Pennell made a motion to approve the August 16, 2011 minutes.
Mr. Driscoll seconded.
The motion passed unanimously. (Mr. Cole and Mr. Prior abstained.)

2. Mr. Prior asked about the status of 89 Front Street and the board was updated by Code Enforcement.

MOTION: Mr. Prior made a motion to adjourn.
Mr. Cole seconded.
The motion passed unanimously.

The meeting adjourned at 9:50PM.

The next meeting of the Exeter Zoning Board of Adjustment will be held Tuesday, October 18, 2011 at 7:00PM in the Novak Room in the Town Offices at 10 Front Street.

Respectfully Submitted,

Christine Szostak
Planning & Building Secretary