

**EXETER ZONING BOARD OF ADJUSTMENT
SEPTEMBER 18, 2013 MEETING MINUTES**

Present:

Regular Members: Chair Bob Prior, Vice Chair John Hauschildt, Clerk Rick Thielbar, Martha Pennell and David Mirsky

Alternate Members: Marc Carbonneau

Building Inspector/Code Enforcement Officer: Doug Eastman

Deputy Code Enforcement Officer: Barbara McEvoy

Planning & Building Administrative Assistant: Leigh Burley

Chair Prior called the meeting to order at 7:00 PM. He introduced the Board members and explained the protocol for the meeting. He indicated that the Board would be hearing three (3) related applications this evening having to do with the proposed redevelopment of several properties located on Franklin Street.

Prior to moving into the business on the agenda, Chair Prior commented that he wished to clear up a misconception heard recently that the Zoning Board of Adjustment (ZBA) members worked for the town. He stated that the ZBA was a volunteer board representing the residents, voters and taxpayers of Exeter, and that its members were not employed by the town. He made a brief public service announcement to inform the public that there were currently open positions on the board, and encouraged any residents who may have an interest in serving on the board to contact the town Planning Office for further details.

NEW BUSINESS:

AGENDA:

1. Case # 1462: Allen L. Lampert Trust
Variances for Side Yard Setback and Building Coverage – 26-28 Franklin Street Expansion of
2. Case #1463: Allen L. Lampert Trust
Variance Request for Multi-family Use
3. Case #1464: Allen L. Lampert Trust
Variances for Multi-family use in WC district and parking requirements

Chair Prior continued and read the descriptions of all three (3) of the applications on the agenda into the record. He commented that he would request the Applicant (and/or representatives) to provide an overall scope of the entire project for the Board and that discussion would proceed collectively.

Case # 1462: Allen L. Lampert Trust

The application for a variance from Article 4, Section 4.3 Schedule II: Density and Dimensional Regulations (Residential) to permit a reduction in the required minimum side yard setback; and a variance to permit the proposed construction to exceed the maximum building coverage requirement. The subject property is located at 26-28 Franklin Street, in the R-2, Single Family Residential zoning district. Tax Map Parcel #72-74.

Case # 1463: Allen L. Lampert Trust

The application for a variance from Article 4, Section 4.3 Schedule II: Density and Dimensional Regulations (Residential) to permit the proposed construction of a multi-family building with associated parking on the properties at 25 Franklin Street and 29 Franklin Street (to be merged)

with less than the minimum percentage of open space required. The subject properties are located in the R-2, Single Family Residential zoning district. Tax Map Parcels #72-75 and #72-77.

Case # 1464: Allen L. Lampert Trust

The application for a variance from Article 4, Section 4.2 Schedule I: Permitted Uses to allow multi-family use (at street level) within the WC-Waterfront Commercial zoning district; a variance from Article 4, Section 4.4 Schedule II: Density and Dimensional Regulations (Non-residential) to permit encroachment within the required minimum rear yard setback; a variance from Article 5, Section 5.6.3.B. to allow for a reduction in the length of parking spaces; and a variance from Article 5, Section 5.6.6 for relief from the requirement to provide guest parking. The subject property is located at 20 Franklin Street, in the WC-Waterfront Commercial zoning district. Tax Map Parcel #72-72.

Ms. Nicole Duquette, P.E. with TF Moran, Inc. addressed the Board. She acknowledged that the applicant, Messrs. Allen and Mike Lampert and Mr. Tom House, the architect for the project, were also present in the audience. She began the presentation by providing an overview of the proposals and relief being sought for each of the individual properties.

20 Franklin Street

Ms. Duquette noted that this property needed the most relief. She indicated that the existing auto repair and parts shop building would be demolished and replaced with a 5-unit, multi-family townhouse style building with garages under. She reviewed the four (4) individual requests for relief as outlined in the application. She identified the three (3) zoning districts in the immediate proximity to the subject properties and noted there were multiple two-family and multi-family uses in the neighborhood. Ms. Duquette represented that although Exeter did not have a specific parking requirement for the existing use (automotive garage/parts store) it could require up to twenty parking spaces calculated on a per bay basis. She indicated that the building foot print would be maintained on the north and east sides of the building therefore coming no closer to the rear setback line than what exists today. She noted that the relief being sought with respect to the rear lot line was for expansion of a non-conforming use to permit the proposed construction of an additional floor on the new structure (vertical expansion). She pointed out that the parcel itself was non-conforming whereas it was only approx. 60 feet in depth. Ms. Duquette addressed the requests for relief from the parking regulations and stated that adequate parking for the five proposed units could be provided on site; however, it was not physically possible to provide the required two additional spaces for guest parking.

Ms. Duquette represented that granting the variances, as requested, for the proposed redevelopment of this property would:

- be consistent with the mixed use in the area
- increase the amount of green space allowing for landscape and sidewalks along Franklin Street
- decrease the existing density of the lot (footprint of the proposed building will be smaller)
- provide a continuation of the sidewalk along Franklin Street
- remove a non-conforming use and replace it with a more nearly conforming use, and
- enhance the values of surrounding properties
- provide adequate off-street parking (for the residential use) and therefore help to lessen the traffic congestion on Franklin Street.

26-28 Franklin Street

Ms. Duquette identified the location of the site as abutting the 20 Franklin Street site and also located on the river-side of the street, however, it was situated in an R-2, Single Family residential zoning district. She indicated that the proposal was to demolish the existing two-family residence and reconstruct a new

two-family residence in a slightly different configuration which would allow for adequate off-street parking to be provided. Ms. Duquette represented that the existing lot was non-conforming in area and was also deficient in providing adequate parking for the existing residential use. She noted that there were currently two (2) gravel driveways that provided parking for a total of 2-3 vehicles. She explained that by increasing the footprint of the building (approx. 440 s.f.) they would be able to provide a drive-under garage under each unit (2 spaces) and parking in the driveway. Ms. Duquette stated that the slight increase in the proposed footprint would require placing the building approx. 2-3 feet from the side property line and would increase the building coverage on the site from 23% to 32%, however, in doing so it would still remain consistent with the character of the surrounding properties.

25-29 Franklin Street

Ms. Duquette explained that the property owner was proposing to demolish the existing structures on these properties, merge the two properties, and construct a 4-unit multi-family building with parking on the corner of Franklin & South Streets. She indicated that the existing lots consisted of a two-family dwelling and a three-family dwelling with a paved driveway off of South Street and two gravel driveways off of Franklin Street. She stated that the variance being requested was for relief from the minimum open space requirement and was being sought in order to provide adequate off-street parking for the proposed multi-family structure.

Chair Prior asked if there was any plan for the redevelopment of other properties on the street owned by Mr. Lampert. It was represented that a proposal for 1 Franklin Street was being considered, although no specific plans were available at this time. Mr. Lampert commented that it was unlikely that further housing would be developed, and that commercial use of the property was more his preference.

Mr. Hauschildt inquired about the properties being located within the Exeter Shoreland Protection (ESP) district; it was represented that no zoning relief from the ESP regulations was necessary; however conditional use permits would be required during the Planning Board process.

Mr. Thielbar inquired about the possibility of merging the two lots on the river side --20 Franklin and 26-28 Franklin Street. It was represented that the properties were not owned by the same entity, and were also located in two different zoning districts. It was also noted that 20 Franklin Street was located in the Historic District and 26-28 Franklin Street was not.

Mr. Hauschildt expressed some concern regarding the proposed increase in impervious surface. He noted that those issues would be discussion for the Planning Board. It was represented that the Applicant had presented plans for preliminary conceptual review to the Planning Board in June of this year.

Mr. Carbonneau asked for clarification of the parking being provided; he inquired as to the net number of spaces being removed from the street (and are now being proposed to be provided on site). Ms Duquette responded that there were 13 spaces on the river side and 6 more spaces on the opposite side of the street, for a total of 19 spaces.

Mr. Hauschildt inquired whether an environmental study of the site had been done given it had been an automotive garage; he asked if it was considered a Brownfields site and if any remediation was necessary. Mr. Mike Lampert responded that the study has been completed and the site was clean – no remediation was necessary.

Ms. Pennell expressed concern about living space being proposed on the first floor noting that the river tends to flood more than once every one-hundred years. Chair Prior clarified that the entire building is within the 100-year floodplain, and the entire property lies within the 500-year floodplain. Mr. Thielbar

inquired how this site fared during the big flood (6-7 years ago). Mr. Lampert responded that the first floor of the building never experienced any flooding as it is situated higher at the street level; however the basement of the building did have some water damage. Ms. Duquette added that basements were not being proposed for the new construction.

There being no further questions from the Board, Chair Prior indicated that he would entertain public comment at this time on all three applications; however, the Board would be voting on the applications separately. Mr. Carbonneau suggested that the board and public may want to hear from the architect; Chair Prior invited the Applicant to continue with their presentation if they wished to do so.

Mr. Tom House, of THA Architects, addressed the Board and presented architectural plans depicting the street and river views of the proposed development, as well as floor plans for the proposed 3-story units. He commented that they would be approx. 2,200 square feet in area with garages under. He indicated that the proposed residential buildings (addressed in the three applications this evening) would all be architecturally similar in style. He provided a brief review of the exterior construction materials and elevations.

Chair Prior commented that the feeling of the street will change with the buildings being moved closer to the street. Mr. House responded that the concept of moving the buildings closer to the street was initiated by the Planning Board during the conceptual review process.

Public Comment:

Ms. Holly Garrison, a resident across the river from the subject property, inquired if the units were to be condominiums or apartments. She expressed concern regarding the density on the river and related noise impact. She also inquired about the architecture of the proposed buildings being compliant with Historic District regulations.

Chair Prior clarified that the requests being considered by the Zoning Board of Adjustment (ZBA) were solely related to zoning requirement issues. He explained that the Applicant (and representatives) would be addressing other land use boards and commissions with this same proposal for other issues. Mr. Hauschildt also noted that the board had no control over the potential form of ownership of the units (i.e. rental or condominium).

Mr. John DalSanto, owner of several condominium units in the Long Block building, indicated that there were eleven (11) parking spaces dedicated to the Long Block owners, located across the street in the existing parking area owned by Mr. Lampert. He suggested that the Applicant would be able to utilize parking in this area for the deficient guest parking. Mr. DalSanto noted that the parking along Franklin Street (in front of Long Block) is "One-Hour (or possibly Two-Hour) parking only.

Ms. Sharon Rondeau, also an owner in the Long Block building, stated that it had been represented that there was no parking associated with the automotive garage site; however, she stated that historically the property across the street (owned by Mr. Lampert) had been used for the business. She implied that if the parking on this (adjacent) property is no longer associated with the building, they would most likely now become a marketing tool for the commercial site at 1 Franklin Street. She commented that it appeared as though the Applicant has created their own hardship, and would suggest that the application would not satisfy the hardship criteria.

Mr. Bob Marshall, a resident across the river from the subject property, inquired about the review process subsequent to this meeting. Chair Prior replied that the proposal would be required to go through the

Planning Board site plan review process and review by the Historic District Commission (if located in historic district). He indicated that abutters would receive certified notice of these meetings, as they did for the meeting this evening. He did remind the residents to keep in mind that there were multiple parcels under consideration, and they may not be an abutter to all the properties. He encouraged the audience, as well as viewers at home, if they were interested to stay informed. Ms. Pennell explained that the meetings are open to the public and it was not necessary to be an abutter (or receive a notice) to attend and participate.

Ms. Pam Gjetton, 6 South Street, addressed the Board and commented that she was speaking as Chair of the Historic District Commission and noted she was also a member of the Heritage Commission. She confirmed that not all of the properties under consideration were situated in the Historic District; however all of the buildings were historic and would require review by the Heritage Commission prior to any demolition.

Mr. Carl Edlund, 30 Franklin Street, addressed the Board and inquired how much closer to the river would the proposed structure at 26-28 Franklin Street be if the application is approved as he was concern about the view from his property being impacted.

In rebuttal, Ms. Duquette mentioned that many of the comments and/or concerns expressed by the abutters would be discussed during the Planning Board site plan review process. She stated that the 20 Franklin Street property (former automotive garage) did not have any legal rights to parking on the adjacent lot (across the street); she clarified that there was no recorded easement or deed reference granting such right. Mr. Carbonneau mentioned that the common ownership of the properties had been convenient for providing parking for employees and patrons of the business; however, if the adjacent property were to have been owned by another owner, Franklin Street (and the surrounding neighborhood) would have been adversely impacted by the parking needs of the business. Chair Prior commented that the board cannot rely on the adjacent parking lot to accommodate any parking relief requested by the Applicant. With respect to the question regarding the location of the structure proposed on the 26-28 Franklin Street site, Ms. Duquette represented that the structure would be seven feet (7') closer to the river than the existing deck on the rear of the existing building. She noted that the proposed structure would be in compliance with the 25' minimum rear yard setback requirement.

Mr. Hauschildt asked for clarification as to why two parking spaces could not be provided in the garages under the units. Ms. Duquette indicated that it was necessary to provide access (stairs) out of the building. Mr. House confirmed that they had looked at that option however there was just not enough room.

Mr. Hauschildt asked the Applicant to address the concern mentioned earlier about the potential noise impact resulting from the increase in density. He asked if any type of screening would be provided. Ms. Duquette responded that the site is located within the Exeter Shoreland Protection District and is also under the jurisdiction of the State Shoreland Protection Act, so some planting along the river will be required.

Mr. Mirsky asked if the Applicant wished to address the earlier comment regarding the hardship for the parking relief request. Mr. Thielbar commented that it would be possible to make a similar easement for the two deficient 'guest' spaces. Mr. Mike Lampert clarified that eleven (11) of the parking spaces are dedicated to the Long Block tenants. He stated that any further reduction in the number of parking spaces would severely limit any future development of the property on the corner (1 Franklin St.). He noted only two parking spaces (maybe?) were provided currently on that property.

There being no further questions from the Board, Chair Prior asked if there were any interested parties who wished to speak on the application. There was no public comment, the public hearing was closed.

Mr. Carbonneau suggested that the Board request the Applicant to address the variance criteria for each of the requests. Ms. Duquette proceeded to read the justifications as outlined in the applications. Acknowledging that, Chair Prior interjected and asked if the board members were satisfied with the justification of the variance criteria as outlined in the applications. Chair Prior asked if the Board members had any specific questions; there were none. He asked if the Applicant had any additional comments; Ms. Duquette replied she did not. Chair Prior suggested that the Board move onto deliberations.

Mr. Carbonneau commented that he would remain seated and participate during the deliberation discussions; however he would not be voting as all regular members of the board were present.

DELIBERATIONS

Case # 1463: 25-29 Franklin Street (TM #72-75 and #72-77)

Mr. Thielbar led the Board through a discussion of the variance criteria; Board consensus was that the application, as presented, satisfied the criteria for granting the relief as requested.

MOTION: *Mr. Hauschildt moved to grant the variance for relief from the minimum open space requirement, as presented, for a maximum of no less than 35%.*

Mr. Thielbar seconded.

Discussion: Chair Prior pointed out that the application had referenced 32% open space being proposed, and the motion as stated, referenced 35%. He asked for clarification.

MOTION: *Mr. Hauschildt moved to amend his motion by striking 'no less than 35%' and replacing it with 'no less than 32%' (as presented).*

Mr. Thielbar seconded.

VOTE: *The motion passed unanimously.*

Case # 1464: 20 Franklin Street (TM #72-72)

Mr. Hauschildt reviewed the multiple requests for relief being sought. Chair Prior asked if the Applicant wished to present any additional information that may not have been included in the application. Ms. Duquette clarified that the request for the reduction in the length of a parking space was from 19 feet (which is required) to 18 feet. She also explained that the second variance being sought was for relief from the rear yard setback requirement and was necessary due to the expansion of the building foot print in the vertical direction for the additional height. She confirmed that the existing building was currently situated 8.3 feet from the rear property line (abutting the river) and that the new structure would maintain the same distance.

DELIBERATIONS

Board discussion of the variance criteria ensued on each of the four requests. Consensus was that the relief requested for the use, the rear yard setback and the reduction in the parking space dimension were reasonable and appeared to satisfy the criteria; however, justification of hardship with regard to the relief requested for 'guest parking' was not satisfactory.

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

MOTION: *Mr. Hauschildt moved to deny the application requesting relief from the guest parking requirement, and approve the other three applications as presented.
Mr. Thielbar seconded.
VOTE: The motion passed unanimously.*

Board discussion ensued relative to clarity of the previous motion. It was determined that each of the variance requests outlined in the application should be voted on separately.

MOTION: *Mr. Hauschildt moved to withdraw his previous motion.
Mr. Thielbar seconded.
VOTE: Unanimous.*

MOTION: *Mr. Hauschildt moved to grant the variance to permit a multi-family use within the WC-Waterfront Commercial zoning district, as requested.
Mr. Thielbar seconded.
VOTE: The motion passed unanimously.*

MOTION: *Mr. Hauschildt moved to grant the variance, as requested, to permit the proposed construction of a structure with less than the required rear yard setback (vertical expansion), as presented.
Ms. Pennell seconded.
VOTE: The motion passed unanimously.*

MOTION: *Mr. Hauschildt moved to grant the variance to allow for the reduction in the length of parking spaces provided on the site, as presented.
Mr. Thielbar seconded.
VOTE: The motion passed unanimously.*

MOTION: *Mr. Hauschildt moved to deny the variance request for relief from the parking requirements to provide 'guest parking'.
Mr. Thielbar seconded.
VOTE: The motion passed unanimously.*

Case # 1462: 26-28 Franklin Street (TM #72-74)

Ms. Pennell led the Board through review of the variance criteria.

MOTION: *Ms. Pennell moved to approve the variance for relief from the required side yard setback, as presented. (It was represented that the structure would be situated three-feet (3') from the property line on the north side of the building and two-feet (2') on the south side of the building.)
Mr. Thielbar seconded the motion.
VOTE: The motion passed unanimously.*

MOTION: *Ms. Pennell moved to grant the variance for relief from the maximum building coverage requirement, as presented. (It was noted that the building coverage represented was 32%).
Motion was seconded.
VOTE: The motion passed unanimously.*

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

OTHER BUSINESS:

APPROVAL OF MINUTES: May 21, 2013.

MOTION: *Mr. Hauschildt moved to approve the minutes of May 21, 2013, as written.
Mr. Thielbar seconded.
VOTE: *The motion passed unanimously.**

CHAIRMAN'S ITEMS:

There being no further business, Chair Prior indicated he would entertain a motion to adjourn.

MOTION: *Mr. Hauschildt moved to adjourn.
Mr. Thielbar seconded.
VOTE: *The motion passed unanimously.**

The meeting was adjourned at 9:25 P.M.

The next meeting of the Exeter Zoning Board of Adjustment will be Tuesday, October 15, 2013 at 7:00 P.M. in the Nowak Room at the Exeter Town Offices.

Respectfully submitted,

Barbara S. McEvoy
Deputy Code Enforcement Officer
Planning & Building Department