

ZONING BOARD OF ADJUSTMENT
April 17, 2018
DRAFT MINUTES

1. Call to order

The session was called to order at 7pm by Ms. Laura Davies – Chair

2. Introductions

Members present: Laura Davies – Chair, Robert Prior – Vice Chair, Martha Pennell – Alternate, Joanne Pettito – Alternate, Kevin Baum. Staff present: Barbara McEvoy – Deputy Code Enforcement Officer and Members of the Public were also present.

3. New Business

The Application of Seacoast of R.E. Prescott Co. Inc. for a variance from Article 4, Section 4.4 Schedule II: Density & Dimensional Regulations (Non-Residential) to permit the proposed construction of 2,500 square foot addition to an existing structure with less than the required minimum rear yard setback, The subject property located at 10 Railroad Avenue, in the C-1, Central Area Commercial zoning district. Tax Map Parcel #73-187 & # 73-193. Case # 18-04.

Mr. Perrin Prescott - President of R.E. Prescott Co. Inc. a Water System wholeseller in Exeter NH since 1954 and owner of the 2 properties in question. Approached the Board asking for a variance on the minimum setback for an addition to an existing Building. The setback is on the Western side, and the boundary is on the Railroad side. The application consists of some photographs, a Google photograph showing the existing footprint and a second photo photo shopped to show what it would look like when it is all put together. There are essentially only 2 abutters the railroad and the people across the street; the north side is completely out of sight of anything they do on the southern end of the property. Mr. Prescott states their request is a variance for a 20 FT setback which is the property line that abuts the railroad and is in line with the building they put up in 2003 which is grandfathered because they took an old structure down and replaced it with a new one. The spirit of the ordinance is observed by granting this request the privacy is retained the only thing affected is the railroad and there is no encroachment. This property is unique by only the abutters of the railroad and the one across the street. Mr. Prescott feels that they will enhance the neighborhood by paving the dirt road and adding lights. The structure that they would like to build is in addition to an existing structure which was modified in 2003; it is a cold storage warehouse and just a place to put some inventory. The roofline and the ridgeline of the existing building need to be maintained in order to provide symmetry of the interior of the building and allow for us efficient

material flow to the existing structure. The additional requested building is to maximize the usage of the lot.

Mrs. Davies - Chair is asking the applicant if the current Warehouse building that sits on the boundary with the rail corridor, the footprint was grandfathered on a previous building.

Mr. Prescott states that is correct it was in 2003 and he has not had any conversation with the railline.

Mrs. Davies wants to know if the applicant is envisioning any re-design of traffic or?

Mr. Prescott thanks Mrs. Davies for stopping by and taking a look at the property. He states that they will pave the one dirt road. There will be no change to the other entrances to the property; they will stay as they are.

Mr. Baum has a concern about the driveway close to Academy Pizza, it is fairly close to the corner.

Mr. Prescott states that they do not anticipate any additional traffic. They just need more storage to load vehicle to get delivery out to the customers. He says his next step is to take it to the Planning Board.

Mr. Prior asked if the applicant did a lot line adjustment or will he do one?

Mr. Prescott says his parents used to own #73-187, then Mr. Prescott and his brother bought the #73-187. At the death of his parents he and his brother both own the 2 parcels and they will merge the 2 parcels in question.

Mrs. Davies - Chair opened the session to the Public.

There are no questions or comments from the public and Mrs. Davies- Chair closed the session to the Public.

The Board entered deliberation.

Mr. Prior- Vice Chair states that it seems like a perfectly reasonable application and unless it provides us that there is a lot line adjustment he has no other questions or problems with it whatsoever.

Mr. Baum states that he has some concerns about the pavement and traffic flow, but that is more of a Planning Board issue.

Ms. Pettito stated that the fact it abuts to the railroad track there does not seem to be any adverse effect.

Mr. Prior – Vice Chair motioned to approve the application with the sole condition that a lot line adjustment between #73-193 and #73-187 needs to be executed prior to the beginning of construction.

Mr. Baum seconded the motion.

Ms. Pennell would prefer it to say that the 2 lots will be merged.

Mr. Baum moved to amend the motion to include the words “or lot merger”

Ms. Pennell prefers the words lot line adjustment words be stricken, it is perfectly clear that the lots need to merge.

The amended motion shall read: to approve the application with the sole condition of the lots #73-193 and #73-187 be merged before the construction.

Second by Ms. Pettito

The amended Motion with the merged language passes unanimously

The application of Seacoast Mental Health Center Resource Group Inc. was postponed until the May 15th 2018 Meeting.

The application of Mark and Carrie Allin (for Merrythought LLC) for a variance from Article 4, Section 4.2 Schedule I: Permitted Uses to allow an existing structure situated on the property at 115 Court Street to be used as a private garage (and parking) for the storage of the owner’s private car collection. The subject property is located in the R-2, Single Family Residential zoning district, Tax Map Parcel #83-51. Case #18-05.

Mr. Michael Keene an Architect working with Mr and Mrs. Allin approached the Board stating that Mr. Allin is currently travelling and will not be present. Mrs. Carrie Allin however is present. Mr. Keene states that the Allin's plan on using the property in question as a garage to store their private car collection. There will be no cars stored on the outside. The intentions are to make it look more like a private garage. It is a commercial building and has been thru several restorations. Mr. Keene feels it will not have a great impact on the neighborhood. There will be no sales , no showroom nothing like that. There will be no increase in traffic, no noise and it will not be out of character with the other properties. The building is not well suited to a single family residential building, which is allowed within the district as its existing masonry structure and would require considerable renovation to make it a single family use. This will be done without any expansion at all; it is only a exterior facade renovation.

Mr. Baum is asking Mr. Keene if they are proposing any other changes outside of the building to the drive or parking area.

Mr. Keene states there maybe some repaving in the area but no additional paving.

Mr. Baum wanted to know when the last use , which was catering and when that ended?

Ms. Pettito states there was a shipping parcel place in that location and that it has been gone since 2 years.

Mr. Prior states there was an application for a restaurant which was denied.

Mr. Baum wanted to know if any Events are planned or anticipated.

Mr. Keene stated no.

Ms. Davies – Chair stated that since the project is in the aquifer protection overlay district, which the ordinance suggests has to be managed by the Planning Board and will the applicant get with the Planning Board on that. Do we know if the applicant needs to do so?

Ms. McEvoy stated that she does not believe so as long as it is a permitted use. We can check with the Town Planner Mr. Sharples and see has he has to say.

Ms. Davies – Chair wanted to know Is there any improvements will address the flooding.

Mr. Keene says there are no plans currently.

Ms. Pennell states that there is a severe flooding issue in the area. And this is a unique request for a garage and not a house and so how exactly can we say as permitted use.

Mr .Keene states that it is not a permitted use; it is not an accessory to a house.

Ms. Davies – Chair is asking there will be only doors on the front?

Mr. Keene states there will be 2 overhead doors on the front and a passage door in the middle of the overhead doors and a passage door on the right side. There will be no signs, other than street signs.

Ms. Davies – Chair opened the session to the Public.

Mr. David Taylor at 117 Court Street next door to the project approached the Board stating his concern for a major ponding issue in the front where the parking lot meets the street which extends to his driveway and he would like to know if there is anything that could be done about it. He also mentioned that he uses the parking lot as a turn around and he would like to know if he can be permitted to continue that.

Ms. Davies – Chair states that this would be something that he would have to work out with the property owner if they were to be approved.

Mr. Prior – Vice Chair pointed out that we are only here today to discuss the in use variance exclusively. Mr. Prior also asked how long it has been since the building was in use?

Mr. Taylor stated about 2 years and it was a packaging and shipping store. It was 2 businesses one a packaging and storage and the other a green automotive o friendly store. But they have since moved.

Mr. Peter Saari Attorney from Hampton approached the Board stating that his client Bill Bragger asked him to come her tonight to oppose the application. Mr. Saari has a letter where his client is raising his concerns and reasons. Mr. Saari passed out a copy of the letter to the Board. His client lives at 111 Court Street in the Multi Family Residence. Mr. Saari states that if there is an opportunity for something that is in character with the neighborhood the Board should take that opportunity. He is asking the Board why have a non residential in a residential area. There is no way of knowing what the applicant will do. He is asking the Board to read his clients letter and make a decision.

Ms. Bonnie Treaty- The Bean Group Realty is approaching the Board and states that there is more traffic coming from the multi family residence across the street than there will ever be from this project. Ms. Treaty states that this will be strictly for garaging high end cars and they will make it look like a carriage house fitting in with the Neighborhood.

Mr. Keene states that they do not anticipate any events or repairs to be done at this property.

Ms. Davies- Chair wants to know if the applicant will accept a condition that there will be no public events, any repairs and maintenance be off site?

Mr. Keens states they already stipulated that there will be no repairs there and no chemicals.

Mr. Prior – Vice Chair states that one of the issues is that permission is not given to the applicant but to the property and so if you decided to go out of business some day we have to make sure we are protecting the Town and any abutters in the event that you want to sell the property.

Ms. Davies – Chair closed the session to the Public.

The Board started deliberations.

Mr. Baum states that the commercial use would be permitted here and this is decreasing the non conformity.

Ms. Pennell states that the commercial use had not been there for 2 years and she does not think it is being market now.

Ms. Davies – Chair agrees that this use represents a reduction in the non conformity as in the application and the fact that it has been continuously marketed with continued rights.

Mr. Prior states that the last application brought before the Board was for a Restaurant and that the issue was not the use but the issue of parking. And there was a plan on how they were supposed to fit all these cars there and there was absolutely no way that they were going to have sufficient on site parking. So the issue was not that it could or could not be a Restaurant. It could have been a Restaurant, but it was the use, the parking that nixed that application.

Mr. Baum state sit appears the intensity of the use would be fairly minimal, less than multifamily use. It does not seem there is any approval needed as far as the aquifer zone. Spill control provisions are required and the applicant may be subject to that.

Ms. Pennell is asking if the application is approved would it make it a commercial use as supposed to a residential use?

Ms. Davies – Chair states that private garage is not a residential use and also not a commercial use and just a storage use. Somewhat commercial.

Mr. Prior – Vice Chair states it is somewhat commercial but does not bring with it the signage that commercial use has, the lighting or traffic and all the things that commercial would bring with it. And since it has been marketed and fall under our definition another retail establishment could go in there without coming to this Board. And so to the abutters point , while it would be wonderful to be able to turn it into a residential use , it would not be practical to do so, certainly with the existing structure. And if you tear down the structure, how big of a house can you put there?

Ms. Davies states that here is not enough room to do anything on this lot. The project in question is not making many changes and appears to improve aesthetics.

Mr. Keene is asking the Board if the variance were to be granted tonight and sometime in the near future maybe with in the 21 day appeal period, the applicant decided that they did not want to give up those commercial rights, will they have the opportunity to appear back before the Board to withdraw the application?

Ms. Davies – Chair states that this won't take away what you currently have , but any new commercial use other than what was there the last time would require approval if it is not conforming. Which is limited to residential.

Mr. Keene states that they have not yet gone thru all the finances yet and as we start to get the financial aspect done. They may decide to abandon the private garage and remarket it as a commercial building and we just want to make sure we are not giving up that opportunity before we occupy the building.

Mr. Prior – Vice Chair is asking since the building has been off the market since November at what point does the use of it become officially abandoned?

Ms, McEvoy stated it would be the year in the ordinance if nothing happens within a year.

Mr. Prior – Vice Chair states a year from purchase date. So regardless of what happens here tonight it would be a year from purchase date.

Mr. Baum states that the applicant should seek legal counsel and that the Board can not be a legal advisory.

Ms. Pennell states that if the Board approves the application tonight for a private garage then the applicant abandoned the commercial right.

Mr. Baum states again that this is a question for the lawyers and the year comes into play also.

Ms. Davies – Chair states that granting a variance does not extinguish the existing right, typically. But if there are particular concerns then legal advice is suggested.

Ms. Pennell states this is a very unique small property and it does not appear to be enough room for a house, which makes this application a wonderful improvement.

Ms. Treaty approached the Board again and reiterated once more that they only seek to improve the property and not devalue it and that they will seek legal counsel and they just do not want to be

locked into anything. She does not want to say no they never will use it commercial but would like to continue with what they requested and seek counsel in between. Yes, they wish to proceed.

Ms. Allin approached the Board and stated everything they said is true and they just want a quiet place, but they also want to protect themselves. It is a neat building and very special.

Ms. Davies – Chair explained that the applicant has a year from the purchase date and if they want to go ahead today the Board will be happy to vote on your application if you want to postpone it that is fine to.

Ms. Allin stated that they wish to proceed.

Mr. Baum motioned to grant a variance from Article 4, Section 4.2, and Schedule 1 to permit a private garage as principal use on the property subject to the conditions that no motor vehicle , commercial motor vehicle repair or sales be done on the property. That there be no public events on the property and subject to all the other stipulations set forward in the application.

Mr. Prior – Vice Chair seconded the motion.

Ms. Pennell would like to add no long term outside parking.

Mr. Prior states as long as it stated as a stipulation in the application. It is already in the application.

The motion passed unanimously

Approval of Minutes from March 20, 2018 - The Board decided that the Minutes needed more work and be redone.

Mr. Prior stated that there are several issue with the Minutes and they need to be redone.

Mr. Prior – Vice Chair motioned to adjourn.

The motion passed unanimously and the session was adjourned by Ms. Davies – Chair at 8pm.

Respectfully submitted,

Melody Hypolite

Recording Secretary

DRAFT

Other Business

Approval of Minutes: March 20, 2018

The Board decided to have the March 20, 2018 Minutes re-done for review