



**ZONING BOARD OF ADJUSTMENT
BELMONT, NH**

Wednesday, October 26, 2022
Belmont Mill & Zoom
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members Mark Mastenbrook, David Dunham, and Sharon Ciampi.
Alternates Present: John Froumy.
Staff: Susan Austin and Sarah Whearty.

6:00 Work Session

Training work shop with Town Counsel.

7:00 Public Meeting

The Chairman opened the meeting at 7:00 pm and welcomed those in attendance and announced that as Chairman of the Belmont Zoning Board of Adjustment, this public body is authorized to meet using electronic means. He said that the Board gave notice to the public of the necessary information for accessing the meeting using Zoom or telephone, and he announced that any party experiencing any difficulty in accessing the meeting at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

Minutes of September 28, 2022

MOTION: D. Dunham moved to approve the minutes of 9/28/2022 as written.
The motion was seconded by M. Mastenbrook and carried. (5-0)

Abutters' Hearing –Quain Trust: Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to allow 85% lot coverage where 75% is allowed. Property is located at 930 & 936 Laconia Road in the “C” Zone, Tax Lot 122-057-000-000, ZBA #4722Z.

The Chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated

emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

MOTION: P. Harris moved that the proposal does not have a potential regional impact. The motion was seconded by M. Mastenbrook and carried. (5-0)

Departmental Responses:

Public Works / Water/Sewer: No issues or concerns at this time.

Land Use Technician: Update map/lot number; gravel lane around building allows access by delivery vehicles and fire/emergency vehicles to rear of lower building; per plan lot coverage is 82.2% where 75% is allowed. Gravel lane should be signed for delivery/emergency vehicle access only (for public safety). No other concerns at this time.

P. Brouillard, John DeJager, and Jon Rokeh were present for the application. P. Brouillard stated that he has no problem adding signage to the gravel driveway as suggested by staff. He stated that they were in front of the ZBA a few years ago with a proposal for an exterior deck for the Tap House, which the Board granted. In May of 2022, they came back in front of this Board and extended that variance. Because that was extended, they had submitted a site plan to show the deck to the Planning Board, and the Planning Board wanted them to pave the parking lot. They then got several proposals from paving companies to pave the lot, but it didn't happen as quickly as they would have liked. They did manage to get the first part of the retaining wall and the first coat of pavement on the lower parking lot last year. At that time, they created a site plan with drainage study. They appeared before the Planning Board and the Board was not satisfied with the amount of parking spots, so they added more spots to the area that is now gravel. Last month, the Planner gave her staff report where she asked what the lot coverage calculation was. Mr. Rokeh then calculated that it was 82.5%. In their original approval from the 1990s, the gravel access lane was not included, it was created sometime after that, before Mr. Brouillard took ownership. All of these years, the gravel access road/fire lane has been there. Delivery trucks use it and the fire department likes having it there as well. The gravel fire lane is the 7.5% that they are short for the lot coverage. His argument here today is that public good is better served by the circulation here, the fire department can get around this building, than it is to have that grassed in and impassable. All parties agree that the gravel road should remain, thus the need for a variance. If they were to remove the gravel road, it would be a hardship to the businesses.

Mr. Brouillard read from his application. The variance will not be contrary to the public interest because: The shopping center(commercial) use is allowed by the Zoning Ordinance. The shopping center does not create excessive demand for municipal police, fire protection or schools. The complex is sprinkled and alarmed. Solid waste disposal services are dumpsters contracted out to private garbage disposal companies, so there will be no excessive demand on the Town's solid waste services. The plaza complex will not create any hazards to the health, safety, or general welfare of the public because the complex will not be detrimental or out of character with the adjacent neighborhood, because of its busy commercial nature at one of the states busiest intersections surrounded by two convenience stores and Dunkin Donuts. It will not alter the essential character of the locality. There is no noise or pollution caused by the complex. The complex is consistent with the spirit and intent of the Zoning Ordinance.

Granting the variance would do substantial justice because: Shopping center use is allowed by the Zoning Ordinance. The complex does not create excessive demand for municipal police, fire protection or schools. The complex is sprinkled and alarmed. Solid waste disposal services are contracted out to private disposal companies so there will be no excessive demand on Town's solid waste services. The complex will not create any hazards to health, safety, or general welfare of the public because the complex will not be detrimental or out of character with the adjacent neighborhood. There is no noise or pollution caused by the complex. The complex is consistent with the spirit and intent of the ordinance.

If the variance were granted, the values of the surrounding properties would not be diminished because: Shopping center use is allowed by the Zoning Ordinance. The complex does not create any hazards to health, safety, or general welfare of the public because the shopping center will not be detrimental or out of character with the adjacent neighborhood. There will be no noise or pollution caused by the complex. The shopping center is consistent with the spirit and intent of the Zoning Ordinance. Granting this variance allows the existing gravel fire lane to remain and creates additional parking.

Unnecessary hardship: An applicant seeking an area variance must satisfy the following two requirements to establish hardship: 1. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property; and 2. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following: Only a shopping center is economically viable from a cash flow stand point. Local businesses are tenants and need additional parking to expand and grow their businesses.

Chair Harris asked if there was any public comment. There was no public comment so he closed the public hearing portion of the meeting.

MOTION: M. Mastenbrook made a motion to approve the request for a Variance of Article 5 Table 2 of the Zoning Ordinance to allow 85% lot coverage where 75% is allowed. Property is located at 930 & 936 Laconia Road in the "C" Zone as it meets the following criteria:

1. The Variance will not be contrary to the public interest because the granting of this variance would not alter any of the essential character of the facility in question, all surrounding area is in the commercial zone.
2. The spirit of the ordinance is observed because it is a shopping center in the commercial zone, which is consistent with the spirit of the ordinance.
3. Substantial justice will be done because the granting of the variance would benefit the owner and its tenants, as well as the public who would have access to parking when patronizing the shopping center businesses.
4. The Variance would not diminish the value of surrounding properties because there is

no substantial documentation that says values would be diminished since this property has been there for over twenty years, and by allowing a gravel road behind the building will not diminish values.

5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the shopping center would not create excessive demand for municipal and emergency services. The shopping center will not create any hazards to the health and safety of the general public.
 - and
 - b. the proposed use is a reasonable one because the property has been in existence for over 20 years and the character is not being changed.

Additional conditions:

6. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
7. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
8. Comply with Aquifer Protection Ordinance.
9. Approval expires on 10/26/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
10. Site Plan approval from the Planning Board is required.

The motion was seconded by S. Ciampi and carried. (5-0)

Abutters' Hearing – Lawrence G. Ludwig: Request for two Variances of Article 5 Table 2 of the Zoning Ordinance to construct a garage:

Closer (3') to the rear property line than allowed (12.5') ZBA # 4822Z

Closer (8') to the front property line than allowed (50'). ZBA # 4922Z

Property is located on Sunset Drive in the "RS" Zone, Tax Lot 104-033-000-000.

The Chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

MOTION: P. Harris moved that the proposal does not have a potential regional impact. The motion was seconded by M. Mastenbrook and carried. (5-0)

Departmental Responses:

Land Use Technician: Lot cannot be utilized without relief from the Board for front and rear setbacks. Garage (proposed) has been centered on lot to meet side setback requirements. No concerns at this time.

Mark Radlett was present to speak for the application. He stated that the applicants are retiring and moving to the area. They would like a garage that can hold their cars and generally have more space. They will need more storage because this home is not as big as their old home. As far as the existing building not having permits in the past, the current owners were not aware of this. They are asking to remove the existing 12'x24' garage and replace it with a 24'x20' garage and center it on the lot.

J. Froumy (speaking as a member of the public) stated that the only concern he had was the plowing. M. Radlett stated that he takes care of the plowing in that area. J. Froumy stated that as a member of the public, he is in favor of this proposal. He asked if the applicant considered a different placement? M. Radlett stated that they had considered a side entrance, but it wouldn't have allowed a truck to turn around in that area.

Chairman Harris closed the public hearing.

MOTION: M. Mastenbrook made a motion to approve the request for a Variance of Article 5 Table 2 of the Zoning Ordinance to allow construction of a two-car garage closer (3') to the rear property line than allowed (12.5') as it meets all the criteria as stated below:

1. The Variance will not be contrary to the public interest because it does not change the character of the neighborhood and has no impact on health and safety.
 2. The spirit of the ordinance is observed because it does not change the character of the neighborhood and has no impact on health and safety
 3. Substantial justice will be done because by not allowing the building to be built, the land cannot be utilized, which would be detrimental to the land owner.
 4. The Variance would not diminish the value of surrounding properties because There is no substantial documentation that says values would be diminished, it will only improve the surrounding property values.
 5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because The property itself cannot be used without relief in the form of a variance because of setbacks.
- and

- b. the proposed use is a reasonable one because it doesn't change the existing character of the neighborhood, and it allows the property to be used in the manner it should be.

Additional conditions:

6. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
7. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
8. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
9. Approval expires on 10/26/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

MOTION: M. Mastenbrook made a motion to approve the request for a variance of Article 5 Table 2 of the Zoning Ordinance to allow construction of a two-car garage closer (8') to the front property line than allowed (50)'as it meets all the criteria as stated below:

1. The Variance will not be contrary to the public interest because it does not change the character of the neighborhood and has no impact on health and safety.
2. The spirit of the ordinance is observed because it does not change the character of the neighborhood and has no impact on health and safety
3. Substantial justice will be done because by not allowing the building to be built, the land cannot be utilized, which would be detrimental to the land owner.
4. The Variance would not diminish the value of surrounding properties because There is no substantial documentation that says values would be diminished, it will only improve the surrounding property values.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because The property itself cannot be used without relief in the form of a variance because of setbacks.
 - and
 - b. the proposed use is a reasonable one because it doesn't change the existing character of the neighborhood, and it allows the property to be used in the manner it should be.

Additional conditions:

6. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.

7. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
8. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
9. Approval expires on 10/26/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

MOTION: On a motion by S. Ciampi seconded by N. Patten it was voted unanimously to adjourn at 7:50 pm. (5-0)

Respectfully submitted,

Susan M. Austin
Land Use Administrative Assistant