

BRISTOL
ZONING BOARD OF ADJUSTMENT
March 4, 2014

APPROVED AS AMENDED:

4/1/14__jrl_____

- AGENDA: 14VAR01, VARIANCE: ZAREMBA PROGRAM
DEVELOPMENT LLC (DOLLAR GENERAL), 215 Lake St.,
#112-001
- 14VAR02, VARIANCE: ZAREMBA PROGRAM
DEVELOPMENT LLC (FRED'S AUTO), 215 Lake St., #112-001
- 13VAR04 COMPLIANCE: GERALD WRIGHT, 16 Mt. Celo
Road, #108-010
- ATTENDING: Alan DeStefano (Chairman), Richard LaFlamme (Vice Chairman),
Lorraine Bohmiller, Larry Denton, Ashley Dolloff
- ABSENT: -----
- OTHER: Michael Capone (Town Administrator), public

The meeting opened at 6:04 pm. with a quorum.

MINUTES OF DECEMBER 3, 2013: R. LaFlamme made a motion, second by L. Bohmiller, to accept the minutes as read. The motion carried.

14VAR01, VARIANCE: ZAREMBA PROGRAM DEVELOPMENT LLC for DOLLAR GENERAL: Attorney John H. Sokul, Jr., Scott Holman, Development Manager (Zaremba), Erin R. Lambert, PE,LEED,AP, Senior Project Manager (Nobis Engineering)

The secretary read the application, the list of abutters, where the hearing was advertised and stated that she received no phone calls or written correspondence.

Mr. Holman explained that this is to be a general merchandise store. Dollar General has been around since 1934. They carry name brand items. With this project, they want to build a 9100 sq. ft. building with 30 parking spots. Truck delivery will be once a week for 2 hours and then he leaves. Delivery would be between 8:00 a.m. and 9:00 p.m. Evergreens along the side borders and a hedge row in front are planned. There will also be some perennial beds. ½ hour after closing, the lights go off except for security lights.

VARIANCE: ZAREMBA/DOLLAR GENERAL continued:

Ms. Bohmiller asked about signs and was told that they will be exterior lit signs. Mr. Denton asked where the property lines were on the plan they presented and these were shown. Mr. Holman also pointed out the slope and grass areas in the rear of the property. A depiction of the building was also shown. It will have faux windows in the front. Ms. Bohmiller asked if the sign will be on the building or away from it and was told that it will be on the building.

R. LaFlamme made a MOTION, second by L. Bohmiller, to ACCEPT THE APPLICATION AS COMPLETE. The MOTION CARRIED.

Ms. Bohmiller asked about the 30 spaces mentioned as the application is asking for 34. Ms. Lambert stated that it is for 34. Atty. Sokul stated that it is a 4 acre site to be subdivided into 2.3 acres for Dollar General and 1.7 acres for Fred's Auto. They are asking to have 34 spaces instead of the required 55. Dollar General has over 10,500 stores and feels this is adequate. 1.5 per sq. ft. is the high end of what he sees; this is inconsistent with the trend. The building is only 17% of the lot coverage.

The 5 points for a variance were then addressed by Atty. Sokul:

1. Not contrary to the public interest:

A variance is only in contrast to the public interest if "it unduly and in a marked degree conflicts with an ordinance such that it violates the ordinance's basic zoning objectives." For this, the Board should examine whether the variance would alter the essential character of the locality, or whether the granting of the variance would threaten public health, safety or welfare. This variance does not alter the essential character of the locality. It reduces the amount of impervious surfaces. It is in keeping with the relatively rural nature of the area and does not threaten public health, safety or welfare. The proposed parking will adequately serve parking for the proposed store; therefore will not be contrary to public interest.

2. The spirit of the ordinance is observed:

The purpose of a parking lot is to provide adequate off-street parking. The proposed parking lot will be adequate to serve the development. It will also allow a relatively large lot to be subdivided and developed in a manner that will foster the local economy, which is a stated vision of the town's master plan. The proposal strikes an appropriate balance between encouraging new economic growth in the Village Commercial District while providing adequate off-street parking for the use and minimizing the impact on the wetlands and shorefront.

VARIANCE: ZAREMBA/DOLLAR GENERAL continued:

3. Substantial justice is done:

The variance will not harm the general public in any way. Experience with other Dollar General stores indicates that the proposed parking will adequately serve demand for the store. It will benefit the public by enabling new and stable retail development in the Village Commercial Zoning District. The current design maximizes the parking that can fit on the site given the steep embankment, as well as the state and local wetlands and shorefront buffer restrictions. Granting the variance would allow the property to be subdivided and redeveloped.

4. The value of surrounding properties is not diminished:

The development will convert an existing parking lot into a stable retail development which will help to revitalize the area and enhance commerce, and in turn encourage reinvestment and drive up surrounding property values. A smaller parking lot will also help to preserve the natural character of the wetlands and shorefront along the Newfound River, which has a positive impact on property values.

A letter from a broker, Atlantic Retail Properties of Needham, MA., Pittsburgh, PA, Charlotte, NC, and Jupiter, FL. was distributed to show no impact on surrounding properties.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

The property is unique in that it is a relatively large lot, measuring approximately 4 acres, bisected by the Village Commercial and Village Residential Zones. It abuts that Newfound River and contains a steep embankment and wetland areas. As such, only the front portion of the lot can realistically be developed. Requiring more parking would result in excess pavement which is detrimental to the shorefront.

The proposed use is reasonable:

Because it will revitalize a vital part of the Village Commercial Zone, bring new investment into the town and foster economic growth. It will minimize the impact on the nearby shoreline and wetlands, while maximizing the utility of the developable portion of the lot. Given that the proposed parking is adequate to serve the anticipated demand, it is reasonable to allow a reduced number of parking spaces in this case.

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VARIANCE: ZAREMBA/DOLLAR GENERAL continued:

A letter was submitted from Vanasse Hangen Brustlin, Inc. of Bedford, NH, to show parking needs when Mr. Denton asked if they had data to support the need for less parking; he felt that this was only their opinion. Atty. Sokul pointed out that the letter reflects traffic studies done in Nashua and in Epping. Mr. Denton asked if they have anything for comparable stores in small towns and was told that they do and it is submitted as well (it included Lee, NH). Mr. LaFlamme would have preferred a comparison to their stores in Franklin or Plymouth. Atty. Sokul asked if a large community doesn't need 30 parking spaces, why would a smaller community? Mr. LaFlamme mentioned that this is on the main route through Bristol and goes to the Lake.

Mr. Holman stated that the average customer spends just 15 minutes inside. Ms. Bohmiller asked about handicapped parking and Ms. Lambert stated that 2 spaces are used for these. Mr. Denton asked if the property has been subdivided and was told that this is the first hearings and that will come later.

Mr. DeStefano than opened the hearing up to the public and asked if anyone was in favor. Clay Dingman, a resident and Planning Board member, asked how they calculated the 17% coverage. He was told that this is for the structure only. Atty. Sokul added that it is 49% total when impervious was added. Ms. Lambert stated that it was calculated as a 9100 sq. ft. building on a 55,000sq. ft. Lot.

There were no other comments made for the project.

Mr. DeStefano opened it up for Opposing comments. Andy O'Hara Jr., abutter, asked where they would put snow removal and if they were looking to only have a few customers.

Tom McGowan, NANA, stated that he is concerned about traffic flow. There is already a lot of traffic on this road. He is also concerned about the elderly that are walking. He questioned how we would deal with that.

Margaret Hoyle, resident, said that she would support this but there is more traffic now that North Main Street is one-way and folks come down Union St.

Dave Herbert, abutter, agreed. Traffic gets backed up every morning and every evening now.

Steve Bleiler, abutter, felt that they have lower expectations for business. He had to cut back his building so as to have the required spaces for his building that was already in existence.

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VARIANCE: ZAREMBA/DOLLAR GENERAL continued:

Cheryl Herbert, abutter, is concerned about their property value.

Robin Fitzgerald, resident, agreed about the traffic flow. Also, she reminded everyone that the recent survey shows that the people want to keep the town small. This is not a good choice to consider.

Ms. Hoyle asked how many employees they expect to have and need parking space and she was also concerned with where they will have snow removal. The river is just below the banking. Mr. Holman stated that they will have 3-5 employees. Mr. DeStefano stated that this will only leave 24 for the general public. He added that snow removal will come under the Planning Board when they do the Subdivision/Site Plan.

J. P. Morrison mentioned that parking at the gift store is not good. This would be a good thing for our tax base.

It was noted that the applicants have consulted with DOT and they are in support. Ms. Lambert added that they have considered right and left turn lanes on their plan. Atty. Sokul stated that the focus is on parking and the decrease of spaces will allow for more environmental value. It is an allowed use in the District.

Mr. DeStefano mentioned that he did not recognize the broker who wrote about the project not diminishing the value of the surrounding properties.

Ms. Hoyle stated that the little store, just down the street, will be out if this project comes in. Mr. Schneider, owner of the property in question, said that he has spoken with that owner about what else he could do. He will be closing at the end of March.

Ms. Bohmiller asked if they have applied to DOT and Mr. Holman answered that they have spoken with them and, after these variance, they will formally apply.

At this point, with no further comments, the public portion of the hearing was closed. The Board addressed the 5 points needed for a variance to be approved:

1. Contrary to public interest = Mr. DeStefano mentioned that there have been many comments from the public. This is the largest group attending one of our hearings in some time and most are against this project. Mr. Denton stated that a lot of the comments were about traffic not the parking. There is some traffic now. Mr. LaFlamme agreed. Ms. Dolloff added that there was only one comment on the parking and it was for the project. There was a short discussion on the ordinance being designed for the area.

R. LaFlamme made a MOTION, second by L. Bohmiller, to ACCEPT THIS POINT AS BEING NOT CONTRARY TO THE PUBLIC INTEREST. The motion CARRIED.

ZAREMBA/DOLLAR GENERAL VARIANCE continued:

2. Spirit of the ordinance observed = Mr. Denton questioned that, if the 34 spaces are enough, where will a 35th customer park? Mr. DeStefano feels that the spirit was designed so that there would be enough. Mr. Denton added that we have been given some data for their particular needs. Mr. DeStefano cautioned that we have to be very careful for our town. Mr. LaFlamme mentioned that he lives on Summer St. (Rte. 104) and has to turn right, turn around, and then go left due to traffic.

L. Denton made a MOTION, second by R. LaFlamme, to ACCEPT THAT THE SPIRIT OF THE ORDINANCE HAS BEEN OBSERVED. The motion CARRIED.

3. Substantial justice has been done = Mr. Denton felt that the ZBA had set precedence with the Family Dollar store. Mr. DeStefano stated that the Board must be careful as there is a difference of places and cases. We must determine each case by case. Ms. Bohmiller mentioned that this is apt to create more foot traffic.

L. Denton made a MOTION, second by L. Bohmiller, to ACCEPT THAT SUBSTANTIAL JUSTICE HAS BEEN MET. The motion CARRIED.

4. The value of surrounding properties has not been diminished = Mr. LaFlamme felt that this is hard to prove or disprove. Mr. DeStefano mentioned the one broker who submitted a letter; though he is not local and may not know all factors of the area. Mr. LaFlamme and Ms. Bohmiller felt that this is a very grey area. Mr. DeStefano mentioned the property next to this that is residential and stated that it may diminish the value as a residence but it will increase the value for commercial. Mr. LaFlamme stated that we won't see the difference until the next appraisal. Ms. Bohmiller mentioned the difference may be of what is there now and when the new comes in. Ms. Dolloff stated that the value may be up if there are 34 spaces versus 55, which might diminish more. Mr. Denton felt that we do not have enough information to deny this. Ms. Bohmiller disagreed and felt that there is not enough to accept.

L. Denton made a MOTION TO ACCEPT THAT THE SURROUNDING PROPERTIES WOULD NOT BE DIMINISHED IN VALUE. There was no second given and Mr. DeStefano stated that, therefore, this point fails.

5. Unnecessary Hardship = Mr. Denton stated that there is not room enough on the property for 55 parking spaces for the project that they want. Mr. DeStefano said that the Bleilers (the gift shop that abuts this property) had to comply with the parking regulations and adjusted. If only 34 spaces can fit, then they need a new building that will be the right size for the property. Mr. Denton stated that the shape of the lot and its size must be considered.

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ZAREMBA/DOLLAR GENERAL VARIANCE continued:

L. Denton made a MOTION, second by R. LaFlamme, to ACCEPT THE HARDSHIP CRITERIA IN THIS CASE. The motion CARRIED.

Mr. DeStefano stated that, as this application did not meet all of the 5 criteria, it is denied and there is a 30-day period for an appeal. The Notice of Decision was then signed.

VARIANCE: ZAREMBA PROGRAM DEVELOPMENT, LLC/ FRED'S AUTO,
Attorney John Sokul

The secretary read the application, noted the abutters notified as the same as the previous Variance, and stated where the hearing was advertised and that there were no phone calls or written statements received.

Attorney Sokul stated that he is not sure that a variance is required for this case. The display parking is being illuminated with only the need of 5 spaces now. There are no lot size issues as this is what has been there for years.

Mr. DeStefano asked what the existing structure requires for space. This is an existing business and lot and you are looking to reduce parking, which requires a variance to decrease these. Attorney Sokul stated that there will be 15 display spaces and 15 parking spaces.

R. LaFlamme made a MOTION, second by L. Bohmiller, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED. Attorney Sokul deferred to Fred Schneider, owner of the property. Mr. Schneider explained that he would like to display nicer cars and have fewer of them. Customers would come by appointment only. We can hold 41 cars inside the building along with the service counter and office. The rest is warehouse space. He has 2 mechanics, a secretary, service man, himself, and a body man. They can fit 20 cars comfortably. This will not jeopardize his, and his sister's, business, he added. The junk in the rear will go away. He mentioned that Bristol is doing a great job in improving the town and it is coming up. This store will do it good. He added that he can fit 20-30 spaces out back.

Mr. Denton asked if he could fit enough within the regulations. Mr. Schneider stated that there is a 1500' showroom that can fit 3 cars, and 8' x 10' office, a 60 sq. ft. storage area which would allow 11 spaces, plus 19 cars outside for a total of 30. A discussion followed and it was thought that they need to go back to the Planning Board for an exact number required.

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Atty. Sokul asked to table this variance and R. LaFlamme made a MOTION, second by L. Denton, to CONTINUE THIS VARIANCE TO APRIL 1ST, AT 6:00 P.M. The motion CARRIED.

COMMUNICATIONS: There was a current Town and City magazine.

UNFINISHED BUSINESS:

The Board reviewed a submitted layout of the deck for Gerald Wright (13VAR04, 16 Mt. Celo Rd., #108-010) and asked the secretary to give a copy to the Land Use Officer.

NEW BUSINESS:

The Board emphasized that they need alternates.

Town Manager, Michael Capone, congratulated the Board on the outstanding job that they do. He was impressed with their professionalism.

NEXT MEETING: The next meeting of the ZBA will be Tuesday, April 1, 2014, at 6:00 p.m. On the agenda is Elections and the Continued Variance for Zaremba/Fred's Auto. Applicants have until March 7, 2014 at noon to apply.

With no other business before the Board, R. LaFlamme made a motion, second by L. Bohmiller to adjourn at 8:00 p.m.

Respectfully submitted,
Jan Laferriere,
Recording secretary