

BRISTOL  
ZONING BOARD OF ADJUSTMENT  
April 1, 2014

**APPROVED:**

5/6/14\_\_jrl\_\_\_\_\_

AGENDA:           14VAR02, CONT. VARIANCE: ZAREMBA PROGRAM  
DEVELOPMENT LLC (FRED'S AUTO), 215 Lake St., #112-001

14SE01, SPECIAL EXCEPTION: MICHAEL & NANCY  
SAUCIER, 24 Arrowhead Point Rd., #102-033

14SE02, SPECIAL EXCEPTION: ANDREW & ANNE  
BARTLETT, 25 Arrowhead Point Rd., #102-028

MOTION TO REHEAR = 14VAR01, VARIANCE: ZAREMBA  
PROGRAM DEVELOPMENT LLC (DOLLAR GENERAL), 215  
Lake St., #112-001

ATTENDING:       Alan DeStefano (Chairman), Richard LaFlamme (Vice Chairman),  
Lorraine Bohmiller, Larry Denton

ABSENT:           Ashley Dolloff (excused)

OTHER:            Michael Capone (Town Administrator), public

The meeting opened at 6:03 pm. with a quorum but Mr. DeStefano explained that the Board was short 1 member in case any applicant wished to have their case continued. No-one chose to.

**MINUTES OF MARCH 4, 2014:** Mr. DeStefano read an e-mail from Clay Dingman who wished that it be noted that, when he spoke, it was neither for nor against the Variance for Zaremba. With this change, R. LaFlamme made a motion, second by L. Bohmiller, to accept the minutes as amended. The motion carried.

**ELECTION OF OFFICERS:**

L. Denton made a motion, second by L. Bohmiller, to re-elect Alan DeStefano as Chair. The motion carried and was accepted.

A. DeStefano made a motion, second by L. Denton, to re-elect Richard LaFlamme as Vice Chair. The motion carried and was accepted.

**14VAR02, CONT. VARIANCE: ZAREMBA PROGRAM DEVELOPMENT, LLC (FRED'S AUTO):** Atty. John Sokul, Scott Holman, Erin Lambert (engineer), Kevin French (surveyor)

Attorney Sokul explained that they have seen the Planning Board as requested and 82 parking spaces is not the right figure. He then distributed handouts to the Board. Atty. Sokul then pointed out the various spaces and their uses: Body Shop, Repairs (2 bays), Alignment Rack, Cleaning Bay, Display area, Waiting Room and Bathrooms. He continued to say that the Planning Board came up with a number that makes the most sense. Should the property be sold in the future, they intend on removing the additions that are on the building. He added that the 15 display spaces could be used by customers. The new figures are 21 spaces for business + 5 employees for a total of 27 spaces. They wish to seek a Variance for 15 spaces.

Mr. DeStefano stated that he understood that the Planning Board said 30 spaces are required. Atty. Sokul answered that they did and that we had been figuring on 6 employees; we recalculated to 27. He added that, when Site Plan is done, they may find that they have room for more than 15 but want to ask for the least amount in case it is needed.

Ms. Bohmiller questioned 15 spaces for 3 businesses that are housed there. Atty. Sokul answered that the figures encompass all of the uses. He added that there is to be no change of the business now handled. They do plan on doing some upgrades such as adding an awning to the front and landscaping. The rear part of the property slopes steeply to the river.

With no further questions, Atty. Sokul addressed the 5 points needed to approve a Variance:

1. **NOT CONTRARY TO PUBLIC INTEREST:** The Planning Board was generally okay with this, there is no real change in business. It reduces the amount of impervious surface and therefore runoff and erosion in the vicinity of the wetlands and river. It keeps with the relatively rural nature of the area, will not threaten public health, safety or welfare. Many vehicles on the site are often inside the building for repairs.
2. **SPIRIT OF THE ORDINANCE IS OBSERVED:** There is a gap in the Zoning Ordinance for this type of business. This is adequate parking for the use. It will not be detrimental to the public interest. It will allow a relatively large lot to be subdivided and developed in a manner that will foster the local economy as is stated in the Master Plan. The use does not fit neatly into the commercial retail category for purposes of calculating

**ZAREMBA/FRED'S AUTO VARIANCE continued:**

parking demand and does not require as much parking as mandated by the ordinance. This is reasonable and appropriate.

3. **SUBSTANTIAL JUSTICE IS DONE.** The Variance will not cause harm to the general public in any way. Past operation of the site indicates that the proposed parking will adequately serve demand for the business. The nature of the business allows for flexibility to move the cars around as needed and can store some inside. It will benefit the public by enabling a successful business to continue while encouraging a new and stable retail development in the Village Commercial District. There will be beautification done to the property and will be a better use of it as they consolidate to modernize.

4. **VALUE OF SURROUNDING PROPERTIES IS NOT DIMINISHED:** It will convert an existing parking lot into a stable retail development. It will help to revitalize the area and enhance commerce. There will be no immediate change. Parking will be better organized.

5. **UNNECESSARY HARDHIP:** The building has evolved in an odd way. There is a steep drop-off in the rear which will minimize the literal enforcement of the Ordinance, which is hard to know under the circumstances. The existing use is allowed and this is a reasonable use for the business. The ordinance parking calculations are not specific to auto repair and sales facilities but rather deal with retail uses generally. The business does not generally result in high customer traffic. The business has been operated for nearly 50 years and has the experience to determine that the proposed parking will be adequate to serve the demand.

Mr. DeStefano asked for public comments for and against the project and received none. To recap, he then stated that this is an existing business that is proposing a subdivision of the property. Atty. Sokul added that there is room inside the facility to put 41 cars if needed. Mr. Denton asked how this would relate and Atty. Sokul answered that some of the vehicles waiting repair outside could be brought inside if necessary.

With no other comments or questions, Mr. DeStefano closed the public portion of the hearing. The Board then addressed the 5 points of a Variance:

1. **CONTRARY TO PUBLIC INTEREST:** Mr. Denton pointed out that the business is already operating. Ms. Bohmiller agreed but was concerned about there being 3 businesses there. Mr. DeStefano stated that the Variance might limit his business. Mr. Denton felt that the business would not change. Ms. Bohmiller added that what is on the lot now would fill all the spaces. Atty. Sokul mentioned that they will have 15 display

**ZAREMBA/FRED'S AUTO VARIANCE continued:**

spaces as well as 15 for customers. Mr. Denton added that they plan on removing unnecessary materials stored there. Atty. Sokul stated that there is a wetlands buffer.

R. LaFlamme made a MOTION, second by L. Bohmiller, to ACCEPT THAT CRITERIA #1 HAS BEEN MET. The motion CARRIED.

2. SPIRIT OF THE ORDINANCE: Mr. Denton again stated that the business is already there. Ms. Bohmiller agreed. Mr. DeStefano felt that they need a condition that any change to the property would bring them back to Site Plan. Mr. Denton thought that they would have to come for Site Plan anyway and Mr. DeStefano stated that they would not if the new use is allowed.

L. Denton made a MOTION, second by R. LaFlamme, to ACCEPT THAT CRITERIA #2 HAS BEEN MET. The motion CARRIED.

3. SUBSTANTIAL JUSTICE: Mr. Denton stated that the business is already functioning.

R. LaFlamme made a MOTION, second by L. Denton, to ACCEPT THAT CRITERIA #3 HAS BEEN MET. The motion CARRIED.

4. VALUE OF SURROUNDING PROPERTIES IS NOT DIMINISHED: The Board determined that there is no change in use for this property.

L. Denton made a MOTION, second by L. Bohmiller, to ACCEPT THAT CRITERIA #4 HAS BEEN MET. The motion CARRIED.

5. UNNECESSARY HARDSHIP: Mr. Denton felt that this is a unique property that would not be before the Board if the subdivision wasn't to take place. Atty. Sokul asked to speak again and the Chairman denied this as this is the deliberative session for the Board on what was previously presented.

R. LaFlamme made a MOTION, second by L. Bohmiller, to ACCEPT THAT CRITERIA #5 HAS BEEN MET. The motion CARRIED.

R. LaFlamme made a MOTION, second by L. Bohmiller, to APPROVE THE VARIANCE FOR ZAREMBA PROGRAM DEVELOPMENT LLC/FRED'S AUTO.

**ZAREMBA/FRED'S AUTO VARIANCE continued:**

L. Denton made a MOTION, second by A. DeStefano, to AMEND THE MOTION TO INCLUDE THE CONDITION THAT ANY CHANGE OF USE REQUIRE THAT THEY COME BACK TO PLANNING AND/OR ZONING IN REGARD TO PARKING REQUIREMENTS. The amendment CARRIED.

The motion as amended was then voted on and CARRIED. The Notice of Decision was signed.

**14SE01, SPECIAL EXCEPTION: MICHAEL & NANCY SAUCIER**

The secretary read the application, list of abutters notified, where the hearing was advertised and stated that there were no phone calls or written correspondence received. There were no comments from Department Heads.

The Board looked to see if the application was complete. Mr. Denton questioned setback lines and these were found. Ms. Bohmiller asked about photos of the existing building. Mr. DeStefano stated that the plan shows the existing and proposed heights and plans. Mr. Denton asked if they were asked to provide photos and found that this was overlooked. As this is required for other applicants, the Board determined that they must ask for them.

R. LaFlamme made a MOTION, second by L. Bohmiller, to CONTINUE THE HEARING FOR MICHAEL & NANCY SAUCIER TO MAY 6<sup>TH</sup>. The motion CARRIED.

**14SE02, SPECIAL EXCEPTION: ANDREW J. & ANNE M. BARTLETT/  
ATTORNEY PATRICK WOOD**

The secretary read the application, list of abutters notified, where the hearing was advertised and said that there were no phone calls or written correspondence received. There were no comments from Department Heads.

The Board looked to see if the application was complete. As this was complete, including photos, L. Denton made a MOTION, second by L. Bohmiller, to ACCEPT THE SPECIAL EXCEPTION OF ANDREW & ANNE BARTLETT AS COMPLETE. The motion CARRIED.

Attorney Wood stated that, under the Zoning Ordinance, Non-conforming Structures need a Special Exception. The applicant was questioning the need in this case. As one corner sits in a setback, it was determined that it should be heard. Atty. Wood agreed to do so but asked to be able to withdraw should the Board be leaning to denying this.

**BARTLETT SPECIAL EXCEPTION continued:**

Atty. Wood stated that the existing building is 1903 sq. ft. and has a slight encroachment in a setback (13' instead of 15'). They propose to demolish the building and erect a new building in the same footprint except that it will be 1813 sq. ft., 14' from the property line, and 10' further from the shore.

Mr. Denton stated that his first thought was that they would not need a hearing but then wondered about the abutters. Ms. Bohmiller stated that we need to consider the blocking of views. Mr. DeStefano said that this is really about the height problem. Mr. Capone asked to speak and mentioned that the lot is also non-conforming. The Board determined to hear the case and allow the withdrawal if necessary.

Atty. Wood distributed a hand-out and pointed out that this is lot #2 of the original subdivision. They will remove the present building and build a new one. It is intended to be 9' higher but pulled back from the lake, though still in the side setback some. It is a residential use and will continue as such but will change from seasonal to year-round. The new building will be safer. There have been a number of lots in the division that have become year-round. The total lot building percentage is 15.9% now and to be 15% when complete. Both will have 3 bedrooms. They have approached DES for the septic. This subdivision dates back to the 1960's with a total of 21 lots. Many have been rebuilt, he added. Photos were distributed showing other lots that have done similar changes. There will be no change in use, no nuisance or impact on others. It has municipal water and will have no impact on the town. It is on a private road and will be positive for the neighborhood.

Atty. Wood continued to say that it is not to be a mansion. The client spoke with Ms. O'Brien, who objected to their last plan due to obstruction to her view. Her property is #14 of the subdivision. Atty. Wood showed the rendition showing how they have tried to accommodate Ms. O'Brien by moving the new building back from the lake and not going further to the opposite boundary (and getting free of the setback infringed on). Ms. O'Brien had no problem with the new plan. They can get a letter from her if the Board needs it.

Mr. Denton asked if this new building is a two-story. Atty. Wood stated that it will only add a half story so as to vault the living area. Ms. Bohmiller asked if the existing building has a basement and was told that it is on sonar tubes. Atty. Wood added that the patios will be of permeable material.

Mr. DeStefano asked for public comment for and against and received none. He then recapped the project by saying that they are to remove the present building, replace it with a new one, and get a Special Exception for the height. He closed the public portion at this time.

**BARTLETT SPECIAL EXCEPTION continued:**

R. LaFlamme made a MOTION, second by L. Bohmiller, to OPEN THE CASE FOR DISCUSSION. The motion CARRIED.

Mr. LaFlamme stated that the building is non-conforming based on the setback infringement. The dimensions of the new building are not in the same footprint as the dimensions are different. They have considered one abutter's view. Mr. Denton added that it is not in the same footprint but has the same use. The Board discussed that, though there is still some of the building in the setback, they are attempting to make it less non-conforming. The Board then went over the various criteria to be considered and felt that there is no real change.

Mr. DeStefano stated that this subdivision does have a restriction as to height and Atty. Wood stated that they are aware of that but no-one has challenged it in the past.

With no other comments, R. LaFlamme made a MOTION, second by L. Bohmiller, to APPROVE THE SPECIAL EXCEPTION OF ANDREW AND ANNE BARTLETT. The motion CARRIED.

**MOTION TO REHEAR: ZAREMBA PROGRAM DEVELOPMENT  
LLC/GENERAL DOLLAR**

Atty. Sokul stated that there is documentation, in the package submitted tonight, from an appraiser. Mr. Denton asked if this is what we require for new information and Mr. DeStefano stated that it is. He added that Atty. Shokul has added other steps that may have been overlooked. Mr. DeStefano stated that, since this is a lot of information and we have just received it, he would like to continue the decision to our May 6<sup>th</sup> meeting so that the Board can really look at it. Atty. Shokul apologized for the late delivery but wanted to present it tonight as the timing was close.

The Board determined to deliberate on this motion until May 6<sup>th</sup>.

**ORLOWSKI ISSUE:**

The Board secretary was notified about a concern of an applicant for minutes of her 2009 hearing. She has asked that certain information be removed for safety concerns. As there was not a quorum of the previous ZBA that dealt with this case, the Board could not act on it this evening but will attempt to do so at their next meeting on May 6<sup>th</sup>. In the meantime, minutes from that far back are being removed from the web site.

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**OTHER:**

**Zoning Ordinance problem** – Mr. Capone explained that the height issue problem in the ordinance has come to our attention and he shall speak with the Planning Board about it. Ms. Bohmiller also mentioned that we have something about expanding footprints with non-conforming but nothing on reducing the footprint.

With no other business before the Board, R, LaFlamme made a motion, second by L. Bohmiller, to adjourn at 7:55 p.m.

Respectfully submitted,  
Jan Laferriere, recording secretary