

BRISTOL
ZONING BOARD OF ADJUSTMENT
August 4, 2015

APPROVED:

_9/1/15__jrl_____

AGENDA: CONTINUED 15SE05, SPECIAL EXCEPTION: SONDR A J.
KEENE, 94 Mandi Lane, #205-011

15VAR02, VARIANCE: ZAREMBA PROGRAM
DEVELOPMENT LLC, 215 Lake Street, #112-001

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

ABSENT: -----

OTHER: Michael Capone (Town Administrator), Clay Dingman (Planning
Bd., HDC), Sandra Heaney (Cons. Comm./HDC), public

The meeting opened at 6:04 pm with a full Board.

MINUTES OF JULY 7, 2015: R. LaFlamme made a motion, second by L. Bohmiller, to approve the minutes as read. The motion carried.

15SE05, CONTINUED SPECIAL EXCEPTION: SONDR A J. KEENE

Ms. Keene has asked for a continuance and asked to include an off-premises sign to her application. As this does not constitute a complete application, the Board denied the request and asked that Ms. Keene submit a new application with both requests included (weddings and off-premise sign).

R. LaFlamme made a MOTION, second by L. Bohmiller, to DENY THE PRESENT APPLICATION AS IT IS INCOMPLETE. The motion was denied, 2 to 2.

The Board determined to waive the administration fee but shall need fees for new abutter mailings and news notice.

15VAR02, VARIANCE: ZAREMBA PROGRAM DEVELOPMENT LLC

The secretary read the application, the abutters notified, where the hearing was advertised and stated that no phone or written comments were received. Mr. LaFlamme acknowledged that he has done business with Mr. Schneider recently. No-one objected to his staying at the table.

-2-
ZBA Minutes
8/4/15

ZAREMBA VARIANCE continued:

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

Richard Uchida, attorney with Hinckley Allen, introduced Scott Holman and Matt Casey of Zarembo Program Development, LLC and Erin Lambert and Naomi Hall of Nobis Engineering.

Atty. Uchida then stated that the property is a 4 acre site. The applicant wishes to subdivide 2.3 acres from this. They have redesigned to accommodate a smaller building so as to get it out of the wetlands buffer. This was shown on a new plan. Atty. Uchida went on to say that the ZBA approved a Variance for them in 2014 (with the old plan) in which the parking requirement was lowered.

Mr. Denton stated that they agreed to 34 spaces back then and asked why they are only asking for 28 this time. Atty. Uchida answered that this is due to the way that the new building has been placed. Mr. Holman added that the size of the building and its location now requires that they cut some parking. The parking is now in front of the building and to the side. He mentioned that they have the Wetlands and Shoreland permits.

Atty. Uchida pointed out the propane tank and the loading area, which are no longer in the wetlands buffer. The tree line in the buffer was shown. Mr. Holman added that they still plan on putting in a hedge row between the parking in front and the street.

Atty. Uchida stated that we require 1 space to 267 square feet so they have applied the same ratio as they did in the last variance. They realize that they shall still need Subdivision and Site Plan with the Planning Board.

Atty. Uchida then addressed the criteria for a variance, mentioning that the variance is for a parking reduction only.

1. Not contrary to public interest = The variance does not alter the essential character of the locality, it reduces the amount of impervious surface, therefore runoff and erosion are reduced in the vicinity of the wetlands and river.

2. Spirit of the ordinance = The average parking time is 15 minutes so there is a high turnover. With a 7500 sq. ft. building, 28 spaces will be plenty. As a safety valve, there is space along the hedge row for parallel parking. The store will be located in the Village Commercial District which is an allowed use. The lot will be subdivided and developed in a manner that will foster economic growth, which is stated in the vision section of the town's Master Plan. It provides for adequate off-street parking for the use and minimizes the impact to the wetlands, wetland buffer, and the shoreline.

ZAREMBA VARIANCE continued:

3. Substantial Justice = The variance will not cause harm to the general public. Experience with other Dollar General stores indicates that the proposed parking will adequately serve the demand for the store. It will benefit the public by enabling new and stable retail development in the Village Commercial district. It will help to boost the local economy and to revitalize the area, while also minimizing the impact to the nearby wetlands and shorefront. Except for the parking requirement, all other dimensional requirements are met.

4. Value to surrounding properties will not be diminished = The proposed development will convert an existing parking lot into a well-designed retail development. It will help to revitalize the area and enhance commerce, and in turn encourage reinvestment and enhance surrounding property values. A smaller parking lot will also help to preserve the natural character of the wetlands, wetland buffers and shorefront along the Newfound River, which has a positive impact on property values. Atty. Uchida distributed a copy of an update done by William Mclean, MAI licensed appraiser, who did the original analysis. In doing this reduction there will mean less noise and less visual impact.

5. Hardship = The property is unique in that it is a relatively large lot bisected by Village Commercial and Village Residential districts. It abuts the Newfound River and contains a steep embankment and wetland areas. 1/3rd of the 2.3 acres cannot be used, leaving a triangular lot that can be used. Dollar General is not a regular retail kind of use. It would be difficult to develop the lot any differently. As to the subdivision creating the hardship, Atty. Uchida explained that, in case law *Vigeant vs. Town of Hudson*, a self-made hardship is not cause to deny. The proposed development minimizes the impact on the nearby shoreline and wetlands, while maximizing the utility of the developable portion of the lot.

There were no questions from the Board at this time. Mr. Destefano asked for public comment.

Clay Dingman stated that he is neither for nor against the project. He asked what they felt that the needed number of parking spaces is. Mr. Holman stated that they only need 23. Mr. Dingman asked why they didn't ask for that many and was told that they determined to keep the same ratio as the previous variance. Mr. Dingman then asked about placing the parking behind and beside the building as is requested. Mr. Holman stated that they will ask the Planning Board for a waiver on that. He reminded the Board that the previous variance had the stipulation that any new future use would need to be brought back to the Board for their own permit.

-4-
ZBA Minutes
8/4/15

ZAREMBA VARIANCE continued:

Sandra Heaney stated that she also is not for or against and asked if there will be any change to the stormwater plan. She was told no.

Steve Bleiler, abutter, stated that he had to comply with the requirement for his parking.

Mr. DeStefano asked how many employees they intend to hire. Mr. Holman answered that they plan on 2 to 4. Mr. DeStefano then inquired about a created hardship and Arty Uchida further explained that NH doesn't require a difference for a self-created hardship and referred back to the law case previously mentioned. The court determined that this is not a reason to deny.

With no other comments, Mr. DeStefano closed the public portion of the hearing.

The Board went over the criteria:

1. Public Interest: R. LaFlamme made a MOTION, second by L. Denton, to APPROVE THE PUBLIC INTEREST CRITERIA. The motion CARRIED.
2. Spirit of the Ordinance: L. Denton made a MOTION, second by R. LaFlamme, to APPROVE THE SPIRIT OF THE ORDINANCE CRITERIA. The motion CARRIED.
3. Substantial Justice: L. Bohmiller made a MOTION, second by L. Denton, to APPROVE THE SUBSTANTIAL JUSTICE CRITERIA. Mr. Denton felt that they have made an effort to meet the regulations and set up a plan for overflow parking. The motion CARRIED.
4. No Diminution of Values: R. LaFlamme made a MOTION, second by L. Bohmiller, to APPROVE THE NO DIMINUTION OF VALUE CRITERIA. Mr. Denton mentioned the study done a year ago and questioned if it would still be the same. Mr. DeStefano stated that this would be normal as it is not that far out. It might even be a slight increase of values, he added. It would still be true for a parking variance. The motion CARRIED.
5. Hardship: L. Denton made a MOTION, second by R. LaFlamme, to APPROVE THE HARDSHIP CRITERIA. Mr. Denton mentioned that the lot is an odd area with limitations to the water area. The motion CARRIED.

R. LaFlamme made a MOTION, second by L. Bohmiller, to APPROVE THE PARKING VARIANCE WITH THE STIPULATION THAT THE VARIANCE IS FOR DOLLAR GENERAL USE ONLY AND ANY CHANGE OF USE WILL REQUIRE A NEW APPLICATION FOR ANY VARIANCE AS REQUIRED. The motion CARRIED and the Notice of Decision was signed.

-5-
ZBA Minutes
8/4/15

COMMUNICATIONS: None.

OTHER: A discussion was held regarding the parking ordinance and the 25% reduction that the Planning Board could determine.

NEXT MEETING: The next ZBA meeting will be held Tuesday, Sept. 1, 2015. Nothing had come in as yet, applicants have until Aug. 7, 2015 to apply (one possible Special Exception will be coming in for Matthew Capello III).

With no other business before the Board, L. Denton made a motion, second by L. Bohmiller, to adjourn at 7:10p.m.

Respectfully submitted,
Jan Laferriere, recording secretary