



ZONING BOARD OF ADJUSTMENT
MINUTES MEETING JULY 15, 2013
APPROVED MEETING OF AUGUST 19, 2013

Present: S. Bogert, **Chair**; S. Perley, **Vice Chair/Secretary**; M. Foote; D. Greski; R. Smith, **Alternate**; D. Robitaille, **Alternate**; K. Geraci, **Alternate**

Absent: O. Gibbs, M. Foote

Staff: S. Saunders, **Planning Director**; K. Snow, **Zoning Technician**

S. Bogert went over the applications and the members who would be seated for them. D. Robitaille and K. Geraci were seated in place of O. Gibbs and M. Foote for the extension requests. D. Robitaille and R. Smith were seated for 570 Union Avenue. K. Geraci and R. Smith were seated for Winter Street, and D. Robitaille and K. Geraci were seated for Church Street, and D. Robitaille and R. Smith were seated for Brick House LLC.

S. Bogert called the meeting to order at 7 pm and welcomed the public. He let the public know that 640 Elm Street has requested to be continued until the August meeting in order to make some changes to their application.

MINUTES: The motion to accept the minutes from the June 17, 2013 ZBA meeting was made by S. Bogert and seconded by D. Greski. All voted in favor of acceptance of the minutes, as written, 5-0. (D. Robitaille was seated for the minutes.)

EXTENSION REQUESTS: Akwa Waterfront LLC

The applicant is seeking a 6 month extension on the following applications. The current expiration date is July 15, 2013 and the January meeting is set for January 22, 2014. (D. Robitaille and K. Geraci were seated.)

2009-0027 (Also 2012-0017): MSL 120-234-001, USE OF MULTI-FAMILY DWELLINGS

2009-0030 (Also 2012-0019): MSL 120-234-001, Height restriction

2009-0028 (Also 2012-0020): MSL 120-234-003, Use of Multi-Family Dwellings

2009-0029 (Also 2012-0018): MSL 117-234-001, Use of Multi-Family Dwellings

S. Bogert said that all 4 extension requests would be heard at the same time with individual determinations being made. The board had no questions for the applicant.

C. Duprey asked for clarification on the January expiration date which is beyond the meeting date. Would they have to return in December if they need another extension? He was told yes.

Motion: 2009-0027 (2012-0017): D. Greski moved to extend the expiration date for 6 months with all previous conditions remaining in effect. S. Perley seconded, and all voted in favor, 5-0. The new expiration date will be January 15, 2014.

2009-0030 (2012-0019): D. Greski moved to extend the expiration date for 6 months with all previous conditions remaining in effect. S. Perley seconded, and all voted in favor, 5-0. The new expiration date will be January 15, 2014.



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2009-0028 (2012-0020): D. Greski moved to extend the expiration date for 6 months with all previous conditions remaining in effect. K. Geraci seconded, with all voting in favor, 5-0. The new expiration date will be January 15, 2014.

2009-0029 (2012-0018): D. Greski moved to extend the expiration date for 6 months with all previous conditions remaining in effect. K. Geraci seconded, with all voting in favor, 5-0. The new expiration date will be January 15, 2014.

CONTINUED HEARINGS: (D. Robitaille and R. Smith were seated.)

S. Bogert said Application # 2013-0014 had been tabled at the previous meeting. He moved that the hearing be re-opened, with D. Greski making the second. All voted in favor, 5-0.

S. Perley moved to withdraw the motion she made at the June 17 meeting. D. Greski seconded withdrawing the motion and all voted in favor, 5-0.

Application # 2013-0014	MSL # 387-220-5	C Zone
Capital City Pawnbrokers	570 Union Ave	Variance

The applicant is requesting a variance from 235-42 (a) (4) (a) (6) in order to allow a sexually oriented business to be located within 500 ft of residential properties.

S. Perley moved to deny application # 2013-0014, which would allow a sexually oriented business to be located within 500 ft of residential properties.

She said the variance is contrary to public interest and the spirit of the ordinance.

Granting the variance would unduly and in a marked degree violate the basic zoning objective, which is to separate these types of business from certain protected uses and from each other.

It would alter the essential character of the neighborhood—the neighborhood is commercial and residential; there is an apartment building across the street.

The cumulative impact—if variances were granted to everyone who sought them – would result in the ordinance being nullified. If similar variances were granted to others in the neighborhood, the area could become a “center” for such businesses, which the ordinance clearly intends to prohibit.

The Applicant is seeking to sell “movies, vibrators, books, magazines, and phallic type instruments,” which are clearly “instruments, devices or paraphernalia” that is prohibited by the ordinance.

S. Perley added that the applicant has failed to demonstrate an unnecessary hardship.

The Applicant didn’t indicate which unnecessary hardship test it thought applied, so let’s analyze both. First, common to both tests is:

Owing to special conditions of the property that distinguish it from other properties in the area:



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The landowner must show that the hardship is a result of specific conditions of the property and not the area in general, and cannot satisfy his burden by demonstrating that the property is uniquely suited for the proposed use.

The Applicant didn't argue that there was anything unique about the property and in fact there is not—many properties suffer the same burdens as this one.

“Hardships” listed by applicant are all the individual plight of the landowner and have nothing to do with the property itself.

We then have to look at two alternatives:

- (i) A fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;**

Granting this relief would frustrate the purpose of the ordinance of protecting residential properties from this type of business.

- (ii) The proposed use is not a reasonable use**

The Applicant has a reasonable return because he has other businesses on the property. It may not be the maximum return, but he has presented no evidence that his return from the other businesses are not reasonable.

Granting the variance will alter the essential character of the neighborhood which is commercial and residential; there is an apartment building across the street.

The property can be reasonably used in strict conformance with the ordinance, and a variance is therefore unnecessary to enable a reasonable use of it.

There is no hardship to the business owner as he currently has the ability to operate other businesses at the site and is not being denied the use of his property.

D. Greski seconded the motion. There was no further board discussion. All voted in favor of denial of the variance, 5-0.

Application # 2013-0013
C. Richer

MSL # 309-71-2
640 Elm St

RS Zone
Variance

The applicant is seeking a variance from 235-40-(B) (6) (c) in order to allow clustered housing on a plot smaller than the required 10 acres.

The applicant requested a continuation until the ZBA meeting of August 19th in order to amend their submittal.

NEW HEARINGS:



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Application # 2013-0015
K. Boylan

MSL 426-246-61
90 Winter St

RS Zone
Variance

The applicant is requesting a variance from 235-28, Table I, Permitted Uses, in order to retain the use of an existing apartment within a single family home. The residence is located in a zone where the use of a two family is not permitted; however this has been used in this fashion since at least 1980. The applicant did not maintain the use and the grandfathering lapsed. He is requesting a waiver for the fees.

S. Bogert said the applicant isn't here and he thinks we should deny the application. D. Greski said this is a fairly important application. There are issues that need to be addressed. S. Perley suggested continuing the hearing. S. Saunders said we could wait a bit and see if they still come to the meeting this evening. S. Perley suggested that we move the hearing to the end of this evening's agenda and see what happens. The remainder of the ZBA agreed.

Application 2013-0015 was moved to the end of this evening's meeting.

Application # 2013-0016
Roman Catholic Diocese of Manchester

MSL 425-44-1
30-50 Church St

DRD Zone
Variance

The applicant is requesting a variance from Article IX, 235-58 (B) in order to erect a third freestanding sign on the property. This will make a total of 4 signs and 94.38 SF. The property is grandfathered at 4 signs but they are requesting an additional freestanding in a zone which permits only 1 freestanding sign per property, and 2 signs total. They would be under the permitted 96 SF in this zone.

R. Smith was seated for the hearing instead of D. Robitaille along with K. Geraci.

Applicant: Pat Wood appeared for the application. He said that Father Marc Drouin will be attending but later in the evening. He said they are asking for a sign that identifies this as the parish. This is now a combination of what used to be 3 separate parishes, Lady of the Lakes, Sacred Heart, and St Joseph.

He said that due to a number of factors, they consolidated into one new parish but the signage has remained the same so people don't know that. The goal is to indicate to the public and the community that this is all one parish. P. Wood said they submitted sign applications for a site on Gilford Avenue to note it is part of Sacred Heart. That was approved. They submitted a sign application for a sign on located on Union Avenue in front of Sacred Heart Church indicating it is part of St. Andre Parish. That was approved. They want to use the same type of signage here to identify this property. The goal is to provide a common appearance.

The property we are talking about tonight looks like 2 separate properties. There are 3 structures: Holy Trinity School, the church, and the rectory. It almost looks like 3 parcels but is actually all one parcel of land. This is located in the DRD, so they are limited to 96 sq ft of signage.

P. Wood showed photos of the existing signs on the property. He said that a few years ago the parish came in and asked for a freestanding sign for Holy Trinity School, which had been approved. They have a wall sign on the building. The next picture shows the two existing signs. One is for Masses, with the time. There is a granite sign in front of the building, which was donated by a parishioner and installed a number of years ago. P. Wood said it is a wonderful sign, and they are proud of it, but it only refers to St Joseph, not St Andre, so it doesn't fit in with today's situation. This one will be moved to a new location but not removed from the site. P. Wood said there are 4 signs there now – the freestanding, wall, another wall, and the freestanding granite.



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P. Wood said they are proposing another freestanding sign. The schedule of masses, which is a wall sign, will be removed. D. Greski clarified how many freestanding signs there are now, and was told 2, and they are asking for a third. D. Greski said if this were a brand new application they could only have one freestanding sign and that they already have 2 because it is grandfathered and was told yes.

P. Wood said they need to provide the site identification. The option of moving the granite sign to the rear of the church has been discussed but the donor made the contribution to the church and it would be awkward to now hide the sign. They are in an awkward position. They don't want to diminish the value of the sign. It has substantial value to the parish, but it doesn't fit the existing situation of St Andre. If the granite sign wasn't already there they would be requesting the second freestanding sign.

They are asking for the granite sign to be retained. S. Perley clarified that there are 2 signs in front of the church now and was told yes. P. Wood said to look at the church. There is a drive in front of Holy Trinity, one by the rectory, and one by the church. Their proposal is to put one in front of church, the new one by the rectory and move the granite sign closer to Holy Trinity. This sign is still an integral part of the parish.

S. Perley asked for clarification on the sign locations on the map that was submitted. She was told the granite sign is # 4. D. Greski asked for clarification on possibly moving it to the rear of the church and P. Wood said not part of the presentation. D. Greski said he mentioned it so it is part of the presentation.

P. Wood said it has been mentioned as a possibility but they decided it was not an option as it would diminish the value of the contribution, and they felt it was not appropriate for them to do. To move it where it can no longer be seen would be difficult for the family. They want to move it so it can still be seen, keeping it in the front, along with the new sign.

S. Perley asked if they plan to move the granite sign closer to the building, away from the road, and P. Wood said he is unsure of the exact location but it could be closer. S. Perley asked if it were closer to the drive between Holy Trinity and the church. S. Bogert said to look at the plans, it is moving where # 4 is shown, # 3 is the new sign and # 2 is a wall sign.

S. Perley asked if the signs would hinder the sight line as there is a lot of traffic entering and exiting and P. Wood said no, it would not block your vision. The sign is not very high.

D. Greski asked if they could incorporate the new sign into the existing granite sign and P. Wood said only if adding to the top of the sign, which is a possibility, but he is not sure if this serves the purpose of having the various church sites uniform. If the board makes that a stipulation, they would have to continue the hearing so they could look to make sure it works.

S. Perley said she thinks the new sign is attractive and enhances the area. D. Greski said 4 signs are grandfathered now, in a zone that permits 2. S. Perley said there are 3 separate buildings, though.

D. Greski said if this were a brand new application we wouldn't be talking about this. S. Perley said the square footage is permitted and D. Greski said yes, but with only one freestanding sign and 2 signs total. They already have 4 signs.



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S. Bogert asked S. Saunders if a monument is considered a sign. He said if you stick a bench in front of the granite sign and called it a monument it would not be a sign. S. Saunders read the definition of a sign and said if it didn't fit there it could be called a monument.

P. Wood said that is an interesting suggestion; they could add the name of the family who made the donation. K. Geraci asked if the the smaller sign, the one for masses, is to be removed and S. Bogert said he hates to see the brass sign disappear, as it is part of the history and the architecture.

S. Saunders said she would rather call the smaller sign a directional sign – the masses one – rather than call the granite one a monument. S. Bogert said it would have to be moved and labeled and S. Saunders said to possibly turn it and add some landscaping. We could work with the applicant.

P. Wood asked if the board would table this until Father Marc arrives and S. Perley asked S. Saunders is this is reasonable. She said we will call the masses sign a directional sign, not a wall sign. This could be contemplative garden, visible to parishioners, but not to the street.

S. Bogert moved to table the hearing until the end of the meeting and K. Geraci seconded. All voted in favor, 5-0.

Application # 2013-0017
Brick House LLC

MSL 139-127-17
425 Lakeside Ave

CR Zone
Variance

The applicant is requesting a variance from 235-33, Density, in order to have a 3 unit building, using the existing foundation. The lot is 0.32 acres, 139,392 SF; the zone permits 6 units per acre. 21,780 SF of land would be required for the 3 units. D. Robitaille and R. Smith were seated.

It was noted that the 139,392 SF which was indicated is incorrect. The correct figure is 14,077.

Applicant: Kurt Mailloux represented the LLC. He said they are looking to add to the structure they purchased a bit over a year ago, which is a single family house which was in disarray. It had a number of issues. They renovated the interior but there is still an existing foundation on the property. He said they are .01 acres short of being able to do 2 units.

If they made this one structure, it would be a 7-8000 sf house. That would be a white elephant and not in the spirit of the neighborhood. The property has a 50 ft long foundation which is an eyesore. They want to place an aesthetically pleasing building on the site, instead of an open pit. This is located at the gateway to the Weirs. It would be a barn type structure with appropriate landscaping.

K. Mailloux said it would be completely conforming but they want to make this addition into 2 units. D. Greski asked if this building is the same as what they proposed back when they did the decks, and was told yes. D. Greski said you would not be able to tell from the outside if it was one or 4 units and K. Mailloux said that is correct; the public would have no way of telling. Another unique feature is that this lot appears larger than it actually is. It was built before the railroad tracks came through and carved off some of the land. There is also a city ROW.

He said the original house was built in the 1700's, and thinks the date is around 1781. It is carved inside the house. It predated the railroad track. The backyard is not the property's property, it belongs to the railroad, but



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it feels like it belongs to this property. The railroad maintains the property up to the fence, which he showed on the map.

S. Perley asked how the addition would be connected and K. Mailloux said with a breezeway with doors. They could rent it out as one unit or a number of different ways. There will be 3 units including the existing house. S. Perley asked what the line shown going through the foundation is, and K. Mailloux said he doesn't know; it doesn't exist.

S. Bogert asked if the addition would fit on the existing foundation, and was told yes. K. Mailloux said there is a bump out which goes into the setback. S. Perley said that would require another variance, but K. Mailloux said the bump out was shown and was included on the first variance. S. Perley said that variance was just for decks, and D. Greski read the NOA.

K. Mailloux showed pictures of the proposed house. He said the dormer is flush, so this would be on the exact footprint. S. Perley asked how many stories this will be and was told 2. They do not require a variance on the height, as it will be under the 35 ft. All of the architectural details are not worked out. D. Greski asked how many units there will be and was told the existing house is one, and this addition would add 2 units.

K. Mailloux said they are permitted 6 units per acre in the CR zone; they miss 2 units by .01 acres. He said the surrounding properties are way below the density. Their 3 abutters are in common ownership.

S. Perley asked about parking and S. Saunders said they would require 5 spaces. K. Mailloux showed the parking, some of which is located at the other end of the lot. There would be a garage with a drive under the new structure. One part of the basement is full, and the other part has like a knee wall. There will be faux doors. K. Mailloux showed the front where the faux doors would be located. On the Centenary Avenue side there is a drive under.

Richard Mailloux showed where the barn doors will be located, along with the windows. He said that the garage doors shown in the picture would not be there. This will have a barn like roof, with fake barn doors. On the Centenary Avenue side, there is a stone wall, about 5 ft high, which goes around the property with landscaping, and a sign indicating the Marina.

D. Greski said he would like to see pictures of what they are proposing. He said there are too many things they are saying that will be different, and it helps the board to have a picture of what is actually going to be built. D. Greski said this is part of the record and this is not an accurate depiction.

S. Bogert said we are not looking for the finished cosmetics, as the building permit would handle that, we just need the footprint and the height. If they are staying within the existing foundation, we have that covered. The style is what they are showing but not the final appearance. We are concerned with the footprint and if they can use this style of building in the existing footprint, and make it a 2 unit, while keeping the existing house. One unit will have parking under, and the rest of parking will be located at the other end of the site. S. Bogert said the look of the building is conceptual; the footprint is important. Can the board visualize permitting this new structure here?

D. Robitaille asked if the single unit is built do they need a variance? Can they build a 2 family? K. Mailloux said they are minimally short to do a two unit.



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D. Greski said they could build a one family that is about 7000 sq ft. They could add to the existing home, making it all about 7000 sf. K. Mailloux said you could add just the foundation to the existing home by finishing it off. He said there are many different ways to finish it but making it one home would not fit into the neighborhood. D. Greski said that type of residence would never sell. S. Bogert said this is the next best use.

K. Mailloux said 2200 sf exists now, and they could build on the 50 ft by 28 ft long foundation and make a large one family.

S. Bogert said if they used the existing foundation, they could build on that foundation, make a residence 35 ft high, and an additional 3000 sq ft home, adding that to the 2200 ft that exists, they could do that tomorrow. They have indicated they don't want to do that.

S. Perley said they are going to use the exact foundation, and can currently build on that. S. Bogert said enlarging this is not the best use of the property. The size of the structure is not the best use but turning this into a 3 unit property is the better use. The new building would be split in half, 1500 in each unit, 2 units. The street side would look like a barn, all glass in the rear, so it would match with the current house.

S. Bogert asked if the character of the new structure works with the townhomes down the road. R. Mailloux said the breezeway would be dormered with cross beams, tin roof, and they would do the same on the other side of the brick house where the garage is, so they match the townhomes further down on Scenic Road. S. Bogert said this makes it more of a common theme; it matches the other structures. This would relate to the townhomes and tie in with the rest per R. Mailloux. The existing structure is all brick, and by adding this barn type, it would fit.

R. Smith said the density is the issue.

Public: Rod Dyer appeared for John and Donna Gentile, who own the property directly across from this project. He said they have come up with some issues. He said to keep in mind that the amount of land area is only 14,000 SF. You can either look at this as 6 per acre or the 10,000 sf ft.

He handed in his comments for the record. He said that K. Mailloux stated that the lot frontage averages 25 ft here and he disagrees with that. He looked at tax maps for the neighborhood and there are a number which are far in excess of that. 425 Lakeside has 77 ft. Brames Inc has 60 ft. Most are relatively small lots, but are more than 25 ft in average. 425 Lakeside does have the largest frontage in the immediate area but all average more than 25 ft.

Except for 2 two-family homes, and a few seasonal camps, all are single family homes. Aside from the Weirs Beach Motel/Cottages, and Akwa, there are no businesses that about this neighborhood. All are single family homes, except for the railroad. A portion of 425 Lakeside lies in the SPOD. He said we need to take that into consideration. He said he is unsure of how much that is.

R. Dyer said the applicant stated that they have ownership on 3 sides of this. Akwa Marina Yacht Club owns a property and Shanna Mailloux owns a property which is separated by Centenary Ave. He said the yacht club is not a direct, abutter; it is separated. There are no abutting properties which are owned by this property.



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Expansion of this would require meeting the green space requirements. There are traffic hazards currently existing, as there are many unregistered golf carts going to the Marina. They are concerned with parking for the additional units.

He stated it is also their belief that there is a rental apartment occupied by a tenant in the basement, with a separate kitchen, bath, and access point, so this would be 4 units here. He asked if this could be looked into.

S. Bogert asked if there are actual facts on the apartment and R. Dyer said yes. The Gentiles have lived here for 20 years and are aware of it. They can provide the name of the tenant.

R. Dyer spoke to the uniqueness of the property. He said this is no more unique than any others. It was originally owned by Doe, who gave a portion of the property to a camp; that was about 10 acres. He deeded property to the railroad.

The railroad is not a ROW, it is a deeded fee. The State of NH owns the property. Augustus Doe gave fee ownership of the property to the railroad at that time. The line of demarcation is clear. He said that K. Mailloux stated the building has been there for some time, but he could only trace back to 1850. That is when it first came on the tax rolls, which was 2 years after it was conveyed to the railroad. The railroad ROW is an actual fee ownership. This is a working railroad which trains use on a daily basis. He believes they cannot take into consideration any portion of the railroad ROW and calculate that into figures.

The railroad and the paper streets are not unique to this property. They are prevalent in this area of the Weirs.

He is concerned that the applicant said a structure is going to be built. Do they have the right to go forward? They haven't provided any dimensions to the board. It is a nice picture but R. Dyer said he knows they want more definitive information on the structure. He believes they intend to build on the existing foundation, which is higher than Lakeside Ave.

He believes that the structure will change the character of the neighborhood. After you pass the motel it is all single family homes here. A large structure of this sort will change the character of the neighborhood.

A major issue is that this would eliminate any lake view. He said they don't have an issue with the number of units but with the size and mass of the building.

Rod Dyer passed out photos, taken from the prospective of the Gentile property. They would no longer have a view. He said that construction will eliminate any view from the deck. The plan submitted indicated continuity between the single family home and the foundation however that is not the case. The only area between the foundation and the brick home is a stairway that leads down to the apartment under the brick structure. We are dealing with 2 separate structures, not one. He believes the minimum land area requirements are relevant. There are 2 existing units now, and they want to add 2 more, which is quite a stretch for zoning requirements.

R. Dyer asked if this would depreciate values of the properties. They did not have time to get an appraisal but he has a letter from a realtor. He submitted the letter for the files.



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July 11, 2013

To Whom It May Concern

I went to look at John & Donna Gentile's home at Weirs Beach, NH. They told me about the foundation across the street from their house. It is in my opinion, when finished, the dwelling to be on that lot would definitely block their view. With a two story apartment building, this would be a detriment to them. This would also reduce the value of their home and would diminish the value of the property. Their value right now is \$259,300 and would be definitely under that amount.

I work for Roche Realty Group in Meredith and have worked in Real Estate for over 26 years.

Sincerely,

Jean Poltras

REALTOR

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He stated there are some significant problems with this application. He asked the board to look at the letter of the law, and apply standards for variances. He doesn't see how they fit the 5 prong test. They are obligated to meet zoning standards.

John Gentile, 430 Lakeside Avenue: He said they bought their home 26 years ago today. He said he is in favor of improvements in the area. He is not against developing the foundation; he just added to his home. He said he went through the process, and was tortured by the building inspector. He checked the height, he came to inspect when demo was done. He said is not against building on the foundation - just want they want to put there. They bought the property because of the view. He said they could put a roof over the foundation, with sliding doors. That would not hinder his view, or be a detriment or an eye sore.

In 26 years, after the curve goes up hill, this has become the second NH speedway. He has replaced his mail box 3 times. They have almost hit his car parked in his driveway. The light is now out on the corner and it is very dark here. He called but it has not been turned back on. This is a dangerous curve. There are golf carts coming down the mountain, across Scenic Road with children holding on to the back, going to the marina. Bikers and cars rev up their engines and go up the hill. He thinks someone is going to get killed. The Mailloux's put in a large parking lot. People are crossing the street with golf carts, which are not registered. He said don't add to the traffic issues here.

The apartment in the basement has been there since Spanos owned it. The foundation was put in back in 2003. The property sold to Steve Parsons, then to Dick Mailloux. There may have been someone in between but he has seen this switch hands. Spanos' daughter had the basement set up as a dance space, with large mirrors, and S. Parsons later put in a kitchen. He knows because he helped put it in. Steve Rollins lives there now so this is currently 2 units.

They were recently at the new restaurant. He tries to be a good neighbor, and is in favor of improvement, just not this. While they were at the restaurant the train couldn't make the crossing and had to blow the horn, and someone had to leave the restaurant and move their vehicle.

There are safety issues and they would be blocking views.

Jeffrey Ames, 420 Lakeside: He said if this is built to 35 ft it will block their views. They have a 45 degree angled view of the lake. He said he is against them blocking his view, as that will diminish their property values. He is also president of Brames Inc and they want at some point to put in a road to access their 10 acres of land. They want lines of sight to be clear.

S. Bogert closed the hearing to the public.

D. Greski said that the pictures of the foundation make it seem new; he was told in was done in 2003. It is a thick foundation.

D. Greski asked if the foundation was done in 2003, was a building permit issued. Wouldn't that permit have a type of building that would be placed on it, and the height? He asked if you can build on a piece of property and block the view and S. Saunders said yes, unless they bought a view easement.



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K. Mailloux looked at the photos which had been submitted and said that the manner in which they are taken don't look to the left towards Meredith at all, which makes their position stronger. They will still have a view; the photos are skewed.

S. Perley asked if there is a rental apartment in the building now and K. Mailloux said yes; it was inherited from the previous owner. They are trying to fix it. There is no lease in place. R. Mailloux said they are trying to evict the tenant, but have not been successful in doing that. It is a legal thing at this point. They don't want him there, and are trying to get rid of him.

The Mailloux's said the foundation was permitted, and the owner was thinking of doing a motorcycle shop at that time. R. Mailloux said they have spent millions of dollars on the marina, and they want something that goes with their other property. The stairs that go down to the apartment will be removed and a breezeway will go there, with doors to go into the units. There will not be an entrance facing Lakeside Avenue and the buildings will be connected.

K. Mailloux said they didn't take just the abutters into account, but also Methodist Circle. Even if these are not multi-families, the feel is there. R. Mailloux said the Shanna Mailloux property is in common ownership, and they consider that and the Marina common as well. He said they are not arguing that the railroad doesn't own the strip in between; they are not alluding that they own that property.

S. Perley said she is caught up in the issue of the existing apartment now. She said how can we approve a variance when there is an illegal use on the property now. S. Saunders said they could make it a condition that the apartment has to be melded into the existing structure, becoming one unit.

R. Mailloux said when John Gentile put up his new deck, he knew about this, as it was already proposed. You can see the lake from his new deck. The angles the pictures are taken from are skewed. They will have a view. He said this is a nice addition to the city. K. Mailloux said the Gentiles' stated they have no issue with the density, just the view, and that isn't a consideration. R. Mailloux said the golf cart use was approved by planning. S. Bogert said that is not an issue here.

D. Greski asked if the project will meet greenspace requirement, and R. Mailloux said yes. S. Saunders said she doesn't have the figures but it looks like they do. R. Mailloux said they will be adding landscaping, and are looking at how to turn some pavement into landscape, to stop the water shedding. K. Mailloux said they want to turn part back of the paving back into a landscaped area while not allowing water to get into the foundation.

S. Perley asked if a portion of this is in the SPOD. She said the minutes from the meeting regarding the decks say no. S. Saunders said if anything the very end of the lot could be. R. Mailloux said this is not in the SPOD. D. Greski read the minutes from the previous meeting. K. Mailloux said they would still have to get all of the permits. That means they would have to meet all requirements.

S. Saunders said she is unsure of the SPOD and S. Perley said that would be picked up at permit time. D. Robitaille said if the foundation was done in 2003, wouldn't that show up. R. Smith said the foundation is there, and they can currently build on it. S. Saunders said if it is in the shoreland area they would have to get permits.



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R. Mailloux said there is a 35 ft height limit and they are under that, so they meet the requirement. S. Perley asked how many feet up they are going and R. Mailloux said 20 plus the roof, which is about 14, so about 34 ft total.

K. Mailloux said because of the appearance of the structure it won't be apparent to the public it is multi units; they won't be able to tell how many units there are. All required permits would be pulled. The only objection is not to what they are here for – the density – but the view. He said he thinks they spoke to the 5 different criteria.

R. Mailloux said John Gentile knew the foundation was there, and knew the barn was going to go up, prior to his building his new addition. They are planning to do a similar structure to what was going to be there. The city had approved the foundation, and the owner had a heart attack so the plans stalled.

S. Bogert closed the hearing to the public.

D. Robitaille said he is trying to understand the foundation. Back in 2003 a permit was pulled – for what? S. Saunders said she doesn't know, but we can find out. R. Smith said they stated it was a motorcycle repair shop. S. Bogert said we can continue the hearing, discuss more and get direction. We can find out what had been done in 2003.

S. Saunders said we know what the permit was for. D. Robitaille said if it didn't meet density then, what is the difference? Was this for a single family home? That would not require a variance. S. Saunders said the foundation could have been done for a commercial use, so that would not fall under the density requirements. S. Perley asked why that makes a difference. D. Robitaille said we are here to approve a variance, if they can do something without it he wants to do the better of two options.

D. Greski said the rental apartment is another issue and S. Saunders said we will look into that enforcement wise. She said don't take that into consideration, but look at it as a single family structure that exists.

S. Saunders asked what we are following up on and was told the SPOD issue, find that out. Is there an existing DES permit for the foundation? Was there a building permit issued back in 2003?

R. Smith said this is just a density question. He assumes it was put there legally and if so they can build on it. S. Saunders said D. Robitaille has a good point as there could be other uses.

Motion: S. Bogert moved to continue the application until the meeting of August 19 in order for the board to obtain additional information. R. Smith seconded, and all voted in favor of continuing, 5-0.

Application # 2013-0015: S. Bogert called the applicant for 2013-0015, 90 Winter Street, again. No one was in attendance so S. Bogert suggested dismissing the application. S. Perley asked if can dismiss it without prejudice. S. Saunders said we can table the application until the August meeting. D. Robitaille asked about waiving the fee and was told we will discuss that after the hearing is opened.

Motion: S. Perley moved to continue until the meeting of August 19. D. Greski seconded, and all voted in favor of approval, 5-0.



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S. Bogert moved to re-open Application 2013-0016. S. Perley seconded, and all voted in favor, 5-0.

Father Marc Drouin appeared along with Pat Wood. They showed a photograph of the Holy Trinity Sign. In the picture you can see the church, along with a tree and flag pole. In that area is a statue of Mary. Their proposal is to make this a prayer garden and move the granite sign there. It would be landscaped, and it sets back from the street, and would still be a means of saying to the family who made the donation that this is still an important part of the church.

S. Bogert asked S. Saunders if they already have 2 freestanding signs, and are still going to have 2, do they need a variance, and she replied yes, as one is being totally removed and being replaced, so it is considered a totally different sign. That would only apply if replacing in kind.

P. Wood clarified that there will be 3 signs, not 4, with 2 freestanding signs. He said the square footage goes down by another 12.5 ft, so it is now 81 sq ft. They have 284 ft of frontage but are still only allowed 96 ft. With this proposal they will only be using 81 but still need to seek the variance for the second freestanding sign. They will be under the 96 sq ft that is permitted.

S. Bogert opened the hearing to the public:

Robert Collins, 16 Messer Street, stated he is an abutter to the church property. He said that their sights are further than just changing the sign. This is already non-conforming. This was previously occupied by Putnam Home, then was a convent for teachers at the school, and they had a for-profit day-care for many years. They finally demolished that building; it was historic but was not maintained properly. Adding another sign to that property is too much. He said they have lots of paving and parking now. He said that their plans don't stop there. They are planning to add a playground on the Messer Street side, which could be used at any time by any one. The city planner said they do not need a permit to add a playground. They can do so this won't be inspected according to the City Manager.

S. Bogert let R. Collins know that we are here to discuss signs only, and a playground has no bearings on tonight's discussion. He can only discuss the sign issues.

R. Collins said he doesn't see where this is a hardship. He understands the sign is well meaning, and he respects their wishes. He said to keep the sign they currently have and don't move it. He said when a church is shut down and sold, windows with patrons names are left. He feels an additional sign will cause a hazard. There is a nice sign already there, along with a statue, a message board, and an additional sign. He asked for justice for the proposal, and said the neighbors should have some weight. He asked the board members to please take his comments, as an abutter, into consideration. His property value could be diminished by their further development of the property.

No other people from the public spoke for or against the proposal

P. Wood said there is no proposal to light the sign. D. Robitaille asked if the new sign will be parallel to the street, and was told it will be perpendicular to Church Street. He asked if it will block views and was told no. K. Geraci said there is a lot of traffic in this area.



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Board Discussion: S. Perley said she has no issues with this. It is a nice sign, and the applicant worked with us to mitigate the total square footage on the property.

Motion: R. Smith moved to approve application # 2013-0016 to permit an additional freestanding sign. He read the original request and stated that after discussing the sign issue with the applicant, they agreed that the granite sign will be moved and become part of a prayer garden, and they will place a new sign in front of the church so a total of 2 freestanding signs will remain on the property, which is what is currently in place.

Granting of the variance will be in the public interest. This will help identify the church and the organizational content of the church.

Granting the variance is in the spirit of the ordinance and it will not injure the public or private rights of others, and is consistent with the ordinance which controls reasonable use of the property.

Substantial justice is done in granting the variance as this will help the church move forward and further identify this church and its new organization.

Property values won't be diminished. The additional second sign, which is replacing an existing one, makes this still a grandfathered situation.

Literal enforce of the ordinance would cause an unnecessary hardship. This proposal meets the purpose of the ordinance. This will assist the public in finding their find their way. The new sign will help the community understand the different natures of the separate buildings.

The use is a reasonable use and is allowed in the district.

S. Perley seconded and all voted in favor of approval, 5-0.

OTHER BUSINESS: a) Zoning Task Force; S. Perley said the public hearing was not as well attended as she had hoped. They are meeting again on July 25. She feels we received good input from both sides. We got very little written input but the people who did speak did a good job. She said this makes you really think; this is not just black and white. Some said raising chickens is a passing fad. There was good input on maintenance and the work required to do this. S. Saunders said she feels a lot of people who attended were supporters but some members of the task force were opinionated and didn't listen as well as they could have. Just chickens were dealt with at this meeting. After this they will work on signs and stormwater.

D. Greski said he recently drove by the baseball field at Robbie Mills Park and there were lots of signs - the two legged ones that stick into the ground. S. Saunders said they can be put up for a special event, and then be taken down. D. Robitaille asked about people standing in front of business with signs like at Liberty Taxes or Little Caesars.

S. Saunders said the city manager wants less regulations and more leniency for signage, while the ZBA wants to tighten things up.

S. Perley said the ZTF will propose any change in the ordinance; the ZBA looks at it all, and makes recommendations to the City Council, who has the final say.



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b) There was no other business to be discussed.

ADJOURNMENT: The motion to adjourn was made by R. Smith with D. Greski making the second. All voted in favor and the meeting adjourned at 9:30 pm.

Respectfully Submitted,

Kristine Y. Snow
Zoning Technician