



**ZONING BOARD OF ADJUSTMENT**  
**MINUTES MEETING OF MAY 20, 2013**  
APPROVED MEETING OF JUNE 17, 2013

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

**ABSENT:** D. Greski; O. Gibbs; S. Saunders, **Planning Director**

**STAFF:** K. Snow, **Zoning Technician**

S. Bogert called the meeting of the May 20, 2013 Laconia Zoning Board of Adjustment to order at 7 PM.

In the absence of two full board members, S. Bogert seated the alternate board members for the various applications ahead of time.

R. Smith and D. Robitaille were seated for Application 2013-0006. K. Geraci and D. Robitaille were seated for Application 2013-0007. R. Smith and K. Geraci were seated for Application 2013-0009 and D. Robitaille and K. Geraci were seated for Application 2013-0008.

**MINUTES:** The minutes from the meeting of April 15, 2013 were discussed. The motion to approve the minutes as submitted was made by S. Perley and seconded by M. Foote. All voted in favor of approval, 5-0.

**REQUEST FOR BUILDING CODE OF APPEALS RE-HEARING:**

<b>Application # 2012-0039</b>	<b>MSL # 151-269-40-1</b>	<b>SFR Zone</b>
<b>J. Remington</b>	<b>183 Wentworth Cove Road</b>	<b>Appeal</b>

The applicant is requesting a re-hearing from the determination made by the board at their meeting of March 18 regarding the sprinkler system which was required by the City of Laconia at the above property.

S. Bogert let the public know that the board received a letter requesting that the first item on the agenda, the request for the re-hearing for 183 Wentworth Cove Road, be withdrawn.

**CONTINUED HEARING:**

<b>Application # 2013-0006</b>	<b>MSL 450-245-23</b>	<b>DRD Zone</b>
<b>Blaine Drew</b>	<b>60 Bay St, Unit # 10</b>	<b>Variance</b>

The applicant is requesting a Variance from 235-35 B, side/rear setbacks, in order to enclose the existing steel walls. The portion of the structure which sits on the Railroad's ROW will be removed and the structure will still maintain a setback of approximately a 4 ft setback.

**Applicant:** Blaine Drew appeared for the application. S. Bogert said the board received a letter from the DOT saying they had no further issues after meeting with Mr. Drew. The letter was signed by Brian Lombard, who asked that it be included in the minutes:



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April 25, 2013

Seth Creighton, Assistant Planner  
Laconia Department of Planning and  
Zoning 45 Beacon St East  
Laconia, NH 03246

**Re:** Blaine Drew Application 2013-0006 Bay Street Condo Unit #10

Dear Seth:

I met at the Bay Street Condo Unit #10 property with Blaine Drew yesterday. I showed Blaine Drew the portion of the structure on State property that we would want removed. Blaine Drew said he would be willing to remove the portion of the building on and over State property. After the end section of the building is removed, a portion of the remaining building will be within the required setback zone.

The NH DOT will have no concerns about the proposed project if Blaine Drew is required to remove the end portion of the building on and over State. While a portion of the building will remain within the required setback zone, we are not opposed to it being there. If there is no required setback, it may be of concern to the City since the building will be very close to the proposed trail and some of the roof will drain onto the trail.

Please read this letter at your next Zoning Board Meeting and include it in the minutes of the meeting. Please contact me at 271-3465 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Brian Lombard". The signature is written in a cursive, somewhat stylized font.

Brian Lombard PE  
Railroad Operations Engineer

B. Drew showed plans and said that the steel frame is easily removed. D. Robitaille asked about the drainage mentioned by the DOT. B. Drew said the roof has a shallow pitch to it and it could drain onto the trail.

**Board:** S. Perley asked what the variance is for and K. Snow read the information to the board. S. Perley asked about the structure and was told it will be corrugated steel like the rest of the structure. B. Drew showed the plans to the board and S. Perley asked what the building will be used for and was told storage for his roofing business; ladders, etc. He said he can add roof drains.

S. Perley asked if this is attached to the main structure and was told it appears to be but there is about an 8 inch separation. S. Bogert asked if this is L shaped and was told no, it is straight.

B. Drew explained how he is going to handle the property line issue since the building is built on 2 lots. There is a condo association here. He is looking to purchase this unit. He gave the lawyer the money in November but has not closed on this as he wants to make sure of what he is able to do before he closes.

M. Foote asked if the other property is owned by the condo association and was told no. B. Drew said there are girders every 18 ft. He planned to come in about 12 ft on the side so will meet that setback. Conformity



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was discussed. B. Drew said he doesn't think the owner of the other property plans to do anything with his portion that will be remaining.

M. Foote said the removal of the portion of the building makes sense, making the side setback the 12 ft makes sense, and adding gutters to the roof makes sense. He has no issues with the proposal. The applicant can clean up this portion of the building.

S. Perley asked if we had a letter from the condo association approving this and B. Drew said that they did sign the original application. S. Perley said that they should be the ones submitting the application as Mr. Drew does not yet own the structure. B. Drew said the condo board members could not be here this evening, but did attend the first meeting, and wondered why this didn't come up at the first meeting.

S. Bogert asked if B. Drew can meet the side setback and keep the building's structural integrity. B. Drew said there is a crane system. He is already removing 18 ft from the other end of the building.

S. Bogert said he doesn't feel the applicant needs to be here. The DOT issue has been settled, the applicant has agreed to meet the side setback, and the rear setback is exempt in this zone.

**Public:** No one from the public spoke for or against the application.

**S. Bogert closed the hearing to the public. There were no further questions from the board.**

**Motion:** R. Smith moved to dismiss the application without prejudice as the applicant will meet setbacks. If there are any further issues they will be caught at the building permit submittal and the applicant can return if needed. S. Bogert seconded and all voted in favor of dismissal, 5-0.

**NEW HEARINGS:**

**Application # 2013-0007**  
**CR Building Pride Properties**

**MSL # 406-294-25**  
**91 Bisson Avenue**

**DRD Zone**  
**Variance**

The applicant is requesting a variance from 235-28, Uses Not Permitted (Table I), in order to allow an existing automotive repair business continue to operate. This type of business has been in operation in the facility for some time.

**Applicant:** Randy Remick appeared for the application. He said he is an owner of BPS and is here representing the company. They bought the building in 2008, and when they purchased it there was a tenant in the rear of the building doing equipment and truck repair. They moved out and a new tenant moved in. The new tenant needed help with something and approached the city. The City indicated that the use isn't allowed in the zone so S. Saunders asked them to come in and get it taken care of to clean up the file.

He stated they are here to make this legal. They are surrounded by automotive uses. They are located in the Downtown Riverfront Zone and the actual houses that exist are in a Commercial Zone. They are the current owner of the property and the primary tenant. They are located at the back edge of the DRD.

**Board:** S. Perley looked at the use chart and said that this isn't permitted in the DRD. R. Remick said that Irwin is located here, as well as DPW and the salt sheds so they are all currently non-conforming. Wallace Court is the actual dividing line between the two zones.



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R. Smith asked him to define what kind of automotive service – big trucks, little - and was told light automotive repair like general service, oil change, dent repair, etc.

D. Robitaille said this area was classified as DRD for reasons and he would guess that water quality is one of those issues. He asked how drainage is handled here and R. Remick said the lot is pretty much all paved. There is a drain, which is city owned.

D. Robitaille said he sees the history of the site but we have an opportunity to properly handle grease, oil, etc. R. Remick said this is all indoor service where there are no drains to any water. They are located beside Irwin Automotive and are no closer to the water than them.

S. Bogert said Dutile Oil is located across the street from them and they are located right on the water. R. Remick said this is all self-contained. He said that drainage in this area is difficult anyway but that nothing escapes this building, as there are no drains. S. Bogert said Dutile has coal sheds, too. R. Remick said they are a light user. They do oil changes but they contain it and sell the oil.

R. Smith said the DRD was set up to be so many feet from the water, regardless of where it was located. He doesn't see the use of the street changing in the near future. Irwin just spent a lot of money on development. M. Foote said it would be different if located on the other side where it is more open.

**Public:** No one from the public spoke for or against the application.

**Board:** There were no further questions. R. Remick said they were surprised when they find out this wasn't allowed or previously approved and they just want to continue doing what they have been doing. Other vehicle related uses are located here.

**S. Bogert closed the hearing to the public.**

**Board:** D. Robitaille said we heard about self containment of the existing operation. He asked if we can place a condition on the approval that the waste be contained? It was asked if the applicant will have to do anything else and were told no.

M. Foote said this is consistent with the character of the neighborhood and he has no issue with it. S. Bogert said the car business is located all up and down the street already.

S. Bogert said to look under transportation for the use. S. Perley said she feels the use is under vehicle major service and S. Bogert looked up the definition. S. Perley read it to the board members and they agreed that this fits the definition.

S. Bogert said we should call it by this use in order to clean up the application. D. Robitaille asked if all the repair work is done inside and R. Remick was 90% is inside. They try to do that as well with their business. This area is all concrete - all hard floors.

**Motion:** S. Perley moved to approve application 2013-0007, calling the use vehicle major service. The applicant has 1700 sf of space, and the use currently exists with this use.

This won't be contrary to public interest as the business has been located here for many years with no issue.



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The spirit of the ordinance is observed as there is no substantial change in use being proposed, and the use doesn't threaten the public safety, health, or welfare of the general public.

Substantial justice is done in granting of the variance as this is consistent with the current use and in character with the area. This use doesn't harm any abutters.

Property values won't be diminished as there will be no effect on them as this is an already existing business.

There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property as this doesn't alter the essential character of the area, and doesn't threaten public safety, health, or welfare of the general public. This is consistent with similar uses in the vicinity.

This is a reasonable use it already exists in the neighborhood.

The board added the condition that all fluids should be self contained inside the mechanic's bay with two hazmat spill kits on site. M. Foote seconded, and all voted in favor of approval, **5-0**.

**Application # 2013-0009**  
**J. Herrera**

**MSL # 426-109-9**  
**12 Howard St**

**C Zone**  
**Variance**

The applicant is requesting a variance from 235-35 (A) in order to enclose an existing porch. The porch currently exists and won't protrude any further into the front setback than what it currently does.

**Applicant:** Julio Herrera appeared and stated he wants to close in the porch. This will not be used for living space. He just wants to enclose the porch and have an area where the family can be together. The porch has been there for some time, so it is already a non-conforming lot. They want some private space.

**Board:** S. Bogert asked if the front porch will remain the same and was told yes, just the side porch will be enclosed. M. Foote asked for clarification on the Vision Appraisal paperwork that was submitted and was shown on the plan.

**Public:** No one from the public spoke for or against the application.

**Board:** S. Perley said she feels this is a reasonable request. R. Smith stated that other residences in this neighborhood have enclosed porches. S. Perley said they are not enlarging the non-conformity; it already exists. J. Herrera said this will be a 3 season porch.

**S. Bogert closed the hearing to the public.**

M. Foote said this will be a 3 season area so won't be used as living space so he has no issues with the proposal.

**Motion:** R. Smith moved to approve application 2013-0009, to allow the applicant to enclose an existing porch which would cause no further encroachment into the setback area. It will be a 3 season space. The variance will not be contrary to the public interest as no one from the general public will be hurt by enclosing the porch and the owner will gain comfort.

The spirit of the ordinance is observed in granting the variance. Public interest and the spirit of the ordinance



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are both satisfied as the ordinance is there to help people use their property in a reasonable fashion. The porch, and the non-conformity, already exists and this change doesn't make it more non-conforming as it doesn't affect the footprint.

Substantial justice is done as the variance allows the applicant to make better use of his property.

Property values will not be diminished. The proposal should make this residence nicer and more in line with others in the area. It will enhance this property.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship as the porch is exposed to the elements and to the public and current storage of toys and tools would be subject to theft.

The proposed use is a reasonable one and is allowed in the area.

S. Perley seconded the motion and all voted in favor, 5-0.

**Application # 2013-0008**

**MSL # 488-385-4-616**

**RR1 Zone**

**R. Dionne**

**616 Benton Drive**

**Variance**

The applicant is requesting a variance from Section 11.23 (G) of the ordinance that was in place in 1993 which stated that homes in manufactured housing communities had to be set back at least 25' from each other. He plans to construct a garage that will set back approximately 17.3'.

**Applicant:** John Giere appeared for the applicants, who are in attendance as well. They want to build a garage which is located in Briarcrest at 616 Benton Drive. The sketch provided for the board shows the proposed location. This will be located 17.3 ft from the abutters garage.

When the building permit was applied for Seth Creighton told them it was part of the manufactured cluster approval when this was originally approved, but would not be an issue with today's ordinance. The builder had an accommodation agreement, which mentioned the 25' setback at that time. Since that was the agreement at the time, the property owner is being held to it. There will be 137 sf of encroachment and the setback is between this proposed garage and the garage on the adjoining property.

S. Perley asked if this was a condominium association and if so, we would need a letter from the association stating they were in favor of this change. This has been required of past applicants. J. Giere explained that Briarcrest owns all the land on which the homes sit.

**Board:** S. Bogert asked about the code and was told it is not current. J. Giere said there is plenty of green space located here as well.

**Public:** No one spoke for or against the application.

**Board:** S. Bogert said if approved the condition will be added that we will require the letter of approval from Briarcrest. J. Giere said the land is owned by one entity. There is an informal association. S. Perley asked about plowing and was told that Briarcrest Estates LLC handles plowing, trash pick up, etc.

**S. Bogert closed the hearing to the public.**



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**Motion:** S. Perley moved to approve application 2013-0008 in order to allow the applicant to construct a garage which will project about 7 ft into the side setback.

The proposal won't be contrary to public interest. A garage is a use that is existing in the development, and is a normal accessory use to a home.

The spirit of the ordinance is observed as the proposal doesn't injure public or private rights of others and is consistent with other use here.

Substantial justice is done as there is no substantial change of use being proposed. The use doesn't threaten the public health, safety of welfare. The benefits permitted to the property owner outweigh any negatives to the general public.

Property values won't be diminished.

There is no fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property as allowing a garage to be constructed doesn't alter the essential character of the neighborhood, and doesn't threaten the public health, safety, welfare of the neighboring properties.

This is a reasonable use which is allowed in the district.

The board has also added the condition that the formal approval from the owner of the land on which this will be situated, Briarcrest Estates LLC, be submitted to the Planning & Zoning Department.

M. Foote seconded, and all in favor of approval, 5-0.

**OTHER BUSINESS: a) Zoning Task Force;** S. Perley gave an update on their process. There was an article in the last city newsletter asking for volunteers to serve and one person stepped forward. S. Perley, S. Bogert and M. Foote will be the ZBA members on the committee along with three people from the Planning Board, and the member of the public, Steve Weeks, Sr. They hope to get this kicked off within the next 2 weeks and get the process started.

**b) Any other business that comes before the board:** S. Bogert asked K. Snow if a large zoning map could be supplied for the next meeting. K. Snow said she will do that and also provide the board members all larger maps for their own use. S. Perley mentioned the recent meeting which was held at Labelle's. M. Foote said the most important thing he learned from that was to make sure to dot the P's and cross all the T's.

**ADJOURNMENT:** The motion to adjourn the meeting of May 20 was made by S. Perley and seconded by R. Smith. All voted in favor and the meeting adjourned at 8:45 pm.

Respectfully Submitted,

Kristine Y. Snow, Zoning Technician