



LACONIA ZONING BOARD OF ADJUSTMENT
MINUTES MEETING OF JULY 20, 2015
BELKNAP MILL, 7 PM, FIRST FLOOR CONFERENCE ROOM
APPROVED MEETING OF AUGUST 17, 2015

Applicant: Benjamin Barr, Watchfire LED Signs, appeared for the application. S. Bogert asked if he had a letter of authorization from the applicant and B. Barr stated he got a call late this afternoon and was asked to fill in. He said he assumed that had been done. Nothing was received from the Planning/Zoning Department so S. Bogert let B. Barr know that, legally, the ZBA could not hear the application this evening, so this must be continued until the August 17 meeting.

Motion: S. Bogert moved to hear the two applications for 38 Endicott St N at the hearing of August 17. Gail Ober seconded and all voted in favor, 5-0. (S. Bogert, S. Perley, G. Ober, K. Geraci, M. Foote).

HEARINGS: (New)

Application # 2015-0013
PEM Real Estate

MSL # 165-72-11
326 Endicott E

SFR Zone
Variance

The applicant is requesting a Variance from Table I, Table of Permitted Uses, in order to permit an indoor storage facility to be operated within the existing structure. There will be no associated office nor regularly assigned personnel on the site.

Applicant: Paul Fitzgerald appeared for the applicant. He stated that this indoor storage is not like the individual storage units where someone could access all day and night. PEM envisions this to be leased out, as a long term storage use, which would not have a significant commercial impact in the area. For example, if a local marina wanted to store jet skis inside for the winter, or a motorcycle dealership for winter storage. There would be no access on a daily or perhaps even a weekly basis. This use will be of a temporary nature until the property is redeveloped down the road.

P. Fitzgerald said that the board has photos in their packets of the exterior and interior. One shows the main level of the church (indoor ones) and cellar space. There are two very large undivided spaces on a lot that is much larger than the building and is a parking lot at the present time.

This property is located in the SFR Zone which is a highly restricted zone. This zone allows mainly non-commercial uses, with a handful of residential uses allowed, yet here is this large property, which could not be utilized as a church today without board permission. There are also use restrictions placed on it by the seller.

Granting of the variance would not be contrary to public interest. The permitted uses in this zone are limited. They are low impact uses, and are largely residential. A hotel/motel is permitted as well as a neighborhood store. The impact on the area from the proposed use will be less than the motel or a store. There would be lower traffic impact.

This use would entail maybe 1-2 trips a week, maybe even 1-2 a month. There would be no increased activity over what is allowed. This use would be less than one single church service, a wedding or a funeral. The property can still be used for certain public purposes that are being used now. There is a school bus stop. This could continue to be used for an impound lot by the LPD during Motorcycle Week.

The spirit of the ordinance would be observed as the SFR is designed for quiet, lightly used activity. The property is currently just sitting there. There will be no noise, no light, and no sign, so there should be no impact. Light vehicular impact is in keeping with the spirit of the ordinance.

Substantial justice is done as the property will not look, feel, sound, or do anything differently than has been done in the past few years.

The values of the surrounding property values should not be diminished. There could be an intangible increase in property values as this will be well cared for. The property has been empty for a few years now. P. Fitzgerald stated that everyone is familiar with PEM and his properties and they are well kept up as this one would be. He said there should be a slight pickup in property maintenance. Nothing is being done that would result in a diminution of property values.



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Literal enforcement of the provision of the ordinance would result in an unnecessary hardship. Judge this lot in its current state. This is a large, lot, which contains a large empty church building, with a large parking lot. This is not going away. As the lot currently exists it is not easily convertible to residential use, which the SFR is mainly. Economic gain is not a reason for a variance but the board cannot impose economic hardship by not permitting this to be used without a significant change.

The grantor placed a number of restrictions on the property. These are common restrictions placed on properties when the diocese sells a church property. They were accepted by PEM. He said the board can consider them. They run with the land and are permanent. Even if the ordinance allowed commercial uses, a lot of those uses could not be done on this property. The Holy Grail could not have been done here as alcohol is not permitted to be served as set forth by those conditions.

They feel this meets the criteria for the granting for the variance. Kevin Morrissette is here this evening to answer additional questions if needed.

Paul Fitzgerald said, if granting the variance tonight, the impacts you see will be virtually the same as you will see in 6 months.

Shanna Saunders said she was confused and would like clarification for herself and for the board. She read our definition of indoor storage and said this sounded more like watercraft storage, which is a different definition. P. Fitzgerald said that was an example he made up on the spot. He said he agrees with the definition of indoor storage but not for the individual units. This would be rented to a single user for 6 months – 12 months so it would have a lesser impact.

S. Saunders said if they were adding watercraft long term that would require another variance. P. Fitzgerald said no, they want to proceed on this variance. S. Saunders let him know that storage of cars would be considered a totally different use as well.

S. Bogert asked if we are now talking about household goods and S. Saunders read the definition for indoor storage again. Paul Fitzgerald said that is the definition they used in seeking the variance as it comes the closest but is not exactly what he is looking for. It is undefined right now, but they anticipate 1-2 users, with a modest impact. This would not be someone looking to store a piano for 3 weeks.

S. Perley clarified that this is of a temporary nature until redevelopment and was told yes. She asked S. Saunders if that would have any bearing on their decision this evening and S. Saunders said no. Even if this is a temporary use the variance runs with the land.

Gail Ober asked if we can include in the language that we can limit this. Kate Geraci asked if we allow this, per the definition, someone down the road could do individual units and S. Saunders said yes. Paul Fitzgerald said he doesn't agree. If this is granted with conditions - the no on site office, etc. and they eventually sell the property, the new owner would have to return for approval.

S. Bogert said he always looks ahead when entertaining a variance; he looks at what the current and the next use is. He understands that a future buyer would have to buy based on our restrictions and conditions.

S. Saunders said that 10 years from now the application may no longer be available as there have been issues in the past with missing files. She feels we should run this by our legal counsel to make sure what can and can't be done.

S. Bogert agreed that over a period of time information gets lost or garbled. He said he wishes that these decisions could be recorded.



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S. Perley asked how you can have indoor without having self-service. S. Saunders said she would be nervous to grant an approval to be called indoor self-storage and it isn't close to that, because 10 years down the road, all we will have is that definition. She feels we need to run this by legal counsel. She said maybe we would be able to do a deed restriction.

S. Bogert asked what if something happens to the structure – what if it burns - what goes back up? Is an approval tied to the building or to the property?

P. Fitzgerald said if granted with the suggested conditions, they won't be in that situation. You could place a restriction that there would not be individual units in the building. If destroyed, they would have to come back with new plans. He said they are fine with putting restrictions into this decision and that they would voluntarily record the decision at the registry.

Robert Smith asked about the parking lot and how it will be used. Paul Fitzgerald said it is not going to be used as the proposal is for inside use. At some point in the future, there could be a development plan but there is nothing right now. They sought relief from the City Council as to what could be done outdoors, and the City Council felt it was inappropriate. The lot will remain vacant but can still be used as the school bus pickup, turnaround, and impound lot.

Gail Ober clarified that Paul Fitzgerald is saying that there won't be any boat trailers, fork lifts, campers, etc stored on the property as they can't do it under the ordinance, and the application doesn't address that.

S. Saunders said there is an outstanding notice on vehicles that are currently there. Paul Fitzgerald said they are not owned by them, but they are aware of the vehicles and will deal with it.

S. Bogert opened the hearing to the public.

Public: Warren Hutchins, 31 Boathouse Rd: This is located off of Pendleton Road, which is the sole access into the neighborhood. He said he wants to make it clear he is not representing the Laconia Planning Board or Planning Commission. He is representing himself and the entity, Pendleton Beach Recreation Group, Inc, which consists of 10 neighborhood people who got land, and put up a tennis court, and maintain that.

He said that they are in complete disagreement on all 5 points.

The variance runs with the land. He said he has owned his property for 36 years, and lived here full time since 2003. This is not in the public interest: he feels the information presented is false. The LPD has used this in the past for an impound lot during Bike Week but not recently. This hasn't been used for that by the City for 5-6 years. It is not used by the City in any other point, either so that is not correct.

On the statement regarding the bus stop there is an element of truth. The stop is at the Route 11B intersection. The parents wait there to drop off and pick up and so pull into the parking lot. He asked them about the route and was told they were allowed, in their opinion, to go onto the property if a parent isn't there waiting on a child but it is not a normal thing to go onto the property.

He said he disagrees with the spirit of the ordinance statement that was made. Route 11B is a gateway into the City from Gilford to the Weirs. The Master Plan calls for special attention to our gateways. We have been asked to improve their appearance. The City Council wants them improved as well and they don't feel that using this property in this manner will improve this area.

They have owned this now for several months. W. Hutchins presented two pictures of the property. There is a s used camper for sale there. As of today there is another vehicle, an old jeep, for sale.

The diocese maintained this property well but in this growing season the area was mowed once. The wall is deteriorating. He said he doesn't feel this is acceptable, especially not in a gateway to the City.



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Also in the picture you can see the doors going into the sanctuary, which are normal sized. The question in his mind is if jet skis or boats are stored, those doors would have to be modified, and maybe the roof line.

He said this is the only road into Pendleton Beach, and 23 families live there. If they turn this into what they are suggesting, enforcement would be tremendous. This is residential shorefront property and among the highest assessed in the City. None of the residential zones permit this use. The SFR is the highest assessed zone in the city and the only gateway into this area, so this would affect the residents.

The Citizen publishes once a year, in January, the properties that are the highest assessed in the City. Last year 15 or 20 were located within a mile. The applicant is well known in the area. He is well versed in Zoning, and the Table of Uses, and what can/can't be done. They knew that going in. The public price he acquired this for was substantially less than what was asked. He was fully knowledgeable going in.

He stated that he does not feel that the applicant has met any of the 5 criteria.

S. Bogert asked what type of development he would foresee here and W. Hutchins said something residential. S. Bogert asked about the motel use here and W. Hutchins said it is permitted and would be acceptable.

Mike Foote asked what about the neighborhood store use and W. Hutchins said that is permitted and would be a good thing as there is nothing available here in the winter. M. Foote asked if that is considered something like Cumberland Farms and S. Saunders said the maximum size would be 1500 SF.

W. Hutchins said there was recently an application for inside storage in the Weirs Beach area which was pulled by the applicant as it was not the highest and best use.

Mary Hutchins, 31 Boathouse Road: She said that the applicant knew exactly what the property was zoned for when he bought it. He tried to side step this by going to City Council. She doesn't feel he has shown good will for the zone or the neighborhood. This is a residential area. He knew this, but went ahead and bought it and is now trying to find an open ended way for a variance in the future. She said she would question what the future use would be but hopefully something residential.

Harvey Moses, 108 Pendleton Beach. He has been president of the Pendleton Beach Association for 6-7 years. On July 11, at their annual meeting, this use was brought up, and the members did not feel it is compatible with the area. They felt it would devalue the properties, and is not in the nature of the SFR. All 23 residents were in agreement. During motorcycle weekend, there were many trailers parked here. Some were attached to vehicles, some not. Each one had a Naswa sticker. Did he receive compensation for permitting the trailers to be parked here for the week? He is very concerned that they will overstep the use of the property.

Bill Adario stated he lives behind the church on the right. He has been there for 10 years. He thought this was going to be residential – condos or something of that sort. He spoke with a real estate agent who said he felt this use would lower the property values. He said that there is a tractor trailer that parks there on a regular basis. He has seen what has been going on here for the last 10-15 years. He wants to see a residential use here. This would not change the area for the best. He feels this proposal would lower the property values. He said that there are other things that go on here on this property, which he won't bring up. They do use this for Bike week, but they didn't say anything as it is only a week. He is concerned with what people say now, and this could be different two years down the road. Things change, even with the best interest in mind.

John Remington: He stated he owns property on 2 sides of the church property. He submitted a letter form Richard Lavery for the records.



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He stated he doesn't think anyone could meet all 5 of the criteria. They came here and said this building has no use at this time. They went to City Council and he thinks that they would agree that the storage isn't a good use. This property drains onto his property now. He has 13 acres in conservation land. If storing vehicles there in the future who would contain the run-off. There is no drainage plan identified as there is no actual use.

He would ask them to show how the hardship is being met. He said he would welcome residential use, or a small store. They bought this well under the asking price and should have done their homework ahead of time. This is not a hardship.

He said he has lived here for 19 years. The Jeep that is there today was not there yesterday. The camper has been there about a week. The property has not been used by the City for Bike Week for 5 years. The school bus could still turn in the future. As Warren Hutchins pointed out, that is not used very much.

Could we require a sprinkler system here? Since this is not a specific use, cannot require one. This is one of the largest income producing areas of the city. The church was quiet and there were no problems. This use is not identified. Could they store trucks and cars? He said it is hard to believe they think they meet all 5 criteria.

Richard Homs: He stated he lives at 84 Summit Ave, leading to Governor's Island. This is a highly restricted zone, which was done for a reason. There are vehicles there, and now a couch. People will complain about how this will look so a fence will be requested. If this is approved then fork lifts and hoists will be required. He said it is hard to think someone would access this once a month.

We must protect our properties. There are already empty lots on this road. Nothing was protected. This applicant is very well known as a developer, and he could have bought it with City approval first. This is a highly restricted zone. Governors Crossing has done things wrong. Boats have been parked there, the City looks into it and the boat disappears.

He said take a walk around the neighborhood. This use will be noisy; it will be commercial looking; it will require a change to the building. He said he thinks S. Saunders said that boat use would be different? He was told yes, this is only for indoor storage, self-service.

He understood Paul Fitzgerald stated they wanted to lease to one applicant, then he said 1 or 2, and the application states individual. He asked how many units this could be. He would like to know how many units; would they require individual locks and keys to enter; will there be a fence for 24 hours protection; and would the roof line and doors change?

He said it is highly unlikely that this would be used once a month. There was a purple tractor trailer parked there for 3 weeks and nothing was done. Did they have a financial gain from this? If a vehicle is parked on his property for 3 weeks, he would know why. He feels they are probably getting rent. He said to look around the zone and see how property is kept up. There are things on Weirs Road not well kept up now. Several developments have started that have been abandoned.

William Philpot, Jr., stated he is the attorney for John Remington. He said he wanted to clarify that this proposal is to make a placer to carry the property until something else comes along. That is an economic hardship argument. This is of a temporary nature in order to bring in an income and carry the property. He asked the board not to be fooled as this is an economic hardship argument. He said to focus on that.

No one else spoke for or against the proposal S. Bogert reminded everyone that there will be no back and forth with the public.

Applicant: Paul Fitzgerald said that he thinks that people think PEM is owned by Kevin Morrisette but it is owned by Peter Morrisette. Kevin handles the construction for Peter. A comment was made that a convenience store similar to Cumberland Farms could not be built here. The restriction put upon the property by the diocese states that a tavern, bar, night club, or dance club or restaurant is not allowed. He thinks individual sales to consumers, that would take it off of the property like Cumberland Farms, would be permitted. This is just for clarification, and is not what is intended.



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A lot of the comments made here were not pertinent. This application has nothing to do with the outside. They are here for a specific use inside the property. He thinks they need to focus on the specific application.

Comments were made by Warren Hutchins regarding modifications to the building. If they were to modify the building they must have a site plan review by Planning Board. He was not addressing the application which is in front of the board. No modifications are being called for. If in future this changes, they must get approval.

Also W. Hutchins mentioned hardship, as did Attorney Philpot. They are addressing what can be done with the property as it currently exists. They have no plans for the parking lot. He said to focus on the church building. Residences would take a lot of work. It can't be used for a hotel or store in this configuration. Right now this is a large open church building, with no pews. He asked the board to consider what use can be made of the space which is currently there.

The exterior trailers are there, they will deal with this. Any issues can be worked out with the city. Mr. Remington made a comment on how hard it is to meet the 5 criteria; they are met fairly routinely.

Richard Homs asked how many units are being rented; the answer is none. They are not going to divide the space, they are not having people in/out every day. If there are exterior changes they would have to come back to a board to make those.

Gail Ober said she doesn't understand: is a church a permitted use in this zone? Is this now a church or residential?

S. Saunders said this is now a previous church property. That use was terminated, as it has not been used as a church in more than 12 months. G. Ober asked what it can be used for. Could he use this for PEM storage? She said that once he takes payment from any source it becomes a business use. G. Ober asked if he can store his own things there and S. Saunders said as long it is not business related. If he wanted to store his excess household items there, yes.

S. Saunders clarified that the commercial uses could not be used they would have to go to Planning Board for site plan review.

S. Bogert said he doesn't want to close this hearing out yet. He said we have heard a lot of different things, legal/non legal, conditions, what could be approved, not approved. He would like to speak to the City attorney and get some direction on this.

S. Perley agreed. She said there is no real definition in our ordinance on what is being proposed. We should take into consideration the public input. The purchaser knew what he was getting into when he bought this. S. Bogert asked if that should be considered if one knows when one does something that is it a hardship?

Robert Smith said we should also consider that the definition of storage is for individual storage units, and this variance doesn't address that. Maybe the variance needs to be made differently.

S. Bogert asked S. Saunders if the board can make arrangements to meet with the attorney before the next meeting and S. Saunders said yes, she will make the arrangements.

Motion: S. Bogert moved to continue Application # 2015-0013 until the next meeting, adding that S. Saunders will set up a meeting with the City attorney before the next meeting date to discuss the issues. K. Geraci seconded and all voted in favor, 5-0 (S. Bogert, S. Perley, K. Geraci, M. Foote, G. Ober).

The hearing was over at 8:25 PM.



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The board took a short recess and returned at 8: 35 pm.

Application # 2015-0014	MSL # 433-101-65	RG Zone
Dawn Longval	59 Harvard Street	Variance

The applicant is applying for a variance from 235-33, Table of Dimensional Requirements, Table II, in order to meet the density to change an existing one-family structure to a two-family. There is enough parking for 4 vehicles. The drive has 1400 SF and 4 spaces would take up 684 SF. The lot is 9583 SF and for 2 units they would require 14,520 SF.

Applicant: Dawn Longval appeared for the application. She said this was purchased this as a single family. They own 3 other properties in Laconia. This is their retirement plan. They want to rehab older homes and she needs a variance for the density.

They feel this would be in the public interest. This would be affordable housing in the downtown area. They insulate, remove any lead, they take care of asbestos, install or refinish hardwood floors. She said that they fix it up to how they would like it. They would improve the structure. She said it currently looks like a haunted house from the outside, so this will improve the neighborhood.

This house is over 2600 SF, and most people could not afford to heat a home that size. There are currently 6 bedrooms and most people don't need a house that size.

In researching other houses on Harvard Street, 7 out of 12 were multi-families. Some were 4-8 units. 5 were single family homes located on small lots. Their other 3 properties are on small lots, and are two families now.

D. Longval said that they plan to bring the home back to life.

This would be a hardship if they purchased it not realizing this could not be a multi-family home. She said they were not aware of the density issue when they bought it since the other properties are on smaller lots and are multi-families. They have a lot of money being invested and really need this to be a two family.

S. Perley asked if anyone is living in this now and D. Longval said no, she doesn't feel it is livable but someone was in it when they purchased it.

Robert Smith clarified if they are making this a two family they would meet the access requirements for fire code. He was told they plan to split the house in half, so each tenant would have upper and lower space. This is an old house so there are lots of entrances there now. They follow all of the codes.

S. Perley asked how these homes could have been built so close together and O. Gibbs said there was no zoning at that time and they crammed in what they could. She said most houses in this area are on small lots and are multi units. This is the type of neighborhood.

M. Foote asked, on the plan, what is the structure in the middle and was told it is a 2 car detached garage. S. Saunders asked if that will remain a garage and was told yes, but for storage not vehicles. G. Ober clarified that the storage would be for the tenants and was told yes. K. Geraci said there are apartments on either side, what about # 53? O. Gibbs said that is a 2 unit, 56 is multi, and 54 is single.

M. Foote asked what are parking requirements and S. Saunders said 2 per unit, so she needs 4. S. Bogert asked how would be set up and was told they can use the existing drive way. He clarified that the tenant would not have to knock on doors to move cars. The abutting drive way is right next to this drive.



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S. Bogert asked what would be required, from an administrative standpoint, to change this. S. Saunders said electrical, fire, water, etc. They would need a building permit. Electrical permit, life safety codes, window sizes in bedrooms. Gas permits, plumbing permits. A second water meter.

S. Bogert said he has a concern that this will be a hazardous site, with lead paint, asbestos, etc. and at some point they find out this is a money pit and make short cuts.

Dawn Longval said many of the windows are already replaced. In the past they have done some of their properties through CAP. They get grants from them. Valley and Mechanic Streets both had lead, but here the woodwork is all oak and stained. They will maintain what details they can, and there is not as much lead here. A lot will be done to the outside. There is a State sign off for lead and asbestos. They had asbestos testing done inside already and there are lots of layers of linoleum here.

Gail Ober said that in the statement she said there is 2600 SF, but the application said 2000 SF. D. Longval said this is 2600 SF; when she filled it out she was not certain.

K. Geraci asked what the time line would be on this and D. Longval said the contractor said maybe Jan/Feb as there is a lot to do. First the asbestos and lead would be taken care of, then the roof. There is hardwood under all the linoleum.

Public: No one from the public spoke for or against the application so S. Bogert closed the hearing to the public at 8:50 pm.

Board: S Perley said this is totally a density issue. M. Foote asked if there is room for 4 cars. R. Smith said there is more room towards the rear of the lot. G. Ober said the garage isn't in good shape now. K. Geraci asked if the drive is now 2 cars wide and S. Bogert said it is hard to tell as it is dirt.

S. Saunders said it could be a condition that the drive be improved to hold 4 cars. Both a single family and a duplex are exempt from planning review. This could be widened a bit towards the house. M. Foote asked if the steps would have to be modified or would they come right down to the drive. S. Saunders said the two units could park front to back, each unit, so they would have to worry about moving their own vehicle if needed.

M. Foote said he feels this is great to have it rehabbed. K. Geraci said there is really no need for a single family home this large and R. Smith said they can't redesign this but they can improve it, meet all codes, and make it marketable. He feels would be more marketable as a two family. M. Foote said they bought it as a single and R. Smith said she thought it could be made into a two family when she purchased it.

S. Bogert said there is a large inventory of affordable housing in town now. More units are being built, and there is a lot of competition. We have been adding more inventory, and he has heard people asking why. S. Saunders said she thinks this one is going to be a higher quality than many.

S. Bogert said the parking is no better or worse than any other. He wondered where they put the snow. Looking at this being a single family or a double, it is definitely more marketable as double. It does sound like they will have enough funds, from different resources, to fix it up. Keeping it as a single family would limit their market.

S. Saunders said we have to stick with the issues. Gail Ober said she feels this is a great idea. The structure is in bad condition now.

S. Bogert asked if it is better for the neighborhood to improve this structure and said yes. He asked if it is better to remain a single or go to a two family and Gail Ober said she thinks this is a wash. S. Saunders said to look at the values of



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surrounding properties then. S. Bogert said in its current state this would have a low value. There is no evidence, other than common sense, that it would improve the area. He feels this should stabilize the value of the neighborhood.

Orry Gibbs said to look at literal enforcement. These are all small lots, with a balance between multi and single family structures. It would be wonderful to have this rehabbed and fixed up. Quality work force housing is needed. She feels substantial justice would be done to the owner and to the neighborhood.

Gail Ober asked if it would improve the density if the garage was removed and was told no. It would help parking and green space.

There was discussion about meeting the hardship criteria. The board felt that the hardship issues was not properly addressed.

S. Bogert suggested that we continue this until next meeting, which gives the board time to think about this, and determine how to justify the criteria for question 5. If we continue this evening the board would have to deny because of question 5 and he said he doesn't think this is how the board is leaning.

R. Smith said the property is located near downtown so a tenant could walk to work however this is not inconsistent with the rest of the neighborhood. There are specific conditions of the property, but not of the area.

S. Saunders said this allows the applicant to bring a better argument for the hardship at the next meeting. M. Foote said we can't just ignore what we have discussed many times before.

S. Bogert reopened the hearing to the public so the applicant can return to the next meeting.

Board: S. Bogert said the board is at an impasse. There are 5 criteria that they must review and all 5 must be met. The board is having an issue determining the hardship now. We could continue this evening but the board would deny the application; however no one wants to do that. Everyone wants to be positive. We can continue this to the next meeting and have her do research on the hardship and also the board can take another look at the application. We can re-open the hearing, convene at this point, and hear what the applicant has to offer and continue.

M. Foote said that the financial issue is not a hardship. S. Saunders said she must show something unique about the property. O. Gibbs said she is hung up on 5-A, why this is different than others in the area.

If the others are smaller and this is the only 2600 SF, that could be a hardship. Dawn Longval asked if she should show properties only on this street or can they be located in the neighborhood. S. Saunders said in the general neighborhood.

S. Bogert said it is in the best interest of the applicant to continue this.

Motion: S. Bogert moved to continue Application # 2015-0014 until the meeting of August 17 in order for the board and the applicant to review the hardship portion. O. Gibbs seconded and all voted in favor of continuing, 5-0. (K. Geraci, M. Foote, O. Gibbs, S. Perley, S. Bogert).

The hearing was over at 9:15 pm and the board took a short recess, reconvening at 9:20 pm.

Application # 2015-0015
Peter Horan

MSL 427-89-80
43 Gillette Street

RS Zone
Variance

The applicant is requesting a variance from 235-41 (J) (1) in order to add an accessory apartment which exceeds the permitted 400 SF threshold. The apartment is a permitted use but would be 900 SF and located over the two-story garage.



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Applicant: Peter Horan appeared for the application. He said he wanted to state that he works for the Laconia Police Department and a few years ago worked on an investigation that involved Mike Foote. Mr. Foote had a piece of equipment stolen and P. Horan played a part in solving the case. He stated that he doesn't feel that is an issue with this application but did want the members to be aware of it.

He is here as he plans to tear down a garage that is in poor condition, making the new one slightly larger. He wants to add an apartment over the garage for his in-laws. He can do that but the apartment could not be over 400 SF per the current ordinance. That is very small, and he wants his in laws to live there. The proposal would be about 900 SF upstairs. That space will exist no matter what, whether it is a 400 SF apartment and 500 SF of storage or the 900 SF apartment. S. Bogert explained that this would be considered an accessory apartment. P. Horan said this is not the only accessory apartment on this street. There is one 2 doors down.

S. Perley asked what the other building on the property is and was told it is a workshop. It has electricity, but no plumbing. While it was painted inside it is not livable space. S. Perley asked if an accessory apartment has to be attached to the main dwelling and S. Saunders read the definition which says "within an existing home, or garage, or additions to" so this can be over the detached garage. He can't build another structure and call that an apartment; it must be over the garage.

S. Perley asked how we can make sure this can't be rented out to public and S. Saunders said we can't. P. Horan said he would put wording in, but S. Saunders said he cannot. The State is currently trying to amend the accessory apartment law. We won't be able to put conditions on ours. S. Perley asked if anyone could put an apartment over their garage and was told yes, if it is under the 400 SF.

S. Perley asked if there is a way we can restrict this as the other out-building could potentially be a residence.

S. Bogert said a 900 SF home is not an accessory apartment; this is a home. He asked why isn't this a duplex and S. Saunders said that is not permitted in this zone. S. Bogert said at some point this becomes not an accessory apartment and it becomes a duplex. He feels this proposal is for a duplex. A smaller request might have been looked at differently.

M. Foote said the board has previously discussed this as someone had built an apartment and assumed it would be ok adding on a bit more. S. Bogert said yes, and it was denied but they used the remainder for "storage" and added a deck off of the storage area.

S. Bogert said in his mind the question is whether this is the accessory use or a duplex. He has to prove the hardship. M. Foote said rebuilding the garage makes the property more conforming with the setbacks but this more than doubles the accessory use size.

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

Board: S. Saunders asked if the garage needs to be 30 x 30. They could decrease that and make a smaller apartment. P. Horan said they felt the 900 SF would be comfortable for his in-laws to use.

M. Foote said if building a 30 x 30 garage is it different if has angles and S. Saunders said no, it is the floor space. P. Horan said this is actually maybe 28 x 32 garage, so with the exterior walls in the floor space is less, maybe around 800 sf.

S. Perley asked about the access to the apartment and was told it will be from inside the garage.

S. Bogert closed the hearing at 9:40 pm.

Board: R. Smith said he would not be comfortable living in 400 SF. Maybe if it was for use for a vacation but not to live in permanently. 900 SF may be too much here. S. Bogert said that 900 SF becomes a duplex. S. Perley asked if a duplex has to



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be attached; she feels they are making a second non-conforming residence. S. Saunders read the definition. M. Foote said this creates two living areas on one lot.

S. Bogert asked if we want all of the homes that meet the setbacks be able to do this and R. Smith said they can if they meet the greenspace. O. Gibbs asked what the hardship is.

M. Foote said if the property is sold the next owner would have the two car garage and a second property to rent out.

S. Perley said the use is permitted; it is the size in question and M. Foote said we will end up with others back in front of us that we have already dealt with.

S. Bogert said he would not want this beside him. He doesn't feel the spirit of the ordinance is met by adding a second home. R. Smith said the lot is big enough for frontage and acreage. He could subdivide the lot. S. Saunders said he is short on the frontage, by about 10', so that would require a variance. O. Gibbs said that would be more palatable to her.

S. Bogert said this is building a second home on the lot. He could live with 500 SF for the accessory apartment. He agrees that he would be more apt to approve a variance for the frontage.

Motion: S. Bogert moved to deny Application # 2015-0015. This proposal will be contrary to public interest. 900 SF is not an accessory use, it is a second home.

The spirit of the ordinance is not observed by permitting 2 single family homes on this lot, which 900 SF would be.

Substantial justice is done by following the stipulations of the ordinance as 400 SF would not be adverse to the ordinance but building 2 single family homes would be. Again, 900 SF is another home.

There is no evidence that property values would be affected by the proposal.

There is no hardship as this is no different than any other homes in the neighborhood.

O. Gibbs seconded and all voted in favor of denial, 5-0 (S. Bogert, S. Perley, M. Foote, O. Gibbs, R. Smith). The hearing was over at 9:50 pm.

Application # 2015-0016
D. & S. Cote

MSL 328-6-20
46 Appleton Street

RS Zone
Variance

The applicant is requesting a variance from 235-35 (A), front setback, in order to rebuild an existing portion of the house, adding an additional 2' to the size and making it two stories. The front setback in the zone is 25' and the current structure already sits in the setback. This would increase the length an additional 2', allowing the same 14' setback that currently exists. A porch will also be added on the side but will be located out of the setback area.

Applicant: Sharon and David Cote appeared. S. Cote said they are requesting the variance in order to extend the house 2' to the west and to go up to two stories. They plan to retire here and want to preserve the home and keep the traditional New England style that currently exists.

S. Cote said this won't be contrary to the public interest. Most of the homes in the area are two stories. Most are non-conforming due to the year they were built. Setbacks were not established at the time of construction.

The spirit of the ordinance is observed. This zone is established for residential use and it will remain the same.

Substantial justice will be done by allowing the applicant to remodel the home and make better use for their family.



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The property values of the surrounding properties will not be diminished. They will be respecting the neighbors and the heritage that has been established here and will maintain the character which will help preserve the property values in the area.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property. The property is currently non-conforming. It is located in the setback now. The setback requirements impose a burden on the property which makes it difficult to make alterations.

The use is reasonable as it will be the same as currently exists within all surrounding properties and therefore construction of a residential home is a reasonable use.

S. Bogert asked if this lot has city water and sewer and was told yes. He asked if the roofline will remain the same height and was told the home is now a story and a half; the back would show as a full two story. D. Cote said the roof is a 12 pitch, and would be within code. R. Smith said the height should be a little over 30 ft and our code says 35. He said the plan looks good. It was clarified that they are going out to the left of the house, towards the driveway.

Public: No one from the public spoke for or against the application and S. Bogert closed the hearing at 9:55 pm.

Board: R. Smith said he is not voting on this one but this looks good to him. G. Ober agreed that it is a good plan.

Motion: S. Perley moved to approve Application # 2015-0016.

The application is not contrary to public interest as they are only enlarging this by 2' to the West and making it two stories. They are making the structure more livable for their family. This doesn't violate basic zoning objectives and does not injure the public or private rights of others.

The spirit of the ordinance is met as the area is zoned residential, and this will not cause any harm to the health, safety, or welfare of the general public.

This is consistent with the character and is in keeping with the neighborhood.

Property values should not be diminished by the addition. The structure was built in the 1900's, and there will be no effect on adjacent properties. This will be an improvement to the area.

The use is a reasonable one and in keeping with the area.

G. Ober seconded, with all voting in favor, 5-0 (S. Bogert, S. Perley, G. Ober, O. Gibbs, M. Foote). The hearing was over at 10:10 pm.

Application # 2015-0017
B. Thurston

MSL # 257-370-1
Waterford Place

AI Zone
Special Exception

The applicant is requesting a Special Exception from Table I, Table of Permitted Uses, in order to establish a landscaping business on this parcel. The applicant is in the process of purchasing the property which is located in Laconia but the only access to the property is in Gilford.

The above application will be heard at the August 17 meeting of the ZBA.

OTHER BUSINESS: Kristine Snow mentioned that we have a number of members whose terms on the ZBA will be expiring in **August** and to please go to the City Manager's office to see about getting onto the City Council agenda if they plan to reapply.



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S. Saunders will set up a meeting with the city attorney to go over the information for 326 Endicott East. We will plan on 6:30 the day of the meeting.

ADJOURNED: M. Foote moved to adjourn with the second by O. Gibbs. All voted in favor, 5-0 (S. Bogert, S. Perley, M. Foote, O. Gibbs, G. Ober) and the meeting adjourned at 10:15 pm.

RESPECTFULLY SUBMITTED: Kristine Y Snow, Zoning Technician