



ZONING BOARD OF ADJUSTMENT
MINUTES MEETING OF AUGUST 17, 2015
7 PM, ROOM 200A, SECOND FLOOR OF CITY HALL
APPROVED MEETING OF SEPTEMBER 30, 2015

CALL TO ORDER: S. Bogert called the August 17, 2015 Zoning Board of Adjustment meeting to order at 7 PM.

S. Bogert let the public know that PEM, Application 2015-0013, has requested their application be continued until the September 21 meeting.

ROLL CALL: By Zoning Technician Kristine Y. Snow: Steve Bogert, **Chair, (Present)**; Suzanne Perley, **Vice Chair/Secretary (Present)**; Dave Greski, **(No Response)**; Orry Gibbs **(Present)**; Mike Foote **(Present)**; Robert Smith, **Alternate (Present)**; Kate Geraci, **Alternate (Present)**; Gail Ober, **Alternate (Present)**

MINUTES: The minutes from the ZBA meeting of July 20, 2015 were reviewed. The motion to approve the minutes, as written, was made by and seconded by.

Motion: (R. Smith was seated for the minutes) The motion to approve the minutes from July 20 was made by Orry Gibbs and seconded by Mike Foote, with all voting in favor, 5-0 (S. Bogert, S. Perley, O. Gibbs, M. Foote, R. Smith)

PUBLIC HEARING: The Heritage Commission proposed changes to the demolition ordinance was continued from the May 18 meeting. ZBA, acting as the Building Code of Appeals

Pam Clark appeared for the Heritage Commission. She reminded the board that they appeared at the meeting of May 18 and presented changes. The board had some questions which they did further research on.

The first issue the board had was the time period they were requesting in order to petition the City Council for additional time before a permit is issued. They had originally asked for 180 days, but after doing further research on the issue and researching more cities in New Hampshire, they found that 60 days seems to be the standard amount of time so they changed that number to the 60 days. Some of the cities they looked at were Concord, Keene, Rye, and Milford. The NH Preservation Committee also has the 60 day figure as well.

She was asked why they might want to go before City Council and mentioned further time for discussion with the property owner, additional opportunity to advertise in the media, to look for tax exemption, incentives, and grants, and to raise community awareness, and also the possibility of moving the historical building.

Another question was if the building could be exempt from the ordinance. P. Clark said no, if the property meets the criteria for the ordinance it would not be exempt. This is just like the other ordinances like architecture or steep slopes.

If a structure appears on the NH state register that would not prevent a property from being torn down.

P. Clark said that in the 8 years the Heritage Commission has been in existence they have only had two hearings, one on the Putnam House and the other on the Hathaway House. There are not that many requests for demolition of properties that qualify.

Board: Gail Ober asked about the students working on the assignment identifying buildings and S. Saunders said that is completely separate from this proposal and has nothing to do with this request. That is completely separate from this amendment.



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G. Ober asked if a person has a property that is over 50 years, they need to go to the Heritage Commission and S. Saunders said now, if it 75 years or older, it is flagged to be looked at. This would change that to 50. P. Clark said only if the structure has historic value. S. Saunders said this is already on the books, we are just further defining the criteria and to ask to go to City Council. S. Perley said this puts the decision into the City Council's hands. G. Ober asked if anyone can petition the City Council and S. Saunders said no, just the Heritage Commission.

P. Clark said the Heritage Commission is just making the recommendation.

Public: Charlie St Clair stated that he is also on the Heritage Commission. He said he doesn't see what the harm is in doing this. This gives people more time to assess certain situations. This would only be for buildings that meet the criteria. He said most are approved, and are dealt with accordingly. A few buildings have caught the member's eye, as well as members of the community.

No one else spoke for or against the proposal.

Board: S. Perley said this makes sense to her. It gives people a little time, but doesn't stop the process. M. Foote said he recognizes what this is and the buildings that will qualify for this. He said he finds it interesting that there are few buildings in the City that will qualify but what we have should be looked at.

Motion: M. Foote moved to recommend this change to Chapter 119, to the City Council as presented with the document dated August 13. S. Perley seconded, and all voted in favor, 5-0. (R. Smith, O. Gibbs, S. Bogert, S. Perley, M. Foote)

HEARINGS: (Continued – From July 20 Meeting)

Kate Geraci was seated as a full board member for the following hearing.

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. She said she would just go through the new revised criteria and reminded the board that she is requesting a variance for the density, as she doesn't have enough land for a two-family structure.

The proposal would not be contrary to public interest as they would be fully renovating this older property.

The spirit of the ordinance is observed as they will provide adequate parking and keep vehicles off the street during winter storms. She submitted pictures, showing where she parked her large SUV. She said she could park 6 vehicles like hers there, and with the two-family generally at most there would be 4 cars involved.

Substantial justice would not be done if this is denied. Most of the homes here are smaller, with many two-families, and on less land.

The values of the surrounding properties will not be diminished. The structure currently has a leaking roof, flaking lead paint, 100 amp electrical service, knob & tube wiring and a garage that is held up by a telephone pole. They will be totally renovating, adding a new roof, and meeting all building codes. There will be new appliances, marble counters, and a first floor laundry rooms. All this should increase the value of the surrounding properties.



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Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. They want to convert from a 1 to a two-family home. Currently 7 out of 13 residences located here have 2-8 units, and are on small lots. There are other single family homes, with all but one much smaller.

The density interferes with her right to convert the structure, which causes a hardship.

D. Longval said that the Mayor recently visited her church. He said that most kids in the Laconia schools qualify for free lunch. A 6 bedroom home is just not needed here. People have no need for this large of a house; they have having smaller families. They plan to convert this to a 1 bedroom unit and a 3 bedroom unit. They feel that is a better fit.

Doing this won't harm any public or private rights, as this has adequate parking and room for them to have a back yard and enjoy that outdoor space.

Board: There were no further questions.

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

Board: There were no further questions.

Dawn Longval said if they don't receive this approval they will probably put the house back on the market and sell it as is.

Board: R. Smith said he feels this is backwards. The property is too small but has been this way for years. This is grandfathered, in his mind. He said that we have to mentally live with the lot. There is plenty of parking. The zone does allow the use. He said he certainly feels this is a hardship on the property owner.

O. Gibbs said she agrees, and feels that the hardship is the home itself. This is a massive home on a small lot. She also checked the assessor's records and found the same information. This is unique to this neighborhood. Happens in most mill towns. End up frequently as multi families. Reasonable to grant the variance for density, and make this conform more to what exists in the neighborhood.

S. Bogert asked about adding a condition of keeping this a two-family but S. Perley asked what purpose that would serve? If they approve this as a two-family anyone wanting to change that would have to return to make the change.

S. Saunders added that things could change in 10 years, with the neighborhood, etc, and that maybe the requested change wouldn't be out of place at that time.

K. Geraci asked if the parking criteria is accurate and said she doesn't feel that is the actual hardship. O. Gibbs stated she feels the actual house is the hardship.

Motion: S. Perley moved to approve Application # 2015-0014, for a variance to permit a two-family home on a lot where the density does not meet the current requirements.

This will not be contrary to public interest. The current home is 2600 SF, 6 bedrooms, and is in significant disrepair. There are a lot of multi families in the area. It will be brought up to current standards and has sufficient parking on the site.

The spirit of the ordinance is observed. This is an allowed use and the proposal doesn't violate the basic zoning objectives.

Substantial justice is done as the same basic use currently exists in the neighborhood.

The value of surrounding properties should not be diminished as a substantial upgrade to the structure will be made.



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Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The hardship here is the large house situated on the small lot. The use of a six bedroom home is not needed today. The lots here are very small. Literal enforcement should result in a hardship to the applicant.

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 as the house itself is large and situated on a very small lot. The essential character of the neighborhood won't be changed. The use poses no threat to public health, safety and welfare.

The use is a reasonable one and is permitted in the zone.

O. Gibbs seconded and all voted in favor, 5-0. (S. Bogert, S. Perley, M. Foote, O. Gibbs, K. Geraci)

The next two hearings will be heard together and individual determinations made. G. Ober and K. Geraci were seated as full board members.

Application # 2015-0012
A E Mitchell

MSL # 162-252-11
38 Endicott St N

CR Zone
Variance

The applicant is requesting a variance from 235-58, Table VI, Table of Sign Regulations, in order to keep a sign that is larger than the 72 SF permitted in the zone. The sign has been in place for some time with no permit. The current size is 107.5 SF. The applicant is requesting a total of 105 SF, with the EMC portion being 70 SF, and the changeable copy being 35 SF.

Applicant: Ben Barr, of Watchfire Signs, appeared, as well as Al Mitchell. B. Barr passed out info to the board. He showed a photograph and said that he said he put the sign together with help and direction from the City. The current sign is an individual structure, with an updated sign. They want to replace this with the size and configuration. It will show the address number with the EMC. The burned out building is gone and is now a paved parking lot. This is a fresh image to show the business in the area and will help to fuel the economy in the Weirs.

The sign will follow the guidelines of the existing structure. The existing base concrete was reinforced when the parking lot was brought up to grade. The only thing changing is the interior of the existing sign structure. The LED is permitted and this will utilize the same steel post, and the same sign portion that is there. Embellishments will be added to make it more pleasing. They feel this is grandfathered but no documentation on past signs were found.

This won't be contrary to public interest as this type of sign is permitted in the city and permitted in the zone. They want to install a similar size within the structure that still stands.

This will be the same square footage that exists now.

Substantial justice is done in allowing this as this will be an effective sign to advertise a product, a business name, or display tenants. They could have 6 tenants at a time. S. Perley asked how this could have tenants as it is a parking lot and B. Barr said this lot was designed for Motorcycle Week use and will have multi-tenants at that time. Most of the time this is a single property, for a single business. During Motorcycle Week it is hard to get everything on one sign. They use media to talk about the location and the name, and the different tenants on the property.

This will allow the tenants to be displayed without a lot of small signs. It will be used for community events, and has been used to advertise Friday night fireworks at the Weirs. The Weirs Action Committee asked for that and this is a great location to do that.



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B. Barr passed out additional information. He showed a view of the sign coming from Funspot down into the Weirs. There are already several very large signs. Electronics are already being used here and are used regularly in many businesses in the Weirs. This will show upcoming events, and time and temp. There are currently LED signs on abutting properties. The use won't diminish values of surrounding properties.

Not permitting the existing structure to be used would create a hardship. Many grandfathered signs are already using this technology within sight of this - Faro, an ice cream stand, Irwin's, the drive in, to name a few.

They still consider this to be an existing grandfathered sign. Disallowing this would be unfair.

S. Bogert clarified that the sign is not grandfathered.

S. Saunders said the changeable copy is 7 x 10, 70 SF, with the lower piece at 30 SF.

Al Mitchell went over what was said regarding signage. S. Saunders said this sign, in comparison, is not unreasonable compared to others in this area. Their direct competitors have larger signs.

G. Ober clarified that the top portion of the sign will remain the same and was told yes. She asked when talking about advertising businesses, can they change and was told yes.

S. Bogert asked if the frame work would remain the same and was told yes. The small section is moving to the top, with the EMC at the bottom, but the square footage stays the same.

S. Perley asked how they will be advertising and M. Foote asked if they will be advertising off premise businesses. They were told this will advertise just tenants on the property and will be used for community events.

M. Foote asked how many sites are open parking lots in the Weirs, and if they all can have signs like this? Bike Week is only one week, what is the plan for the other 51 weeks?

S. Bogert said this sounds like it will be used for public service, non-profit organizations/events, things like wishing good luck to high school teams, but advertising for a business downtown won't be done. This won't turn into a billboard. During Bike Week, the sites on the property come to be permitted, he rents them the space and offers them the option of advertising on this sign. After that, it reverts back.

Al Mitchell said he wants to help the Weirs area. You can use this to advertise fireworks, an amber alert, and then a few weeks before Bike Week he would advertise that. He said that what he touches is usually better when he is done. He doesn't need to use this sign to advertise his business, he has plenty of signs for that. He said we need to promote Bike Week. He just went to Sturgis, and had Bill Hempl do aerial photos. He said he did his homework. At some point he would like to see this be something else besides Bike Week but for now will remain Bike Week use only and nothing else.

M. Foote, would we see another lot develop that just has a sign, and just be used for bike week. No, trying to put projects together for his other property. S. Saunders said have to look at any other request individually, on its own merits.

G. Ober been by and said this is very neat looking, very orderly, a vast improvement over what was there.

Public: Charlie St Clair said he feels we have a restrictive policy on signs. This one seems to fit the bill. He is not offended by the Weirs signage. He said he doesn't "see" them and most people don't seem to get what the big deal is. He stated that he doesn't feel there is a problem with this at all and feels the board has their fingers on the pulse.



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Board: S. Perley asked for clarification on the exact size of the sign and was told 7 x 10 for the EMC, and 3 x 10 for the changeable copy portion. We will make that a condition of approval.

S. Bogert closed the hearing to the public at 7:55.

Board: M. Foote said he understands what this is, the concept, but it seems that a lot of empty spaces could have a lot of signs. Once we start doing this, others will follow.

S. Bogert said the sign is permitted. The ability to have a sign exists. If other properties come before us, they are dealt with on an individual basis. We will vote on what is before us tonight. He said he always looks at today and tomorrow. We have been told that only businesses that are permitted on the site should be advertised on the sign. We can make that a condition as well. The rest of the time will be non-profit businesses only.

M. Foote asked if Mr. Mitchell leased this to a car dealership, could they use the sign? S. Bogert said that use is not permitted, so they would have to come before the board to get approved. M. Foote asked if leasing to Harley or Ducati during bike week, can they sell off of that lot and S. Saunders said yes. Funspot and other sites do that now.

S. Perley said she worked on the sign ordinance and said she personally does not like electronic signs; she doesn't feel they are needed for a business to survive. But this exists now, size wise, so she is not opposed to this. G. Ober said the structure is there, and this is an improvement. M. Foote stated that the sign did move position at one point.

Motion: G. Ober moved to approve Application # 2015-0012, for a variance permitted a freestanding sign to be over the 72 SF that is permitted in this zone.

The variance won't be contrary to public interest. This is a reasonable use and is a unique setting.

The spirit of the ordinance is observed and this will not affect the general purpose of the zoning restriction and cause no harm to the public or private rights of others.

Substantial justice will be done as this meets the hardship requirements and the current size is to remain the same. Most of the surrounding properties have comparable signs.

Values of the surrounding properties won't be diminished as they currently have similar signs.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship as the sign currently exists. The applicant is keeping the same structure.

S. Perley add we should add in the sign size and the other condition proposed by S. Bogert, that advertising be limited to businesses on the site. G. Ober agreed and amended the motion.

K. Geraci seconded and all voted in favor, 5-0. (S. Bogert, S. Perley, M. Foote, K. Geraci, G. Ober)

Application # 2015-0009
A E Mitchell

MSL # 162-252-11
38 Endicott St N

CR Zone
Special Exception

The applicant is requesting a special exception from 235-58 (D), Table VI, Table of Sign Regulations, in order to erect an EMC sign.

Motion: S. Perley moved to approve Application # 2015-0009 for the Special Exception to allow the applicant to erect an EMC sign.



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The use of a sign is permitted here by the granting of the Special Exception.

This won't create undue traffic congestion or impair pedestrian safety in any way.

The use won't overload any public water, drainage or sewer system or other municipal systems, nor cause any increase in storm runoff onto adjacent properties of streets.

The requested use causes no increased demand on fire, police, schools, or solid waste.

There are no special provisions set forth.

The requested use creates no hazards to health, safety, or general welfare of the public, not be detrimental to the character of the adjacent neighborhood.

The proposed location is appropriate.

The use is consistent with the spirit of the chapter and of the Master Plan.

G. Ober seconded. S. Bogert added the condition of the size, and that this not to display a message for a for profit business that is not based on the site.

S. Perley amended her motion, adding the conditions of size and that this is not to be used for a for-profit business that is not based on the site. G. Ober seconded, and all voted in favor, 5-0. (S. Bogert, S. Perley, M. Foote, K. Geraci, G. Ober)

Al Mitchell reminded the staff that his sign can be used by the City to notify people of up-coming meetings and events.

Application # 2015-0013
PEM Real Estate

MSL # 165-72-11
326 Endicott E

SFR Zone
Variance

The applicant is requesting a Variance from 235-28, 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.

Continued until September 21, 2015 per the applicant's request.

HEARINGS: (New - From July 20 Meeting)

Application # 2015-0017
B. Thurston

MSL # 257-370-1
Waterford Place

AI Zone
Special Exception

The applicant is requesting a Special Exception from 235-26, 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.

Applicant: Bryan Thurston appeared for the hearing. He said he is looking to purchase the property and have the zoning changed so he can have his landscaping business. He wants to construct a building, and keep his product there.

S. Saunders clarified that this is not a zoning change, but that he is asking for the Special Exception to have this use on the property.



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Board: S. Bogert asked how you enter property the property and B. Thurston said there is a 30 ft ROW at the end of Waterford, which is in Gilford. It is paved to the end, but the ROW is dirt. The only way to get in is through Gilford. He said there is no access from Artisan Court.

S. Saunders explained that this used to be one lot, which was subdivided off. The City never changed the address. She said that we spoke with Fire on this, and got the procedures from them if there were to be an emergency call.

S. Perley asked what he will be doing and was told landscaping, hardscapes, walls, also mowing and maintenance. M. Foote asked if he will have a building and B. Thurston said he wants to. S. Perley asked who owns the rest of the property, the portion he doesn't plan to use, and he said he will. He does only plan to use a small portion of the lot.

Public: No one spoke for or against the application.

Board: S. Bogert asked if there is electricity there and B. Thurston said the City has run water and sewer there. There is electricity on Waterford Place so while he hasn't checked yet, he thinks he would run it down the rest of the way.

S. Bogert closed the hearing to the public at 8:20.

Board: M. Foote asked what other uses are permitted here and S. Saunders read them from the chart. Most are by Special Exception. M. Foote wondered why there might be a restriction **on** landscaping and S. Saunders said she doesn't know what the thought process was, but maybe dust or noise.

O. Gibbs she doesn't feel that anything presented by this business should be an issue. S. Saunders said landscaping is not in the table of uses, and that could be something we look at adding. For now we put this under earth moving.

S. Perley said the location of the property will have no impact on neighbors. G. Ober wondered how close this is to Lily Pond and that was explained. She had no further issues.

S. Saunders said the applicant still needs to go to the Planning Board with his site plan. S. Bogert asked if that should be a condition of approval and was told no.

Motion: M. Foote moved to approve Application # 2015-0017, for a Special Exception in order to permit Thurston's Landscaping and Excavation business to be located on Artisan Court/Waterford Place.

The use is authorized in this chapter with the granting of the Special Exception.

The use won't create traffic congestion or impair pedestrian safety as this is an isolated area. The business employs less than 10 people and there should be no pedestrian foot traffic and minimal vehicular traffic.

The requested use will not overload water, drainage or sewer system nor will there be any significant increase in storm water runoff onto adjacent properties or the streets. There will be no change to the landscape other than mowing the grass, and the removal of a few small trees so there should be no significant change to stormwater runoff at this time.

The requested use will not create excessive demands on police, fire, solid waste disposal or schools. The hours of operation are Monday – Friday, 7 – 5, and possibly some Saturdays.

There are no special provisions for the use set forth in the chapter.



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The requested use won't create hazards to the health, safety or general welfare of the public nor be detrimental to the use or out of character with the neighborhood. Several businesses already exist in this area.

The proposal location is appropriate for the proposed use of the landscaping business. It is an isolated area where several other businesses are currently located.

The requested use is consistent with the spirit and intent of the chapter and of the Master Plan.

O. Gibbs seconded, and all voted in favor of approval, 5-0. (S. Bogert, S. Perley, O. Gibbs, M. Foote, K. Geraci). The hearing was over at 8:15 pm.

HEARINGS:

Application # 2015-0018
Robert H Irwin Corp

MSL # 06-158-30
183 Messer Street

DR Zone
Variance

The applicant is requesting a variance from 235-42 (E) (4) (c), planting of street trees. The property is under a State of NH DES activity and use restriction which permits excavation to a depth of 24". Planting of the street trees would result in a violation of this restriction.

Applicant: Steve Smith appeared for the application. He said this is a new street address for the property. He was here for a variance on this site on 5/19/14 to allow the use of vehicle sales, service. They were granted the permit for the use then. They have been working on the site since.

This is a former Public Service coal tar manufacturing site. He showed the location on the plan. The site has some history, dealing with NH DES environmental division, and Public Service; the site was remediated by Public Service. They removed soil, capped the site, and placed the use restriction on the property. Currently there are vehicles there. They went to get a driveway permit and found they needed a site plan approved. The use restriction doesn't allow penetration of the soil so they can't put in utilities, storm drainage, or buildings. They went through several designs for the facility. There are monitoring wells that are checked on a regular basis.

The challenge is to utilize the site so it won't provide environmental concerns to the general public and abutters. They are liable for what lies under the property.

They wanted to pave initially, and raise the retention area. They met with Public Service and DES and were told no. They raised the lot with porous pavement, and put storm water treatment throughout the property so it won't create mounding. They are under site plan review with Planning, have filed with DES and Public Service, and all are under review.

Planning said street trees are a zoning requirement, so they need the variance. The environmental people don't want that done but they need a variance to eliminate the need for street trees on this site. Without the variance there is no use for this property.

This won't be contrary to public interest. The property has been remediated and there is an on-going monitoring program on the site. The planting of street trees would violate the use restriction placed on the site by the NH DES and that could cause harm to the general public.



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The spirit of the ordinance is observed in granting the variance Landscaping provides privacy and screening for adjacent lots. This property is bordered by the rail road ROW and by the Irwin vehicle display area, the river, the boat launch and parking, and a PSNH sub-station. These special conditions of the property distinguish it from the others here.

Substantial justice is done in granting this variance. Without the variance there is no reasonable use of the property.

The value of the surrounding properties are not diminished. The proposed use is similar and compatible with other current uses in the area.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Due to the historic use of the property, and the environmental issues associated with the site, the property cannot be reasonable used in strict conformance with the ordinance, so the variance is required.

Board: G. Ober asked what is along Messer Street now where the trees cannot be planted and was told there is a split rail fence, a bike trail, and probably the river walk. S. Bogert asked about the fence and was told it was already there and has been for some time. S. Bogert said he wondered if this were removed it would be an issue.

Steve Smith said there are some utilities on site now, which were already there. They can maintain those under strict procedures and guidance.

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

There were no further questions and S. Bogert closed the hearing to the public at 8:40 pm.

Board: G. Ober asked for clarification on the variance and it was explained to her. S. Bogert said that the DES request is a hardship and this is a positive use for the property.

K Geraci asked if the street tree requirement is for aesthetics and S. Saunders said she feels it is for shading and storm water.

Motion: K. Geraci moved to approve application # 2015-0018. She suggested using the applicant's write up in her variance motion, adding into the hardship that this is a particularly challenging piece of property and that the DES has stated that they cannot go past 24" and planting trees would violate that.

(1) The variance will not be contrary to the public interest;

The subject tract of land is the former PSNH Coal tar Gas Manufacturing Plant. The site has been remediated by removal of the surface structures, soil, capping, and monitoring of the subsurface materials. An ongoing program of monitoring is in place by PSNH in conjunction with the State of New Hampshire Department of Environmental Services. In conjunction with the remediation, capping and monitoring an Area of Use Restriction has been placed on the property to protect the public. Activity on the site is limited to those use's which would not result in the penetration of the ground surface below 24". Planting of street trees will violate this area of use restriction and may result in environmental issues contrary to public interest and the community in general. Additionally requiring the planting of street trees would violate the Area of Use restriction placed on the property by NHDES for the sole purpose of protecting the public.

(2) The spirit of the ordinance is observed;



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In accordance with Section 235-42 (2) (a), Landscaping shall provide privacy and screening for adjacent land uses. This property is bordered by the Rail Road Right-of-Way and Irwin Corporation Vehicle Display Area to the east, the River to the south and Messer Street, PSNH Sub-Station, Launch Ramp and parking for Lake Opechee to the east.

In accordance with Section 235-42 (2) (c), Vegetation shall be compatible with soil conditions on the development site. The purpose of this request is due to the existing soil being contaminated and the environmental concerns with planting these trees. As a result, special conditions of the property distinguish it from other properties in the area. Because of these reasons the spirit of the ordinance will be observed and substantial justice done in the authorization of a variance.

(3) Substantial justice is done;

Not granting of the variance would result in no reasonable use of the property.

(4) The value of surrounding properties are not diminished;

The proposed use of the property is similar and compatible with current uses in the area.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

(B) Due to the historic use of this property and environmental issues associated with the site that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, therefore a variance is necessary to enable reasonable use

M. Foote seconded and all voted in favor, 5-0. (S. Bogert, S. Perley, M. Foote, K. Geraci, G. Ober)

Application # 2015-0019	MSL # 146-200-23	CR Zone
B & D Rillihan	24 Simpson Avenue	Variance

The applicant is requesting a variance from 235-35 (B), side and rear setbacks, in order to place a small storage shed on the property. Due to the lot restraints there is nowhere to place the shed without infringing upon a setback. This still permits a 5' setback at the closest point.

Applicant: Brian and Doreen Rillihan appeared. B. Rillihan stated that they purchased the house 3 years ago. They started with a lot of goals in mind, and are trying to restore it. The house was built in 1875. The final phase was landscaping.

B. Rillihan said that everything runs down to the water. They went through the permitting stage for 16 months to do everything properly. They had huge irrigation problems. There were sink holes on the property. The structure has no basement, and they are living there full time now and need the shed to store snow blower and other necessary items. They need to place the shed where the run off won't be affected. This is the only location where the shed can reasonably be placed. It is only 96 SF so it doesn't need a building permit for the size. They are requesting consideration in order to place the shed in this location. There will still be a 5' setback.

Board: S. Bogert asked if the property is actually on Simpson as the aerial shows it on Kingsley. B. Rillihan explained that there is a ROW off of Kingsley beside their property.

S. Bogert asked if there is a pipe that goes through the property and was told that the sewer goes through the property, which was another issue. B. Rillihan said that they have to situate the shed so it doesn't cover that as well. S. Bogert said the shed wasn't mentioned in the documents provided but S. Perley pointed out where it was located in the state write up which was provided.



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S. Bogert questioned how DPW would access this if work needs to be done and B. Rillihan said there should be no problem, as the shed could be moved. He added that they can only access the area during an emergency through the ROW.

Public: Susan Hewey said she has a concern regarding her property. She said that the shed will block her view from her yard, which is already minimal. She stated that she talked to them about repositioning the shed so it won't block her view as much. She understands the need for the shed, but her concern is her view. She showed in pictures where her property is.

Nancy Rowley, 17 Kingsley, stated she is concerned because this is closest to her property lines. She said she was told originally it was going to be 69 SF and now it is 96 SF. She said this comes down to the size and the positioning. She knows they need the shed for storage.

Doreen Rillihan said a mistake was made on the size on the original application by the company doing the work. They transposed the numbers and typed 69 not 96 SF. B. Rillihan said they noticed it and already talked with someone named Craig, who said it was fine. They were unsure of who Craig was. It is still under 100 SF. This will be an 8 x 12 shed, 96 SF.

B. Rillihan said he submitted a picture taken from Susan Hewey's porch, and this won't block her view. S. Hewey said from the porch it doesn't affect the view but from the yard it does.

B. Rillihan said where the shed sits, there is a tree behind it. That tree is 4-5' higher. That area was leveled, and is the same grade as the house, so they brought the grade down about 5'. He said he could put a 6' fence there that would be much higher than the shed will ever be.

S. Bogert asked B. Rillihan to explain the picture that was submitted. B. Rillihan said the grade sits below the grassy knoll, and is about 8' high. This will be a wood shed, and painted to match the house, so it will tie in. He showed in the picture where the top of the shed will be.

He said that he did speak to them about rotating the shed but where she wants it would put the run off from the shed into the house, and under the house. They are trying to diffuse all of the water away from the house. It would block 2 windows in the bathroom as well.

Mike Foote said he is familiar with this area. He asked if the ledge packed path in front is to maintain the ROW and was told yes. There are temporary earthworks in place to stop run off.

Doreen Rillihan said this is a hardship as there is no basement. They definitely need to store their snow blower this winter.

S. Bogert closed the hearing to the public at 9:05 pm.

Board: Gail Ober said she doubts that anyone meets the setbacks in this area. S. Bogert said they can legally put up a fence across the back which would be higher than the shed and will block the view from the back. R. Smith said they have done the best they can do with the property.

S. Bogert said he is looking at this as best he can. From the viewpoint, looking at the abutter's porch, the shed will block some of that view. However the tree blocks it now, and other houses. They lowered the grade to allow for proper drainage. M. Foote said they took into account the rain gardens, and storm water drainage, which are all good things.

S. Bogert said we cannot really take the view into consideration here as this doesn't exceed the permitted height. They could add to the height of their house. He said he feels bad for people but that is not a consideration. M. Foote clarified the size of the shed, and was told again that it will be 8 x 12, 96 SF. S. Bogert said it will be 8 feet tall, which is less than the roof line by the gas tanks.



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Motion: M. Foote moved to approve Application # 2015-0019 for the variance to permit the placement of a 96 SF shed, which will allow a 5’ setback to the property line.

The variance won’t be contrary to public interest. This is a tight area, which presents challenges for any development. They have done a lot of good work here, and dealt with storm water issues. The structure will be used for storage of needed items. This is a permitted use.

The spirit of the ordinance is observed. There is no public harm with the addition of this accessory structure in the proposed location. The home has no basement and storage is needed.

Substantial justice is done in granting the variance as the homeowners have no basement and the need for storage. The shed is an accessory structure and is permitted in the zone.

The values of surrounding properties are not diminished in allowing the proposed shed. The homeowners have made significant improvements to the property and dealt with storm water and landscaping issues on the site. They have done the proper things for this lot.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship to the applicant. The density of the lot does not permit the placement of the storage shed, which is only 96 SF, without infringing upon a setback. There are also constraints due to the ROW and sewer line.

The proposed use is reasonable as an accessory shed is permitted in the zone.

Orry Gibbs seconded and the vote was 4-1 in favor. (S. Bogert, S. Perley, O. Gibbs, M. Foote; G. Ober voted against)

The next two hearings will be combined and heard as one, with two separate decisions being made by the board.

(SBS left meeting at 9:10 pm.)

Application # 2015-0020	MSL # 450-54-63.002	BCI Zone
M T McCarthy Realty	161 Court Street	Variance

The applicant is requesting a variance from 235-58, Table of Sign Regulations, in order to exceed the allotted 96 SF of signage for this property. The total amount requested is 151.53 SF. This would not exceed the 2 permitted signs.

Applicant: Mike McCarthy appeared along with Peter March, of NH Signs. P. March said that the property is located in the BCI zone. P. March said that the original building burned in 2013. This has been rebuilt and the new building is leased to Dollar Tree. The signage allowed here is 96 SF of signage, 48 SF on the building and 48 SF on a freestanding sign. They want to install 42’ high stacked letters on the building which would be 138.2 SF on the building and 13.3 SF on a pylon sign for a total of 151.53 sf.

Mike McCarthy said the property can actually have two pylon signs; what they need is the 13.3 SF. They are asking for more for the wall and less on the pylon. The total would be 151 SF, which is 55 SF over what is permitted over the 96 SF. Discussion on the signage ensued.

Gail Ober asked about the location of the freestanding sign and M. McCarthy said it will be located in front of Advanced Auto. This will be 39 SF on this freestanding sign. He said it won’t be any closer to the road. The picture submitted is out of proportion. It won’t block Fair Street, and they gave an easement to the city to widen the intersection. This will be the same size as the Cross Insurance sign.



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O. Gibbs asked if Dollar Tree has specific size sign requirements and was told yes. They are a national retail tenant and are expanding rapidly. They recently bought Family Dollar.

Peter March said this is a relatively small increase and would not be contrary to public interest. He showed pictures of the sign from the street. He timed this when driving by and specifically looking for the building and he could see it for 2-4 seconds. The building is 100 yards back and the sign would be very small and hard to see if it were at what the ordinance calls for. Signage is important and guarantees success of the business.

If this were in a commercial zone there would not be any issues.

The spirit of the ordinance is observed as the key issue here is the building sets so far back from the road. That is the hardship. The ordinance doesn't talk about the setback of the buildings. Advanced Auto was permitted 170 SF and they sit on the street. They need to promote their wares and draw customers in.

Substantial justice would be done in granting the variance as the setback of the building becomes an issue. The sign, as permitted, would not be seen from the street.

The use won't diminish the values of surrounding properties. This is a top notch building and the area looks good. The proposal is reasonable, and is not overly aggressive.

Board: S. Perley asked about lighting and was told the freestanding sign will be lit, probably using LED's. The channel letters on the building will be internally lit with LEDs.

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

Board: S. Perley clarified that the first variance is the total for both signs and the second is for the total of the wall sign only.

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

Motion: S. Perley moved to approve Application # 2015-0020 to permit a total of 151.53 SF of signage.

This won't be contrary to public interest as the total of 151.53 SF is for both the wall sign and the small portion of the freestanding sign. There will be no harm done to the general public.

The spirit of the ordinance is observed as this is a business use in the BCI (Business Commercial Industrial) zone. The use is consistent with the area.

Substantial justice is done as the benefit to the applicant outweighs any public concerns.

Property values won't be diminished as the use is appropriate to the area, consistent to the area, and causes no harm to public.

Literal enforcement of the provision of the ordinance would result in an unnecessary hardship. The hardship here is the property. The building sets way back from the road and the larger sign will allow the public to be able to see where this is located from a distance. This doesn't alter the essential character of the neighborhood and signs are permitted in the zone.

O. Gibbs seconded, with all voting in favor, 5-0. (S. Bogert, S. Perley, M. Foote, K. Geraci, O. Gibbs)



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Application # 2015-0021

MSL # 450-54-63.002

BCI Zone

M T McCarthy Realty

161 Court Street

Variance

The applicant is requesting a variance from 235-58, Table of Sign Regulations, in order to exceed the amount of signage permitted for a wall sign in this zone. A wall sign cannot exceed 48 SF and the applicant is requesting a total of 138.2 SF which would be in proportion to the size of the building.

Motion: S. Perley moved to approve Application # 2015-0021 to permit a total of 138.2 SF of wall signage and 1 sign.

This won't be contrary to public interest as the total of 138.2 SF is for one wall sign to identify the building. There will be no harm done to the general public.

The spirit of the ordinance is observed as this is a business use in the BCI (Business Commercial) zone. The use is consistent.

Substantial justice is done as the benefit to the applicant outweighs any public concerns.

Property values won't be diminished as the use is appropriate to the area, consistent to the area, and causes no harm to public.

Literal enforcement of the provision of the ordinance would result in an unnecessary hardship. The hardship here is the property. The building sets way back from the road and the larger sign will allow the public to be able to see where this is

O. Gibbs seconded and all voted in favor, 5-0. (S. Bogert, S. Perley, O. Gibbs, M. Foote, K. Geraci)

OTHER BUSINESS: Steve Bogert let the other board members know that tonight was Robert Smith's last meeting. He thanked him for his service, and for returning to the board when they needed him. He let the others know that Roland Maheu has applied to be a full member of the board.

Gail Ober let everyone know that she won't be here for the October meeting.

ADJOURNMENT: S. Perley moved to adjourn with the second by M. Foote. All voted in favor, 5-0, and the meeting adjourned at 9:50 pm.

RECORDED BY: Kristine Y. Snow, **Zoning Technician**



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