



ZONING BOARD OF ADJUSTMENT
MINUTES MEETING OF DECEMBER 16, 2013
APPROVED MEEETING OF JANUARY 21, 2014

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

Absent: O. Gibbs

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

S. Bogert called the December meeting of the Zoning Board of Adjustment to order at 7:05 pm.

D. Robitaille was seated as a full board member in place of O. Gibbs.

MINUTES: The minutes from the November 18, 2013 ZBA meeting were reviewed. The motion to accept the minutes, as written, was made by R. Smith and seconded by S. Perley. The minutes were accepted, 5-0.

D. Greski asked the Chairman, as a point of order, if you weren't in attendance, should you vote and S. Bogert said you can if you read through the minutes and find nothing out of order.

EXTENSION REQUESTS:

The applicant is seeking a 6 month extension on the following applications. The current expiration date is January 15, 2014 and the January meeting is set for January 21, 2014. The extension would run through June 15, 2014 and the meeting is June 16.

S. Bogert suggested the applicant speak to all of the applications at the same time.

2009-0027 (Also 2012-0017): MSL 130-234-001, USE OF MULTI-FAMILY DWELLINGS

2009-0030 (Also 2012-0019): MSL 130-234-001, Height restriction

2009-0028 (Also 2012-0020): MSL 124-234-003, Use of Multi-Family Dwellings

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

Applicant: C. Duprey appeared for the extension requests. He reminded the board that these are located off of Scenic Road. They received a map in their packet for this evening. He said they have begun construction on the North Lodges. The waterfront parcel is the multi-family and also the height restriction. The Village is the Special Exception for the multi-family, and Akwa Vista a multi-family request as well.

He said they actually did begin on the North Lodges. They extended the water main another 500', which is now completed and the road re-paved. During the approval process on the North Lodges they reached an agreement with the City for a contribution to the sewer lift station on Scenic Road. They essentially have an agreement on the sidewalk extension as well.

D. Robitaille asked if the sidewalk he is talking about is the one which is in front of the condos now and was told yes. They will also construct about 150' on the north side of Scenic Road.

Public: No one spoke for or against the applications for extension.

Board: There were no further questions of the applicant.

Applicant: C. Duprey thanked the board for their consideration. He had no further comments.

S. Bogert closed the hearing to the public.

Board: D. Greski said the applicant covered all 4 of the requests in his statement.

S. Bogert said the extensions have not yet expired so they are here in a timely fashion. The projects have proceeded with due diligence and in good faith. Nothing has changed since the submittal; there have been no zoning changes that would affect this.

D. Greski asked if we can use the applicants wording as this is very well written.

Motion: D. Greski moved to approve the 4 extension requests for the 6 month extension, which will run from January 15, 2014 through June 15, 2014. The applications are # 2009-0027 (2012-0017), # 2009-0030 (2012-0019), # 2009-0028 (2012-0020) and # 2009-0029 (2012-0018). He stated that the applicant meets the 3 criteria.

- 1) The previous request has not yet expired. The Approval does not expire until January 15, 2014.
- 2) The applicant proceeded with due diligence and in good faith. On March 18, 2013, the ZBA granted a variance for Application # 2013-0002, MSL # 124-234-003, 616 Scenic Road, Laconia, to allow development of a mid-rise building which is the fourth building of the larger plan for development along Scenic Road. As a result of this recent approval the applicants have further evaluated sequencing of construction and determined the better approach is to start construction on the Akwa Village parcel before proceeding with the mid-rise project approved on the Akwa Waterfront site. The applicants have completed the approval process with the Planning Board and received conditional approval on October 1, 2013. As a condition of approval the applicants agreed to fund 50% of the cost of upgrades to a sewer lift station on Scenic Road to insure there is adequate capacity to service all of its projects on Scenic Road, we well as other uses of the system. On October 8th the applicant began construction of an approximate 550' extension of the municipal water main in Scenic Road which will service this project as well as other properties. As of the date of filing this application, construction of the water main extension is nearing completion and on schedule for wrapping up this fall.

Since the initial approval of the Akwa Waterfront parcel, the Applicants/approval recipients have received Site Plan Approval from the City of Laconia Planning Board (October 5, 2010) and the Alternation of Terrain Permit from the State of New Hampshire Department of Environmental Services (June 24, 2011). Development of these properties is part of a larger plan for development by the Townhomes at Meredith Bay, a 19-unit townhome project now under construction at 59-629 Scenic Road. Therefore, the Applicants/approval recipients believe they have proceeded with due diligence and in good faith.

- 3) Facts submitted as part of the original application have not changed. None of the facts submitted in support of the original Application have changed since the date of Approval.

The following factors are part of the extension policy for planning board approvals (adopted on 12/14/10 – after the date of Applicants site plan application). Though the following factors go beyond and are different than the findings the ZBA is required to make under the Zoning Ordinance to extend application, the Applicant believes the project satisfies each of these factors as well and offers the following as additional support:

- a) **The applicant has made a consistent effort to meet the intent of active and substantial development and the conditions of approval including obtaining all state and federal permits, finalizing draft plans and providing site security. See # 2 above.**
- b) **The zoning ordinance has not changed, and if it has, the changes do not affect this parcel.** Any zoning ordinance changes do not affect the relief granted by the ZBA.
- c) **The abutting and/or nearby properties have not been developed or improved since the subject parcel was approved.** No abutting or nearby properties (other than those owned or controlled by the applicant) have been developed or improved.
- d) **Other properties in the contributing watersheds as outlined in the projects Stormwater Report have not been developed or improved since the subject parcels were approved.** No such properties have been developed or improved with the exception of the work completed by the Applicant at the Townhomes at Meredith Bay.
- e) **Other properties in the downstream watersheds as outlined in the Stormwater Report have not been developed or improved since the subject parcels were approved.** No such properties have been developed or improved.
- f) **The city is holding adequate (reflective of today's cost factors) site security to assure site stabilization or completion.** The City and the Applicant have agreed to the amount of site security which will be posted prior to the commencement of construction.

M. Foote seconded the approval.

S. Saunders said the applicant requested the 6 month extension through to July. It was determined that the correct date should be July 15, 2014.

D. Greski amended his motion to change the expiration date to July 15, 2014 and M. Foote seconded. All voted in favor, 5-0, and the extension requests passed.

S. Bogert let the applicant for 2013-0027 know that the board feels he should ask for an equitable waiver rather than the variance. S. Saunders said she did speak with the applicant and gave him a choice, either the variance or the equitable waiver. D. Greski said he feels the applicant should know up front that the application for the hardship criteria for the variance is not complete so he would have to return to the next meeting either way.

R. Durfee said he is asking to withdraw the variance application this evening. He will re-apply for the equitable waiver.

HEARINGS:

Application # 2013-0027
R. Durfee

MSL # 374-293-34
54 Windmill Lane

RS Zone
Variance

The applicant is seeking a variance from 235-35-B, rear setbacks. The required rear setback in the RS zone is 15 feet. The foundation was installed before it was determined that an error in measurement was made. The setback at the closest point is 14 2 ¾ inches.

OTHER BUSINESS: a) Zoning Task Force; There was no ZTF business.

b) **Any other business that comes before the board.** S. Bogert let the ZBA members know that we received a letter from Guilbicki's on Weirs Boulevard. It was passed out to the members prior to the start of the meeting. They were denied for the use of used car sales and have submitted a certified letter saying they intend to ask for a re-hearing.

S. Bogert let the other members know that the Guilbicki's application is being closely watched by another resident who had been turned down for the same use in this area.

He let the members know the process for the re-hearing. They have to submit evidence to the Board regarding new documentation, new evidence or that the board made an error. If the Board agrees, then they re-schedule the hearing.

S. Saunders explained to R. Smith the information that had been presented to the ZBA members earlier. Every criteria has to be gone through and if needed, expert opinion should be requested.

S. Perley let the ZBA members know that she began a draft on rules/regulations and hopes to have that available for the January meeting.

ADJOURNMENT: The motion to adjourn was made by S. Perley and seconded by M. Foote with all voting in favor. The meeting adjourned at 7:45 pm.