

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
March 14, 2006

A public hearing of the Zoning Board of Adjustment was held on Tuesday, March 14, 2006 at 6:30PM in the Auditorium at City Hall.

Sean Duffy conducted the hearing.

Members present were: Sean Duffy, Chair
Susan Douglas, Clerk
Jack Currier, Vice Chair
Norman Tremblay

Also present, Carter Falk, Deputy Manager/Zoning

Mr. Duffy said in hearing tonight's cases the Board would be looking for evidence on the following points of law as established under the City of Nashua Zoning Ordinance and empowered to it under the State of New Hampshire enabling legislation.

For variances in the ordinance the following conditions must be met:

- (1) A zoning restriction as applied to your property interferes with reasonable use of the property, considering the unique setting of the property in its environment; (2) no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property; and (3) the variance would not injure the public or private rights of others.
- (2) The spirit and intent of the ordinance must not be broken by granting the variance.
- (3) Granting the variance will not adversely affect other property in the district.
- (4) Granting the variance must be of benefit to the general public and not solely the individual.

- (5) Not to grant the variance would result in an injustice.

For special exceptions designated by the ordinance, the following must be met:

- (1) The use requested must be listed in the Table of Use Regulations as a special exception in the district for which the application is made or is an existing nonconforming use for which a request to expand is being in accordance with Subchapter 13 of the Nashua Revised Ordinances.
- (2) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
- (3) The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety, or the general welfare.
- (4) Any special regulations for the use set forth in other sections of the zoning ordinance are fulfilled.
- (5) The requested use will not impair the integrity or character of the district or adjoining zones nor be detrimental to the health, morals or welfare of the residents of Nashua.

He said the order of receiving testimony would be in the following manner: Testimony will be heard from the applicant seeking the adjustment. The applicant will have fifteen minutes to address the five points of law just described. The Board will not consider in their decision any information that does not address those points.

The timing light on display will shine green until there is one minute remaining at which time the amber

light will come on. When the light turns red, the speaker must stop testifying. The Board may then ask questions of the applicant.

After the presentation the Board will then take testimony from those in favor of the application and then from those in opposition.

He said each speaker would be allowed five minutes to address the Board. The timing light will show a green light until one minute is remaining. The amber light will be on during the last minute and the speaker must stop when the light turns red.

He said speakers are asked to confine their comments only to the new points of information or may simply state that they agree with the previous speaker. Speakers will come forward to the microphone and state their name and address for the record. All testimony given this evening is understood to be given under oath as in a court of law.

At the end of all testimony in opposition, the applicant will have five minutes to address any points raised in opposition. After this testimony one (only one) person from those in opposition will be given five minutes to address the applicant's rebuttal. No new testimony may be given and only someone who spoke in opposition may provide rebuttal testimony.

He said should the applicant or any of the public in opposition feel an unjust or unlawful decision was made may request a rehearing of the Board within 30 days of the decision. Contact the Office of Zoning for further details about the process. If any person or party is not granted a rehearing or still feels that an unjust or unlawful decision has been rendered by the Board you may appeal the case to the New Hampshire Superior Court.

He said a full Board is not present tonight and anyone who wished to have his or her case postponed until there was

a full Board should state that they would wait until a full Board was available.

Nobody came forward to indicate they wished to wait for a full Board.

Withdrawn

2. Reginald J. & Tracey L. Dagesse (Owners) 42 Tampa Street (Sheet 130 Lots 124-126) requesting the following variances: 1) Proposed Lot 124B - minimum lot area, 12,446 square feet required, 9,211 square feet proposed, and 2) Proposed Lot 124A - minimum lot width, 60 feet required - 55 feet proposed [Special exception to work within wetland buffer granted at 1-10-06 ZBA meeting]. RB Zone.

To be re-advertised for 4/11/06 Meeting

5. Paul E. & Karen Kerouac (Owners) 607, 611 & 613½ Amherst Street (Sheet H Lots 104, 105 & 152) requesting variance to encroach into the 150-foot water supply protection district to allow parking spaces and asphalt. GB Zone.

1. Gerald M. & Ann M. Fanning (Owners) 9 Colleen Road (Sheet C Lot 1017) requesting special exception to allow an accessory (in-law) dwelling unit. R9 Zone.

Mary Ellen Davis, 14 Nathaniel Drive, Hudson, NH. Ms. Davis said the owners and the in-laws for the proposed accessory dwelling unit are present tonight. The proposal is for the construction of a 26'X30' addition to an existing single-family home at 9 Colleen Road. It will serve as a primary residence of the in-laws, Richard & Jane Davis - the parents of Ann Fanning.

She said the accessory dwelling unit will be a single floor living area consisting of a living area, kitchen, bath, and a bedroom. She said the Board should have the plans in their packets. She said it will be constructed on the left side of the property and meets all of the setback requirements.

She said the Davis' want to reside closer to their family as they get older. They have two sons and a daughter in the Nashua/Hudson area. They wish to downsize their existing home in Chelmsford and move into the accessory dwelling unit. She said they would be the only people living in the accessory dwelling unit.

Ms. Davis said that there is testimony from abutters in the Board's packets favorable to this request. She said she didn't believe there was any dissention from abutters.

She said that although the measurement of the accessory dwelling unit measures out to 780 square feet, there are plans to put on a recessed porch area and a common area which will allow access directly from the accessory dwelling unit living area into the existing single-family home living area - so there will be common areas for both dwellings.

Mr. Duffy commented that would be 780 square feet minus 80 square feet, meaning 700 square feet, which would be within the parameter of the requirements.

Ms. Davis agreed.

Mr. Duffy went through the requirements for a special exception with Ms. Davis and she agreed that all of the requirements were met, stating that there will only be one additional vehicle. They are senior citizens so she would expect minimal shopping trips or other trips

Mr. Currier asked if the driveway is going to be two cars wide.

Ms. Davis said right now there is a one-car driveway that allows for two cars - one in front of the other. She said they are proposing to add a single-wide one-car driveway. It will be within the 24' curb cut requirement.

Mr. Currier asked if it will be one, two car wide driveway or two separate driveways.

Ms. Davis said it will be two driveways. But they are going to try to fan it so it looks like one driveway.

Mr. Currier said if there are two driveways coming in at each side it doesn't give the appearance of a single-family home. It looks like it's a two-family home. He said he thinks the proposal to have one that goes into two would be more in character with the neighborhood.

Ms. Davis said if the Board wishes to put on a special condition concerning the driveway they would be agreeable.

Mr. Duffy asked if they would be widening the curb cut.

Ms. Davis said they are not.

SPEAKING IN FAVOR

Ann Fanning, 9 Colleen Road, Nashua, NH. Mrs. Fanning said she and her husband are in favor of this request.

Richard Davis, Chelmsford, MA. Mr. Davis said he and his wife are the in-laws who will be living in their daughter's home, if the Board approves this request. They are in favor of this request.

SPEAKING IN OPPOSITION

No One.

MOTION by Mr. Currier to grant the special exception to allow an accessory in-law dwelling unit at 9 Colleen Road. This is listed in the Table of Uses, Section 16-61. This is located on a small dead-end street. It will not create undue traffic congestion or unduly impair pedestrian safety. It will not overload public water, drainage, sewer, or other municipal systems. The special regulations are fulfilled. It will not impair the integrity or be out of character with the neighborhood. The criteria for the accessory dwelling unit are met.

SECONDED by Mr. Tremblay.

MOTION CARRIED UNANIMOUSLY

3. **Timothy & Carmen J. Latham (Owners) 59 Wethersfield Road (Sheet B Lot 704) requesting special exception to allow an accessory (in-law) dwelling unit. R9 Zone.**

Christine Filteau, 53 New Boston Road, Bedford, NH. Ms. Filteau said she is representing the owners of the property, who are present tonight.

She said they are seeking approval for an accessory dwelling unit to be added to their single-family home to be occupied by Mrs. Latham's mother. She said the proposed addition is 34'X24' and is to be added to the left hand side of the existing home. It will include a two-car garage in the front and a kitchen, living, half bath in the rear of the first floor and a bedroom and main bath on the top floor above the garage space.

At this time Ms. Filteau submitted a different plot plan as the one that was submitted was set for a different dimension and after working the floor plans. She said it still meets the setback requirements in this zoning district.

She said the use is listed in the Table of Uses. She said there will not be an increase in the traffic because Mrs. Latham's parents are senior citizens and they make minimal trips in and out.

She said there would not be any undue strain on the public utilities. There will only be a $\frac{3}{4}$ bath upstairs. There will not be an excessive amount of water usage.

Ms. Filteau said this will fit within the character of the neighborhood. She presented pictures of the existing home to show to the Board.

She said the in-law apartment will be accessible to the basement level. There will be a stairway that goes into a family room on the basement level.

She said they are not adding to the driveway. There is a one-car driveway coming off of the road that fans out to a two-car spot. The in-laws have one vehicle and everyone will be able to park off the street.

Mr. Duffy said that doing the math he comes up with 816 square feet.

Mr. Currier came up with 832 square feet. He asked Mr. Falk if the garage would be included.

Mr. Falk said "no".

Ms. Filteau said the actual livable floor space comes up to 680 square feet, which is under the 700 square feet allowed in the ordinance.

Mr. Trembly asked if there is a new foundation being poured for the addition.

Ms. Filteau said there will be a new foundation for the addition and there will be a slab for the garage.

Mr. Currier said this is a large addition and will make it the largest house. He asked if the abutter to the left had been contacted about this.

Ms. Filteau said Mrs. Latham has talked to these abutters.

Mr. Currier asked if there is an addition on the right side of the house.

Ms. Filteau said at one time it was a one-car garage and it was converted into bedroom space. She said there was a previous approved application for that.

Mr. Currier asked Mr. Falk what the left side yard setback is.

Mr. Falk said 10'.

Mr. Currier asked Ms. Filteau if they meet this 10' requirement.

Ms. Filteau said it is going to be 12'.

Mr. Falk said the setbacks and buildable area are met.

Mr. Duffy asked if there is a separate outside entrance.

Ms. Filteau said "no". She said there's a window in the existing foundation to the lower level. She said they are going to take that window out and put in a staircase so they will enter from there as well as from the garage.

Mr. Duffy went over the accessory dwelling unit criteria with Ms. Filteau.

SPEAKING IN FAVOR

Tim Latham, 59 Wethersfield Road, Nashua. Mr. Latham said when they had the first opportunity to bring in the in-laws last year, their first thought was to relocate and the neighbors to the left were a little disappointed because they didn't want to see them leave. He said they are 100% in favor of the request.

Carmen Latham, 59 Wethersfield Road. Mrs. Latham said the accessory dwelling unit is for her parents. She said she received a notice from her neighbor across the street indicating his favorable acceptance of this request.

She said the neighbor to the left, Ed Landry, is the one who will really see the addition. She said he has indicated that it's fine.

SPEAKING IN OPPOSITION

No One.

MOTION by Mr. Tremblay to grant the special exception to allow an accessory dwelling unit at 59 Wethersfield Road. It is listed in the Table of Uses, Section 16-61. It will not create undue traffic congestion or unduly impair pedestrian safety. It will not overload public water, drainage, sewer or other municipal systems. The special regulations are fulfilled. It will not out of character and will not impair the integrity of the nationhood or be detrimental to the health, morals, or welfare of the residents. It meets the criteria for an accessory dwelling unit.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY

4. **Beebe Rubber, Inc. (Owner) L Marshall Street (Sheet 29 Lot 48) requesting variance to encroach 10 feet into the 15 foot required rear yard setback to construct a 3,200 square foot, one story building. GI Zone.**

Atty. Gerald Prunier. Atty. Prunier pointed out the location of the former Beebe Rubber Plant site and Marshall Street on the plan that was before the Board. He also

pointed out East Hollis Street and the locations for McDonald's, Corriveau Painting, and Nashua Lumber.

He said the proposal is to build a small building on the vacant lot. All the dimensional requirements can be met, except for the rear.

He said they can't get any land from the abutters because they do not want to sell it to the applicant or it would make their own lot non-conforming. They are not asking for a large building. It is just short of 4,000 square feet.

He said it is not out of character with the neighborhood. This is an industrial zone and they are trying to put in an industrial building. It will probably be rented out to small businesses like Corriveau Painting. Corriveau Painting uses the lot next door.

Atty. Prunier said it will add to the area as it will be a new building in an old area on that side of the street. He said it is within the spirit of the ordinance.

Mr. Duffy said occasionally something gets constructed for a planned industrial use and then suddenly it's a commercial use.

Atty. Prunier said the intent is for the building to be used similar to what Corriveau Painting located next door - a small industrial use.

Mr. Duffy asked about parking and open space.

Atty. Prunier said all these requirements are met.

Mr. Currier asked if the building is going to have one or two stories.

Atty. Prunier said it is one story.

Mr. Currier asked if the Corriveau Painting building is just south of the proposed building.

Atty. Prunier said it is.

Mr. Currier asked what that particular building is used for.

Atty. Prunier said it is used as a warehouse and also for an office.

Mr. Currier asked if the proposed building is going to have a glass storefront or have a brick front with a door.

Atty. Prunier said it may have one or two doors. The intent is for a small electrician/small plumber business(s). The total building is less than 4,000 square feet. He said they may be able to get one tenant that will take the whole thing, but they aren't intending to put up the building and then have a fast food business.

Mr. Currier asked if the sidewalk in front of the lot is a standard width.

Atty. Prunier said "yes".

Mr. Duffy asked if there are going to be two curb cuts.

Atty. Prunier said "yes".

Mr. Duffy asked about the dumpster since there is an existing apartment house next door.

Atty. Prunier said it would probably be in the area next to the industrial use.

Mr. Duffy asked if there is any fencing planned.

Atty. Prunier said it will depend on what the planning staff wants on the site plan.

Mr. Tremblay asked if this is going to be like an auto paint kind of shop or anything like that.

Atty. Prunier said "no".

Mr. Tremblay said he doesn't know what's going to happen across the street.

Atty. Prunier said they have approval for two condominium complexes, forty units in each building. There will probably be some kind of commercial use in the front. They will have to come back to the Zoning Board for that.

Mr. Tremblay asked if there are going to be garage doors on the building or if it will have doors the people go into.

Someone from the audience said there will be garage doors.

SPEAKING IN FAVOR

No One.

SPEAKING IN OPPOSITION

No One.

Mr. Currier said this is redevelopment of an old area and he thinks that the request is reasonable and is not out of character with what currently exists. It will dress up an area that the City's been trying to pick up. He said he didn't have any issues with it.

MOTION by Mr. Duffy to grant the request for the variance to encroach 10' into the 15' required rear yard setback to construct a 3,200 square foot one-story building on Marshall Street (Sheet 29 Lot 48). The variance is needed to enable the applicant's proposed use of the property given the special conditions of the property and the benefit sought by the applicant cannot be achieved by some other reasonable or feasible method. This is a redevelopment use of a property in a GI Zone that is essentially in the same character and makeup of the neighborhood uses. Certain pieces of property in the neighborhood both pre-date zoning and post-date zoning that are in setback areas. It is a reasonable dimensional incursion into the rear yard setback. It is within the spirit and intent of the ordinance that reasonable development use of the property is allowed. It should not adversely affect property values of surrounding parcels. It is not contrary to the public interest. Substantial justice will be served.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY

6. St. Joseph Hospital of Nashua (Owner) 172 Kinsley Street & 251 Lake Street (Sheet 91 Lot 4 & Sheet 90 Lot 6) requesting the following variances: 1) to

exceed maximum directional sign area, 6 square feet allowed - between 6.5 and 27 square feet proposed for various onsite directional signs, and 2) to exceed maximum size of corporate logo/emblem on one directional sign, 33% allowed - 66% proposed. RA & RB Zones.

Atty. Brad Westgate, Winer & Bennett, 111 Concord Street, Nashua. Atty. Westgate passed out some information to the Board. He said there are three other people who are with him tonight for this case. They are Steve Schuster, Facilities Director, St. Joseph's Hospital, Kathleen Cowett ???, Director of Planning, and Richard Pizzi, an architect with Lavallee Brensinger of Manchester.

He said what he handed out to the Board is the grid or matrix that indicates the different signs for which the variance is being requested tonight. Also, there are two pages from the new land code, which deal with the directional sign provisions of the zoning ordinance.

He said the hospital has substantially completed its expansion project. The new building that is now integrated into the hospital proper is up and running. The two-story garage structure is also up and running. He noted that the hospital had purchased the St. Joseph Parish property a few years ago and has integrated that into the campus, primarily by the use of the new parking facility. He said about two years ago the Zoning Board granted a couple of variances to allow that expansion to occur. They had to do with minimum building area and open space requirements.

Atty. Westgate said the basic purpose of the hospital's expansion was primarily to modernize outpatient operations. Oncology, surgery center, and cardiovascular center were all placed into the new building because outpatient use is far more prevalent today that it was in prior times relative to typical hospital operation.

He said the hospital's original structures pre-existed zoning in Nashua. The hospital was first established probably on the order of a hundred years ago. It's in the inner City. Final site work and landscaping still have to be done on the property.

He said the expansion generated a fairly substantial change in both traffic flow and pedestrian flow. There are now two segregated entrances to the hospital. There's an entrance for the emergency room and a new entrance and lobby area for entering the hospital proper. He referred the Board to the schematic on display as it shows what he had just talked about.

He said this new arrangement on site relative to entrances, the new parking arrangements, and the new traffic flow patterns has necessitated their having to put together a detailed set of signs that the public and anyone entering the hospital campus can follow and know where to go.

Atty. Westgate said they are requesting the variances in order to obtain the necessary signage both on Kinsley Street and Lake Street and internal to the hospital campus to implement the expansion and the creation of the new building, the new outpatient facilities, and the parking arrangements that have now been changed.

He said when they first filed the application or shortly thereafter, the hospital sent a letter to the neighbors letting them know that this project was up and coming. He said as of his last conversation with the people at the hospital, none of the neighbors had called asking questions.

He said they have sixteen different signs that they have listed on the grid/matrix that he passed out to the Board. Three of the signs are adjacent to or near Kinsley Street or Lake Street. All of the signs they are seeking variances for are directional signs. He referred the Board to the second page of the handout referring to the land use code on signage. He said in residential zones, directional signs have a maximum area requirement of six square feet. He said up above that corporate emblems or logos on a directional sign can't exceed 33% of the total sign area.

He said they have a variety of signs that range from about 6 ¾ square feet to one that's 27 square feet. He said most of them are in the 10 - 13 square foot range. Most of the signs are internal to the campus. Under the ordinance they still need a variance even for signs internal to the campus if they exceed the six square foot requirement for sign area. He said for the sign labeled S7 on Lake Street they

are seeking a variance from the 33% requirement relative to the corporate name and logo.

Atty. Westgate said they are trying to make certain that the public is well aware of how they are to maneuver through the campus and where places on the hospital campus are located. He said a lot of the patients who come to the hospital, especially in the outpatient services, are a bit older rather than younger. The demographic brings a little bit more of a need to make certain that they tell people as clearly as possible how to maneuver in the campus.

He said this is a dimensional variance and it falls within the "Boccia" criteria for the two points relative to a hardship determination. He said the area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. This is an inner city site. It pre-existed zoning. Even the expansion and the new garage pre-existed the enactment of the new land use code.

He said the signage is an integral component of the hospital operations and is also integral to enable the public to most efficiently use this facility.

He said the benefit sought by the applicant can't be achieved by some other method reasonably feasible for the applicant to pursue other than the area variance. He said Mr. Falk has made an administrative decision that the signs they are seeking are directional signs and because their square footage exceeds six feet, even though most of them are internal to the campus, they need a variance to be permitted. There is no other reasonable alternative to make certain that the public is well aware of how to maneuver throughout the campus without this type of signage. He said they don't think it's burdensome when compared to the need for simplicity in getting around the site.

He said this is not inconsistent with the spirit and intent of the ordinance. One of the primary purposes of the zoning ordinance is that it's established to promote the health and general welfare of the public. The hospital is in business to promote the health and general welfare of the public. Allowing the signage only furthers that objective.

He said this variance will not have an adverse affect on surrounding property values. He said the signage is incidental to the hospital. The hospital pre-exists virtually all of the development around it. Obviously it's expanded over the years, but the signage has no impact on property values. Only three of the signs are adjacent to or near the streets - two on Kinsley Street and one on Lake Street. The others are internal to the campus.

He said the variance is not contrary to the public benefit. In this case it is a benefit to the general public given the nature of the services that the hospital provides.

He said substantial justice will be done in light of these factors.

Atty. Westgate referred the Board to the schematics for each of the signs. He said the signs are labeled by various numbers like S2, S2a, S2b, etc. He said they wanted the Board to have a good idea of what they were physically planning to construct. The signs on the schematic don't all need a variance. The ones that do have an arrow and a block pointed to them. He said sign S7 is going to be on Lake Street. He said there's never been a logo sign or name sign on Lake Street for the hospital up to this day, but the proposed sign shows the hospital's name and insignia at the top. More than 33% of this sign are the hospital name and logo and therefore needs a variance.

Mrs. Douglas asked Atty. Westgate to explain the lighting of the signs, particularly those that are near the Wason Street residence.

Atty. Westgate said his understanding is that none of the signs are to be lit, except for the emergency room signs, which are labeled S4.

Mrs. Douglas asked if any of the residences on Wason Avenue are going to have lights in their back yard.

Atty. Westgate indicated that they would not. He said it's important to note that the main entrance sign on Kinsley Street will be lit, but that sign doesn't need a variance because it's replacing the existing sign with equal to or less square footage.

Mr. Duffy said when he visited the property there were a bunch of blue signs. He asked if they were smaller than the signage they are asking for with the present application.

Atty. Westgate said he will have Mr. Pizzi answer this question.

Rich Pizzi, Lavallee Brensinger Architects. Mr. Pizzi said in general they are smaller. He said they use those signs as a test case for the size of the letters. The proposed signs will be bigger, but the size of the letters themselves is the same.

Mr. Duffy said when he visited the property he found that the signage was extremely confusing, hard to find, hard to see and cluttered. He said when he was walking around there were four people who asked him if he knew where the emergency room was located.

Atty. Westgate said he thought part of the impression that Mr. Duffy had is the construction site "feel" to the campus. He said he had somewhat the same reaction that Mr. Duffy just mentioned. When construction is done, landscaping is in place, the temporary signs and the "non-permanent feel" is out of the way and people will get used to what they are looking for. The "feel" of it will go away.

Mr. Tremblay asked if the emergency sign will be backlit.

Atty. Westgate said it will be. He said it will be red with cut-out letters that show in white.

Mr. Tremblay asked if the signs are going to look white with black letters.

Atty. Westgate said the schematics are to show dimensions and size and lettering layout, but not color. He said the final color scheme hasn't been determined yet by the hospital, although he thought the idea is to have light background and dark letters.

Mr. Currier said he doesn't see sign 3a in his packet. He said it's the one down near Lake Street. He asked what the sign says.

Mr. Pizzi said it's a staff parking sign. He said it is about 18"X18". He said when they reviewed this with Mr. Falk it was not included because it's under six square feet.

Mr. Currier asked if the staff parking is all off of Lake Street.

Mr. Pizzi said this is correct.

Mr. Currier asked what the rectory and the convent are used for.

Mr. Pizzi said parking for staff and the school.

Mr. Currier said he didn't see sign S1 in his packet.

Mr. Pizzi said S1 is the main sign. He said they would be replacing that sign with a sign that is essentially identical in size.

Mr. Currier asked if that one is internally lit.

Mr. Pizzi said that is correct.

Mr. Falk said directional signs need a permit if they are visible from the right-of-way. Some of the signs, although internal to the campus, are visible from Lake Street and Kinsley Street. He said he thought it would be better to show all the signs that could be seen from the right-of-way.

Mr. Duffy said when he pictures directional signs, he pictures something that is 2'X3'. He said these are 3'X4' or 3'X5'. They are significant sized signs.

Mr. Pizzi said they are significant sized. He said the clutter of signs on the campus right now is temporary signs and they will all be coming down. The intent is to have one unified look - a consistent way-finding system for the campus. He said they specifically went through the campus looking at the variety of services and put themselves in the patients' shoes. He said part of what's driving the size of the sign is that they are designed for people that are 75 years old so the characters themselves are 5" tall.

Mr. Duffy asked if they really feel there is a special condition here. He asked if they perceive people are really going to have this hard a time negotiating this inner city location campus to find parking, given the buildings that are there.

Mr. Pizzi said some of the temporary signs that they have up are a reaction to patients saying they get confused when they enter the site. He said he believes the signs are necessary. He said they reviewed this with the hospital staff and put themselves in the shoes of the patient. If they have been to other hospital campuses, it's very important to have a very clear way-finding system. He said if patients get confused and they're not sure of where they're going they get frustrated and that's not necessary.

Mr. Currier asked about Sign SP2. He said he was unclear about the location of that sign.

Mr. Pizzi said that sign is mounted on the parking garage at the entrance into the parking garage itself.

Mr. Currier said he understands what Mr. Duffy is saying about the number of signs. He said he circled two that he thought were redundant - S2D and SP2. He said they're almost right next to each other and SD2 is right at the bend with an arrow saying the parking garage is to the left and then you go about 30' and you're looking at the parking garage.

Mr. Pizzi said they thought the one at the parking garage was important. Whenever you enter any parking garage there's always a sign above that tells you what you're entering. The sign along the entrance road is to bring people down that way. He said when they reviewed this with the hospital, the staff thought it was necessary to have a sign there.

Mr. Currier asked if they had any information about what percentage use the front on Kinsley Street versus Lake Street.

Steve Schuster. Mr. Schuster said he is representing the hospital. He said the majority of the traffic that enters the campus comes off of Kinsley Street. It might be in the neighborhood of 80/20.

Mr. Tremblay said until this week he didn't know there was a Lake Street entrance so he wonders if people don't realize it. He said in the past you couldn't get in from Lake Street. He said this is going to change that whole access point.

Mr. Schuster said they had concern about that initially; that possibly it would become a thoroughfare. He said that has not transpired. The majority of the people entering from that location are employees because employee parking is in that site. He said it's not the easiest garage to use as a thoroughfare and negotiate for the public to use it to try to get over to Kinsley Street.

Mr. Currier said he was in and out of St. Joseph's Hospital a lot this past summer and he concurs that this garage is an unreasonable pass through because you have to kind of loop de loop around the parking garage and Wason Avenue or the other street is much quicker.

Mr. Tremblay said he wasn't thinking of it as a thoroughfare, but he was thinking that he might come in through Lake Street now that he knows he can get in that way.

He asked if the neighbors have seen the sign plan and if they had any issues.

Mr. Pizzi said they were offered the opportunity. He said he would have Ms. Cowett address this question.

Kathleen Cowett. Ms. Cowett said she is representing St. Joseph's Hospital. She said in their letter to the neighbors they invited them to come and take a look at the plans. The letter was mailed a good two to three weeks before the hearing. They did not have any responses from any of the abutters.

SPEAKING IN FAVOR

No One.

SPEAKING IN OPPOSITION

No One.

Mrs. Douglas said if the Board grants the request she would like a condition added that there be no lighting visible by the Wason Avenue residents. They have lost most of their buffer and having lighted signs along there would be adding insult to injury.

Mr. Currier said at first he thought this was a lot of signage. However, he has been in and out of there a lot and he doesn't think they can blame the hospital for the design because it's grown over the years and it's acquired the property in the rear. He said he thinks they've done the best they can do with the layout of the property. He said he thought the location of the signs made sense. Most of them are on site. He said he thought they were needed because of the unusual footprint of the hospital. Southern New Hampshire Hospital has signs in each of their parking lots and sees this request as being on a par with that.

Mr. Tremblay said he agrees with what Mr. Currier has said. He said it's a complex campus and to navigate it is not a trivial matter. There are a lot of bends and turns. He can understand why you would want clear direction, especially if one is elderly or not feeling well or suffering from anxiety. He said the lighting restricting is reasonable, especially for the people who are living on Wason Avenue.

MOTION by Mr. Currier to grant the variances: 1) to exceed maximum directional sign area, 6 square feet allowed, between 6 1/2 and 27 square feet proposed for various on-site directional signs 2) to exceed maximum size of corporate logo emblem on one directional sign, 33% allowed, 66% proposed at 172 Kinsley Street. The variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. It is a hospital that pre-existed zoning. It has expanded with land that it has acquired nearby. The footprint and layout has a lot of curves and twists and therefore the additional signage is needed. It is within the spirit and intent of the ordinance. There has been no testimony as to whether it will affect the property values of surrounding parcels. It is not contrary to the public interest. Substantial justice will be served. Stipulation: Any lighting of the signs will not be visible to the residents of Wason Avenue.

Mrs. Douglas said she is not comfortable with this stipulation. She said that the application states that there isn't going to be any lighting on the internal signs, just the signs that are around the fringe of the property. She said she did not want any lighting on those signs that are going to shine into the back yards of the people on Wason Avenue. Her suggestion was that there be no lighting on those signs at all.

AMENDED MOTION by Mr. Currier on the special condition: Signs along the properties of Wason Avenue will have no lighting, either internal or external.

SECONDED by Mr. Tremblay.

MOTION CARRIED 3-1, Mr. Duffy opposed???

Request for Rehearing

JPM Real Estate LLC (Owner) John Motta (Applicant) 220 Broad Street (Sheet E Lot 38) requesting: 1) use variance and special exception to allow a fast food eating/drinking establishment with drive-thru, and the following variances: 2) minimum parking spaces, 18 required - 16 proposed, 3) to allow parking in the front yard setback, 10 feet required - 1 foot proposed; and 4) to encroach into a buffer between a commercial zone and a residential zone, 25 feet required - 0 feet proposed. GB & R9 Zones.

Mr. Currier asked if anyone had a copy of the original application and the communication from Wayne Husband on the traffic. He said one of the points in the rehearing request is that the Board ignored or didn't pay attention to the traffic report by Wayne Husband. It implies that the traffic report was good or that there would be no traffic issues. It's a matter of how you interpret the letter from the Traffic Department.

Mr. Falk obtained the original information for the Board.

Mr. Duffy asked if the request indicated there was a procedural error, including improper notice denying someone the right to be heard.

The Board did not feel this was the case.

Mr. Duffy asked if there was an illegal decision. In other words, did the Board fail to completely address each of the points of law required by a special exception and/or variance.

Mr. Currier said Note #8 in the rehearing request states that this meets the requirements of the City of Nashua's Traffic Superintendent. In the next sentence it talks about there being no left turns out of the site.

Mrs. Douglas said the Board considered this information. It was information that was available to them.

Mr. Currier said they did. He said they can say there are no left turns permitted, but that's not enforceable. Left turns off of Broad Street into the site and left turns out of the site still create a traffic hazard. Even if the wording on the traffic engineer's site says the Traffic Department is comfortable with this proposal, that's not an explicit endorsement or mean that it won't create additional traffic problems.

Mr. Duffy said the Board did consider this. He knows he personally considered it. All the testimony that is brought to the Board is information. They have to review that information and decide its credibility and/or informational use and make a determination.

He said the Board also considered other items as well, for example, the topography and the parking. He said this area is highly trafficked and congested.

After this discussion, the Board did not feel that they made an illegal decision.

Mr. Duffy asked if the request for rehearing contained any new information not presented or available to the Board at the original hearing.

Mr. Duffy said he didn't see anything other than the presentation of their original points.

Mr. Currier said Point #6 on the Request for Rehearing contains no new information. He said the applicant has failed to address the fact that this parcel had already been subdivided and granted concessions and variances by

the Zoning Board. This particular lot was the lot left over. They are looking for further variances on a lot that had already been granted variances. He said that was mentioned during their discussion at the original meeting.

Mr. Duffy asked if there is anything in the request that would cause the Board to make a different decision.

The Board did not feel this is the case.

MOTION by Mr. Duffy to deny the request for rehearing for JPM Real Estate LLC, 220 Broad Street. The rehearing request does not provide any significant or substantive documentation of any procedural errors. There was no improper notice denying anyone the right to be heard or any other procedural errors noted in the rehearing request. There was no substantive or substantial information that the Board failed to completely address each of the points of law as required under the special exception and/or variance (in this case the use and area variances). There is no information in the rehearing request that was not presented or available to the Board during the original hearing in any of their points. They do not believe there is anything in the request that would cause the Board to make a different decision.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY

MINUTES

1/24/06 & 2/14/06

MOTION by Mr. Duffy to approve the minutes of the January 24, 2005 & February 14, 2006 meetings, waive the reading and place them on file.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY

Regional Impact

Mr. Currier asked about Case #5 shown on the upcoming agenda. He said it's an appeal of the administrative

officer's decision, but it concerns the Planning Board versus the Zoning Board. He said he was a little confused by that.

Mr. Falk said he didn't want to talk about the specifics of the case. He said to address the situation, any decision made by the staff can be appealed to this Board. He said a lot line relocation plan was submitted to the Planning Staff in which they were going to move a lot line over and relocate a house.

Mr. Duffy said he would prefer not to discuss or talk about the specific case. He said they are supposed to review the agenda for regional impact only. In general, one may request any decision by any Board or administrative decision be reheard as an appeal to the Zoning Board.

Other

Mr. Falk said a rehearing was granted for the case on Cox Street, but they are not going to submit a new request to the Board.

Mr. Duffy said the applicant is going to Superior Court.

Mr. Falk said the case was originally approved. The abutters asked for a rehearing, which was denied. He said the abutters thought that new information was not given to the Board, even though it was after the thirty day deadline. A motion was made to rehear the case (after it had been denied).

He said the applicant (not the abutters) is going to court to say that the original approval was valid and that the denied rehearing request was valid.

Mr. Duffy asked if anyone had a chance to look at the Zoning Board by-laws.

Reply could not be heard.

Mr. Duffy mentioned that there are some new Zoning Board members on the way. There was a discussion about how it was difficult to get a full Board together and how it was unfair to the applicant.

Mr. Currier said he would not be able to attend the first meeting in April.

ADJOURNMENT

Mr. Duffy called the meeting closed at 8:03PM

Susan Douglas
Clerk

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Taped Meeting