

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
February 13, 2007

A public hearing of the Zoning Board of Adjustment was held on Tuesday, February 13, 2007 at 6:30 PM in the Auditorium at City Hall.

Sean Duffy, Chair, conducted the meeting.

Members present were: Sean Duffy, Chair  
Jack Currier, Vice Chair  
Normand Tremblay  
Rob Shaw  
Jeff Anderson  
Carter Falk, Deputy Planning Manager/Zoning

Mr. Duffy explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Duffy explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Duffy also explained procedures involving the timing light.

1. **Boston & Maine Corporation (Owner) "L" Allds Street (Sheet 28 Lot 58) requesting the following variances due to the subdivision of one lot into two lots: 1) minimum lot width in GB Zone, 50 feet required - 20 feet proposed; and 60 feet required in RB Zone - 20 feet proposed; 2) minimum lot frontage, 50 feet required in GB Zone, 22.49 feet proposed; and 50 feet required in RB Zone, 22.50 feet proposed. GB & RB Zones.**

Voting on this Case:

Sean Duffy  
Jack Currier  
Normand Tremblay  
Rob Shaw  
Jeff Anderson

Pete Weeks, Cuoco & Cormier Engineering, Nashua, NH Mr. Weeks gave some background information about the site, and described the proposed subdivision of this lot. He went over the variance points of law. Discussion ensued between the Board and the applicant.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

No One.

**MOTION** by Mr. Duffy to grant the area variance. Mr. Duffy stated that the special conditions of the property is that it is a nonconforming, unusable piece of property, in it's original current state, being made more nonconforming, which is the sole purpose of the applicants testimony is the lot consolidation of an existing Lot 26.

Mr. Duffy stated that there are no other methods reasonably feasible for the applicant or the abutter to pursue, other than an area variance. Mr. Duffy stated that the spirit and intent of the ordinance is maintained in that the applicant is trying to maintain all of the requirements of the Nashua Zoning Ordinance.

Mr. Duffy stated that the variance should not adversely affect the property values of surrounding parcels, even though there was no expert testimony. Mr. Duffy stated that the request is not contrary to the public interest, and substantial justice is served with reasonable development rights of the property.

Special Conditions are that the applicant has testified that the use of the area variance is solely for the purpose of the consolidation with Lot 26, and the applicant is aware of all the front, rear and side yard setback requirements for new Lot 26. Also, that the sole purpose of granting the area variance is that a public pedestrian easement for the entire length of the property will be entered into with the City.

**SECONDED** by Mr. Currier.

**MOTION CARRIED UNANIMOUSLY 5-0.**

2. Beebe Rubber Company (Owner) Mark Maynard (Applicant) 22 Marshall Street (Sheet 29 Lot 26) requesting the following:  
1) use variance to allow two fast-food restaurants with drive through facilities; and 2) variance to allow a stacking lane to cross a pedestrian accessway. GI Zone.

**PER APPLICANT'S LETTER, REQUEST WAS MADE THAT THIS CASE BE POSTPONED UNTIL THE 2-27-07 ZBA MEETING.**

**REHEARING REQUESTS:**

Rehearing Request submitted by Kim Sutcliffe, 2 Keats Street, by her attorney, Gerald Prunier.

1. **Kim M. Sutcliffe (Owner) 2 Keats Street (Sheet B Lot 281) requesting variance for minimum lot area, 18,000 sq.ft required, 17,445 sq.ft proposed, to subdivide one lot into two lots. R18 Zone.**

Voting on this Case:

Sean Duffy  
Jack Currier  
Normand Tremblay  
Jeff Anderson  
Rob Shaw - Recused

The Board discussed the relevant points in which to consider for a rehearing request. The Board discussed the points raised by the applicant.

**MOTION** by Mr. Currier to deny the rehearing request, in that the Board determined that there was no procedural error. Also, the Board determined that the decision was legal, even though it was a split decision, and they completely addressed all the points of law required for the special exception. Further, the Board believed that the request did not contain any new information not presented or available to them at the original meeting, only a clarification of the lot area. The Board stated that there was nothing in the rehearing request that would or could cause them to make a different decision.

**SECONDED** by Mr. Anderson.

**MOTION FAILS 2-2** (Mr. Duffy and Mr. Tremblay against Motion).

**MOTION** by Mr. Duffy to grant the rehearing request, as he believes the applicant brought forward an item in their rehearing request (#9) that should be reconsidered by the Board.

**SECONDED** by Mr. Tremblay.

**MOTION FAILS 2-2** (Mr. Anderson and Mr. Currier against Motion).

**REGIONAL IMPACT:**

The Board determined that none of the cases were determined to have regional impact.

**MINUTES:**

December 12, 2006 and January 23, 2007:

**MOTION** by Mr. Duffy to accept the minutes, waive the reading, and place them in the file.

**SECONDED** by Mr. Tremblay.

**MOTION CARRIED UNANIMOUSLY 5-0.**

January 9, 2007:

**MOTION** by Mr. Duffy to review the accuracy of the minutes with regard to the motion for case #4 (Linear Retail Nashua), and bring them back at the next meeting.

**SECONDED** by Mr. Currier.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**ADJOURNMENT:**

Mr. Duffy called the meeting closed at 7:37 p.m.

Jack Currier  
Acting Clerk

CF

Taped Hearing