

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

A public hearing of the Zoning Board of Adjustment was held on Tuesday, March 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  
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. **Wesnash Realty, LLC (Owner) Konstantine Scrivanos (Applicant) 315 West Hollis Street (Sheet 122 Lot 515) requesting variance to allow a pedestrian accessway to cross a vehicular drive-thru lane. GB Zone.**

Voting on this Case:

Sean Duffy  
Jack Currier  
Normand Tremblay  
Rob Shaw

Attorney Gerald Prunier, Prunier & Prolman, Nashua, NH. Atty. Prunier identified the location of the property, and described the proposed change to the stacking lane, and how it would interact with the pedestrian crosswalk. Atty. Prunier discussed the relevant points of law for an area variance. 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 for the request at 315 West Hollis Street. Mr. Duffy stated that 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 method reasonably feasible for the applicant to pursue, other than an area variance. Mr. Duffy said it is an existing structure, and an approved use in the zone, and the adjustment being suggested is in conjunction with the City of Nashua's Planning Board, to help alleviate traffic issues. Mr. Duffy stated that there is a good line of sight for the pedestrians and the traffic in the stacking lane.

Mr. Duffy stated that it is within the spirit and intent of the ordinance, that it is in the public interest that the applicant have reasonable development rights, it is an existing use in the neighborhood, and substantial justice be granted.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 4-0.**

**2. Mark S. Walsh & Mildred Mugica (Owners) 52 Elgin Street (Sheet A Lot 573) requesting variance to encroach 5.5 feet into the 10 foot required left side yard setback to construct a 5.5'x14' addition. RA Zone.**

Voting on this Case:

Sean Duffy  
Jack Currier  
Normand Tremblay  
Rob Shaw

Mark Walsh & Mildred Mugica, 52 Elgin Street. Mr. Walsh described his property, and identified where the addition would be located on the house. Mr. Walsh went over all the relevant area variance points of law. Discussion ensued between the applicant and the Board.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

No One.

**MOTION** by Mr. Currier to grant the area variance request on behalf of the applicant. Mr. Currier stated that 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 method reasonably feasible for the applicant to pursue, other than an area variance. Mr. Currier stated that primarily, the house is offset to the left of the lot. He said there are three stipulations that the applicant has agreed to; being that there will be no windows on the addition, the stormwater will remain on the lot, and that the addition will be one story high.

Mr. Currier stated that the request is within the spirit and intent of the ordinance, it will not adversely affect the property values of surrounding parcels, it is not contrary to the public interest, and substantial justice is served.

**SECONDED** by Mr. Shaw.

**MOTION APPROVED UNANIMOUSLY 4-0.**

**3. The Flatley Company (Owner) 217 Daniel Webster Highway (Sheet A Lot 702) requesting variance to allow a single-lane drive through stacking distance of 120 feet, where 160 feet is required. HB Zone.**

Voting on this Case:

Sean Duffy  
Jack Currier  
Rob Shaw  
Normand Tremblay

Attorney Gerald Prunier, Prunier & Prolman, Nashua, NH. Atty. Prunier presented the case, and described the proposed stacking lane. Atty. Prunier went over all the area variance points of law.

**SPEAKING IN FAVOR:**

Mr. Richard Cane, The Flatley Company.

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

No One.

**MOTION** by Mr. Tremblay to grant the area variance on behalf of The Flatley Company. Mr. Duffy stated that 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 method reasonably feasible for the applicant to pursue, other than the area variance. Mr. Duffy stated that per testimony, the stacking will not overflow and cause a traffic problem.

Mr. Duffy stated that the request is within the spirit and intent of the ordinance, it will not adversely affect the property values of surrounding parcels, it is not contrary to the public interest, and substantial justice is served.

The Board stated that the request should be limited to only a pharmaceutical use, and made this as a Special Condition.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 4-0.**

**4. Aldebaran Properties, LLC & Q. Peter Nash & Edward Moran, Jr. (Owners) 87 Amherst Street (Sheet 60 Lot 21) requesting variance to exceed maximum ground sign area, 10 square feet permitted, 40 square feet proposed. RA Zone.**

Voting on this Case:

Sean Duffy  
Jack Currier  
Rob Shaw  
Normand Tremblay

Mr. Keith Bakaian, Century 21, Litchfield, NH. Mr. Bakaian described the proposed sign dimensions, and went over the area variance points of law. Discussion ensued between the applicant and the Board.

**SPEAKING IN FAVOR:**

Attorney Jeffrey Zall, 221 Main Street, Nashua.

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

Stanley Stoncius, 4 Sargent Avenue.  
Cosmos Marandos, 42 Cushing Avenue.  
Mary Maguire, 46 Cushing Avenue.

**After hearing the points raised by the persons speaking in opposition, the applicant withdrew the application.**

**5. Cheryl B. Staab, Trustee (Owner) 45 Cathedral Circle (Sheet F Lot 904) requesting special exception to allow a minor encroachment of 8 feet into the 40 foot required rear yard setback to construct a 12'x16' enclosed porch onto an existing deck. R18 Zone.**

Voting on this Case:

Sean Duffy  
Jack Currier  
Rob Shaw  
Normand Tremblay

Attorney Jeffrey Zall, 221 Main Street, Nashua, NH. Atty. Zall described the proposed addition, and went over all the points of law for a special exception for a minor encroachment. Discussion ensued between the applicant and the Board.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

No One.

**MOTION** by Mr. Duffy to grant the special exception for 45 Cathedral Circle. Mr. Duffy stated that the request is listed in the table of uses, Section 16-27 (e)(3). He stated that the use should not create undue traffic congestion or unduly impair pedestrian safety, it is a three season porch, single-story, and will not have any plumbing or heating. Mr. Duffy stated that it will not overload any public water, drainage or sewer or other municipal systems. He stated that there are no special regulations, and it will not impair the integrity or be out of character with the neighborhood or be detrimental to health, morals or welfare of the residents, as there are many other similar three-season rooms in the neighborhood.

**SECONDED** by Mr. Tremblay.

**MOTION APPROVED UNANIMOUSLY 4-0.**

5. **SPSC Associates, LLC (Owner) GM Roth Design & Remodeling, Inc. (Applicant) 85 Northeastern Boulevard (Sheet 140 Lot 43) requesting variance to allow an electronic message center on a portion of a proposed off-premises ground sign. PI Zone.**

Voting on this Case:

Sean Duffy  
Rob Shaw  
Jack Currier  
Normand Tremblay

Attorney Gerald Prunier, Prunier & Prolman, 20 Trafalgar Sq.  
Atty. Prunier described the proposed off-premises sign, and the reason why the applicant is requesting an electronic changing message. Atty. Prunier went over the area variance points of law.

**SPEAKING IN FAVOR:**

Gerry Roth, GM Roth Design & Remodeling, 12 Murphy Drive.

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

No One.

**MOTION** by Mr. Duffy to grant the area variance on behalf of the applicant. Mr. Duffy stated that 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 method reasonably feasible for the applicant to pursue, other than an area variance, the applicant is at the end of a dead-end street/cul-de-sac in a PI Zone, and reasonable directional and informational identification is granted by an off-premises sign. The sign is proposed to be a 14'x5' structure, it is professionally made and looks tasteful, which is in the spirit and intent of the ordinance for reasonable directional signage. Mr. Duffy stated that the request will not adversely affect the property values of surrounding parcels, it is not contrary to the public interest, and substantial justice is served with reasonable identification rights.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED 3-1** (Mr. Currier).

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**MINUTES:**

February 27, 2007:

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

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 4-0.**

**REHEARING REQUESTS:**

None.

**REGIONAL IMPACT:**

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

**ADJOURNMENT:**

Mr. Duffy called the meeting closed at 8:45 p.m.

Jack Currier  
Acting Clerk

CF

Taped Hearing