

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
September 11, 2007

A public hearing of the Zoning Board of Adjustment was held on Tuesday, September 11, 2007 at 6:30 PM in the Auditorium at City Hall.

Jack Currier, Vice Chair, conducted the meeting.

Members present were:

Jack Currier, Vice Chair
Claire McHugh
Robert Shaw
Carter Falk, Deputy Planning Manager/Zoning

Mr. Currier explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Currier 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. Currier also explained procedures involving the timing light.

- 1. Samuel V. & Olga Fain (Owners) 6 Warton Road (Sheet B Lot 887) requesting special exception for a major home occupation to teach piano lessons. R9 Zone.**

Voting on this Case:

Jack Currier
Claire McHugh
Robert Shaw

Olga Fain, 6 Warton Road. Ms. Fain stated that she is requesting to teach both group and individual private piano lessons in her home. She said they have six parking spaces in their driveway, so parking will be ok. She said the lesson times will be staggered, so the students won't all come at the same time. She said she has spoken to the abutters, and they are all in favor. She does not want to disturb the neighbors, and she has electric keyboards, so she can adjust the volume so that it isn't loud. She said she will not have any employees, and per testimony, she meets the major home occupation conditions. She said for recitals, she will rent a place outside of the home, and there will no large events occurring at the home. She said she plans to advertise, but will not have a sign in front of the house.

SPEAKING IN FAVOR:

Mr. Samuel Fain, 6 Warton Road. Mr. Fain said his wife has been teaching private piano lessons for many years now. He said the house is a split-level, with two rooms to be used for the lessons. One of the immediate neighbors has expressed interest in the lessons, and his wife has a way of controlling the sound so it is not loud.

SPEAKING IN OPPOSITION OR WITH CONCERNS:

No One.

MOTION by Mr. Shaw to grant the special exception on behalf of the owners, he said it is listed in the Table of Uses, Section 16-92 (b). Mr. Shaw stated that there was testimony that did indicate that all of the major home occupation criteria will be met by this usage, relative to the size of the use and the signage, etc. Mr. Shaw said while there will be some increased traffic due to the nature of having lessons, the level of the added traffic does not appear to create any undue traffic congestion or unduly impair pedestrian safety concerns. Mr. Shaw stated there will be very limited impact as far as any overloading to public water drainage or sewer, or any other municipal systems, all the special regulations are fulfilled, and there will be no change to the exterior of the building or any other significant changes that would be a factor in impairing the integrity of the character or be detrimental to the character of the neighborhood, and the health, morals and welfare of the residents will be met, and this business will provide a service to the residents of the City.

SECONDED by Ms. McHugh.

MOTION APPROVED UNANIMOUSLY 3-0.

2. Peter M. & Patricia A. Brault (Owners) 20 Dora Street (Sheet 111 Lot 196) requesting variance to encroach 7 feet into the 10 foot required right side yard setback to construct a 24' x 28'-4" garage with family room above. R9 Zone.

Voting on this Case:

Jack Currier
Robert Shaw
Claire McHugh

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Peter Brault, 20 Dora Street. Mr. Brault said they are requesting to build a garage. He said a couple years ago, they took in his sister who is physically and developmentally disabled, and in doing so, arose the need to build a wheelchair ramp to access the back deck. He said with five people living in the house, they need extra space to store additional items and for room inside the house. He said the three feet left over would leave enough room for maintenance, and access, and it wouldn't have any impact on the neighbor on that side.

Mrs. Patricia Brault, 20 Dora Street. She said they need the extra room for all the items that are with a house of five people.

Mr. Shaw asked if 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. He wanted to explore this point of law further, and mentioned that the applicant spoke of the constraint of the wheelchair ramp, which pushes the garage further into the side property line, and wanted the applicant to discuss any options they looked at, as well as the width of the garage.

Mrs. Brault stated that they looked at all of their options, and said the property is very narrow, and long, but they are at the end of Salmon Brook, so it's all swamp in the back. She said they can't go back, they only have ten feet on the other side, which isn't where the driveway is, anyway, so this side is where the driveway is. She said they could bump it down a little bit, but the goal is to make the garage part and the room something that their teens can use.

Mr. Brault said this will allow the teens and his sister to have room to socialize.

Mrs. Brault said there's no other location they could put it. It will mainly be an oversized storage area, the vehicles are of no concern. She said it is a small house, it is a ranch, and they also have help coming in to help out.

Mr. Shaw asked to clarify the proposed dimensions of the garage.

Mr. Brault said the 28'-4" is the depth, and 24 feet is the width.

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Mr. Shaw asked if the garage is intended to be a two-stall garage.

Mr. Brault said it will be an oversized single stall, with a 16-foot wide door.

Mrs. Brault said the garage itself will be only 20 feet, the second story is 24 feet wide, the 4 feet will be the wheelchair ramp between the house and the garage. The top will connect.

Mr. Brault said the foundation will be 28' x 20'.

Mrs. Brault said the second floor will connect to the house.

Ms. McHugh asked if there is a business in the house right now.

Mr. Brault said there is, but only once or twice a month, someone will drop off paperwork, but it is rarely. The expansion will have nothing to do with the business.

Ms. McHugh asked if the addition was made smaller, where would this happen.

Mr. Brault said from 24 feet, they could take 2 feet off, which would make for a smaller garage, which is an option.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH CONCERNS:

Mr. Currier read a letter into the record from the Deans, at 22 Dora Street. They are against the request.

Mrs. Brault said they talked to the neighbors, and all of them seemed to be in agreement.

Further discussion ensued between the Board and the applicant relative to lot sizes, and the location of the fence in relation to the property line.

Mr. Currier said perhaps they should discuss their request with the abutter to the right, and come back.

MOTION by Mr. Currier to Table the request to the September 25, 2007 meeting, to be the first case in the agenda.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY, 3-0.

3. State of New Hampshire - Department of R.O.W. (Owner) Pennichuck Water Works, Inc. (Applicant) 154 Daniel Webster Highway (Sheet A Lot 117) requesting special exception to work within an intermittent stream and its 20-foot buffer to construct a culverted driveway to access a proposed water booster pumping station. RA Zone.

POSTPONED TO THE SEPTEMBER 25, 2007 MEETING

4. Peter M. Bonnette (Owner) "L" Edgewood Avenue (Sheet 60 Lot 38) requesting authorization pursuant to RSA 674:41 II to erect a single family home where access thereto will be by a private drive. RA Zone.

Voting on this Case:

Jack Currier

Rob Shaw

Claire McHugh

Richard Maynard, Maynard & Paquette LLC, 23 East Pearl Street. Mr. Maynard stated that they would like the continuance of this case to be heard by a full five-member Board, and would like this case to be continued until there is a five-member Board.

Mr. Currier stated that this is Ms. McHugh's last meeting with the Board, so it is undetermined when there will be five members present.

Mr. Currier said since the applicant's representative was allowed to speak, he'd allow the neighbors to speak as well, especially if the case were to be tabled to a future meeting.

Mr. Maynard said he'd like to defer to the next meeting, in the hope that there will be five members, as envisioned by the RSA's, also, he'd like to consult with his client.

Dave Linatsas, 10 Edgewood Avenue. Mr. Linatsas asked if there's four members at the next meeting, if they'd be the ones that heard the case originally.

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Mr. Currier said they would, minus Ms. McHugh.

David Villiotti, 125 Amherst Street (Nashua Children's Home). Mr. Villiotti asked if it's the applicant's prerogative to ask for a continuance.

Mr. Currier said recent legislation allows the Board to hear a case with less than five members. This case is somewhat unique, in that the public hearing/testimony portion of the case is already completed, all that's left to do is the public meeting to vote on the case, there will not be any more public testimony.

Bill Neverett, 6 Edgewood Avenue. Mr. Neverett said he's acceptable to postponing the decision.

Mr. Currier said he thinks it would be best to have a larger number of members vote for this case, it makes for a tighter case, whichever way it gets voted on.

Further discussion ensued, and the Board agreed it would be best to continue the public meeting portion of this case.

MOTION by Mr. Currier to table this request to the next meeting, which is September 25, 2007, to be the last item on the agenda. It will be a continuation of the public meeting.

SECONDED by Mr. Shaw.

MOTION APPROVED 3-0.

REHEARING REQUESTS:

None.

MINUTES:

August 14, 2007 and August 28, 2007.

MOTION by Mr. Currier to approve both meetings, with no changes, to waive the reading and place them in the file.

SECONDED by Ms. McHugh.

MOTION CARRIED UNANIMOUSLY 3-0.

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REGIONAL IMPACT:

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

ADJOURNMENT:

Mr. Duffy called the meeting closed at 7:30 p.m.

Jack Currier
Acting Clerk

CF
Taped Hearing