

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
March 11, 2008

A public hearing of the Zoning Board of Adjustment was held on Tuesday, March 11, 2008 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
Robert Shaw
Bob Carlson (arrived at 7:45)
Kathy Vitale
Gerry Reppucci
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. Kevin & Marilyn Thompson (Owners) 7 Bennington Road (Sheet G Lot 572) requesting special exception for a major home occupation for an in-home day care for six children. R18 Zone.**

Voting on this Case:

Sean Duffy
Jack Currier
Robert Shaw
Kathy Vitale
Gerry Reppucci

Marilyn Thompson, 7 Bennington Road. Mrs. Thompson she is seeking approval to be a licensed day-care provider. She said she is currently running as "licensed exempt" and wants additional children. She said there is no construction needed to do this in the house, but there may be one or two additional cars added, but there is plenty of room, and it shouldn't impact traffic, as they are spread out throughout the day.

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING

March 11, 2008

Page 2

Mrs. Thompson said the house is 3-story, and the day-care would be on the first level. She said the hours of operation will be 7:30 a.m. to 5:30 p.m. Monday through Friday. She said she'd like the outside play to start at 9:30 a.m. She said that she's been doing this for over ten years. She said that even before they bought the house, they asked the neighbors what they thought of them opening up a day-care operation, and they all thought it would be fine. She went over all the relevant major home occupation points of law

SPEAKING IN FAVOR:

Donna Saylor, 6 Bennington Road. Ms. Saylor said she never hears the children, and the use is quiet. She said she didn't want the zoning to be changed to commercial.

Mr. Duffy said the zone will not change, this request is specific to this use at this house.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR 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 and 16-67 (b). Mr. Shaw stated that there has been testimony that there will not be any undue traffic congestion or impairment to pedestrian safety, even though there would be a small number of additional vehicular trips to the house, it's likely to be only four to five trips per day for drop-offs and pickups.

Mr. Shaw said there is no indication of any overloading of any public services, such as water, sewer or drainage, or other systems. Mr. Shaw said that by testimony, all of the special regulations will be fulfilled, specifically, to the major home occupation criteria and for childcare in a home.

Mr. Shaw said there's no indication to any detriment to this use being out of character to the neighborhood, or to the health, morals or welfare. Mr. Shaw stated that the special conditions are that the hours of operation are from 7:30 a.m. to 6:00 p.m., with no outdoor play before 9:00 a.m.

SECONDED by Ms. Vitale.

MOTION CARRIED UNANIMOUSLY, 5-0.

2. Hollis Crossing Condominiums (Owner) 300 Bartemus Trail (Sheet F Lot 4) requesting variance to exceed maximum fence height for limited portions of the site for enhanced screening purposes, 6 feet allowed - 8 feet requested. PRD, R9 & R40 Zones.

Voting on this Case:

Sean Duffy
Jack Currier
Robert Shaw
Kathy Vitale
Gerry Reppucci

Attorney Gary Braun, Winer & Bennett, 111 Concord Street, Nashua, NH. Atty. Braun introduced the Board to the members of the Hollis Crossing Condominium Board and their Engineer. He described the property's location, in a multi-zone location. He said the 8-foot high fence, in a couple selected locations, were the result of a code enforcement action. One portion of the 8-foot high fence is around a concrete pad for a trash compactor, and another portion is near a roadway stub, hiding a landscape area where landscaping materials and equipment are hidden from view for a on-site landscape work.

Atty. Braun said the fence was erected for the right purpose, to screen from abutters. They have been up since 2005. He stated the area where the dumpster is located, it holds a trash compactor, and a 6-foot high fence would not be an effective screening component. With the compactor, the trash company only needs to come once per week.

Atty. Braun pointed out from the photo's that were submitted, that the 8-foot high fence is a much better height for screening. He said there may be other issues that the neighbors have, but this request tonight is only for the area variance for the additional fence height.

Atty. Braun went over all the variance points of law, as stated in their application. In addition, they circled the areas of the higher fence on a map for further clarification to the Board.

Discussion ensued between the Board and the applicant.

SPEAKING IN FAVOR:

Steve Auger, HSI. Mr. Auger identified the areas with the 8-foot high fence on the map, and indicated how far the trash compactor is from the abutting property lines.

Mr. Currier asked if the backhoe is part of the Hollis Crossing property.

Atty. Braun said it is used for part of their on-going landscaping and snow removal.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Karen Andrews, 18 Woodgate Street. Ms. Andrews said she lives adjacent to the back-end loader, and said there is no buffer from her house to the piles of sand, salt, rubbish. She said this area is an easement, and it should not be used for storage of materials all year long. She described some of the activities that Hollis Crossing has done over the years with respect to landscaping and on-site work.

Mr. Duffy said the purpose of the variance is only the additional fence height, not other site issues.

Joseph Daly, 294 Bartemus Trail. Mr. Daly said they provide services to Hollis Crossing. He said he was concerned about some of the testimony he heard. He said there was no intent by the Board to circumvent any codes. The original fence was rotting, and the new fence is a replacement fence. He said all the materials stored on-site are for this property, it is not for another business. The property has 450 dwelling units, on 85 acres of land, so it's all there for use on this site.

Further discussion ensued between the Board and Mr. Daly relative to site landscaping materials and activities.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Gary Braun. Atty. Braun said the focus of this meeting should be for the fence, and the other comments made are for another forum. He said the landscaping and other activities are

normal maintenance activities for this size of a development to make it and keep it looking nice. A shorter fence would not provide a good screen to the abutting properties.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Karen Andrews, 18 Woodgate Street. Ms. Andrews stated that the materials are there all year long. She said there is a lot of noise at the property. Mr. Pelkey said he is acceptable to the fence.

MOTION by Mr. Duffy to grant the area variance on behalf of the applicant. He stated that the variance is needed to enable the applicant's proposed use of the property, given the conditions of the property, that this is a condominium system approved by the Planning Board, and it is very reasonable that the screening elements be considered in the original plan, but unfortunately were not. Mr. Duffy said the fence heights are reasonable, minimal additions that are not restrictive to either the abutters or the applicant, as it's intent is to screen.

Mr. Duffy said the request is within the spirit and intent of the ordinance that a reasonable amount of fence is proposed. He stated that it should not affect the property values of surrounding parcels, as this is a minor amount of fencing, also, it should not be contrary to the public interest, and substantial justice is served that the applicant has reasonable development rights.

Mr. Duffy said the special conditions are that per the applicant's testimony, they have stated for the record that this is not a landscaping business, but the sole uses of this area are for landscaping uses for the property, and the abutters have some potential issues to discuss with the Planning Board.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

3. **Two Guys Properties, LLC (Owner) 15-A Spit Brook Road (Sheet A Lot 214) requesting variance to allow a 40 square foot electronic message center wall sign. GB Zone.**

Voting on this Case:

Sean Duffy

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING

March 11, 2008

Page 6

Jack Currier
Robert Shaw
Bob Carlson
Kathy Vitale

Paul Winthrow, Winthrow Signs & Lighting, Salem, NH. Mr. Winthrow said they are requesting a 4'x10' electronic reader board on the southern elevation, in front of some air conditioning units. He said it will benefit the area, and the owner is willing to place messages for community and civic events on the sign. Mr. Winthrow stated that they are very community oriented. He said they have no other electronic message signs in the City. He said the sign would meet the current ordinance.

He said they have two smaller electronic reader message boards on their existing ground sign, which is not a part of this application. He said they would do text only on the sign.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No One.

Mr. Duffy said the Board may wish to table this item, until they can review other similar signs, and it appears as if many of them in the City are not in compliance.

Mr. Falk said the current ordinance allows for text only, no graphics, pictures, symbols, images - text only. He said there have been quite a few electronic message centers permitted by right in ground signs, in zones that allow them.

Mr. Shaw said of the ones he's seen, most, if all of them are not in compliance with the ordinance. He said he'd be in favor of tabling the item as well.

Mr. Carlson said the owner is a good citizen, and does many positive things in Salem.

Ms. Vitale agreed with the other members, she said she's amenable to tabling the item until further research can be done.

Mr. Currier asked if staff can provide a list of locations where other electronic message signs have been approved by the Board.

Mr. Falk said if the Board were to table the item, they should do so with a purpose in mind. He said the applicant has a right to have their case be heard, and everyone in City Hall has heard the concerns of these signs.

Ms. Vitale asked if anyone knew of an electronic message sign that is in compliance with the ordinance.

MOTION by Mr. Duffy on behalf of the applicant to table this application for two meetings, so it will go on the first meeting in April, which will allow the Zoning Board to continue the public meeting, and to garner more information about the electronic messaging sign ordinance compliance opportunities, or compliance requirements that are necessary, given the ordinance as written.

SECONDED by Mr. Currier.

Mr. Currier said he's not in favor of this application. He said he didn't see the sign as necessary and it's an extremely busy area, with traffic, buildings, and other driveways. He said he may be comfortable if the sign were in compliance.

MOTION CARRIED UNANIMOUSLY 4-1 (Mr. Carlson).

4. 39 Bridge Street Corporation (Owner) 120 East Hollis Street (Sheet 39 Lot 33) requesting use variance to allow a motorcycle parts store. GI Zone.

Voting on this Case:

Sean Duffy
Jack Currier
Robert Shaw
Bob Carlson
Kathy Vitale

Victor Dossi, 39 Bridge Street Corporation. Mr. Dossi said this usage is a motorcycle parts storage use. He said the abutting properties are mostly commercial stores. He said this use benefits the City of Nashua with more jobs and taxes.

Mr. Duffy asked if Mr. Dossi thought this was a reasonable use, and if there will be any storage or materials placed outside.

Mr. Dossi said most of this use will be done on the internet.

Mark Morin, 237 Groton Rd, N. Groton, Mass. He said he's been in the motorcycle business for the past 23 years, and about 95% of the business will be done over the internet. It is not like a traditional motorcycle shop. He said there will be one dumpster outside.

Mr. Reppucci asked what happens when a bike is stripped down.

Mr. Morin said they do it, but sometimes the frames are placed in a steel parts box.

Mr. Reppucci asked if frames or bikes will be stored outside.

Mr. Morin said none will.

Mr. Duffy said if this case is approved, it will require a site plan approval by the Planning Board.

Mr. Carlson asked how many employees they have.

Mr. Morin said there's one now, and himself, but they may have up to six employees once they're all settled in.

Ms. Vitale asked if people come in to buy parts there, will there be any repair going on.

Mr. Morin said they won't have much time for repair, and they're not there to do servicing.

Mr. Morin said there will be two delivery trucks coming each day, with UPS. He said that large trucks don't come here, it is box trucks.

Mr. Shaw asked if there will be the sale of running motorcycles. He said occasionally they'll have a bike for sale, but it's in their best interest to sell it for parts.

Mr. Currier asked about outdoor storage of bikes and parts.

Mr. Morin said he'd like to add a window and awnings, and

possibly have some outdoor display, so people see it when they drive by.

SPEAKING IN FAVOR:

No One.

MOTION by Mr. Carlson to grant the use variance on behalf of the owner. Mr. Carlson stated that the site not be used for outside storage or overnight storage of motorcycles, ATV's, parts, or other vehicles, and everything is to be brought in at the end of every day, and the site is not to be used as a junkyard, with no stripped parts or junk parts, or other non-usable equipment.

Mr. Carlson said the zoning restriction is reasonable, given that this is a business with a solid track record.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

5. **MacThompson Realty Inc. (Owner) 140 Daniel Webster Highway (Sheet A Lot 242) appealing decision of administrative officer relative to replacement of an existing nonconforming electronic message center sign with a new one that may have symbols, graphics and images in addition to text, and/or variance to allow the replacement of an electronic message center sign with one that may have symbols, graphics and images in addition to text. HB Zone.**

Voting on this Case:

Sean Duffy
Jack Currier
Robert Shaw
Bob Carlson
Kathy Vitale

Attorney Gerald Prunier, 20 Trafalgar Square, Nashua, NH. Atty. Prunier stated that as far as he knows, the clients he's represented who have electronic message signs are all in compliance.

Mr. Carlson asked why the applicant didn't sign the electronic message center affidavit that is in their package.

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING

March 11, 2008

Page 10

Atty. Prunier stated that the sign is a legal non-conforming sign, and the sign has been legal for many years. He said that basically, they didn't think that this is a new sign, and they don't have to comply with the ordinance. He said the sign is grandfathered. He said that this sign existed prior to the new ordinance. He said the sign was hit by lightning, and they just want to replace the insides.

Atty. Prunier said they want to replace the insides with all new parts. He stated that they don't make all the parts for the inside anymore, they want to replace the sign with similar parts that are more current. He said that the old sign was legal, and they want the new sign to be replaced with something as close as possible to what they used to have. They want no more than what the old sign could do.

Atty. Prunier said the ordinance doesn't really address this issue, but the only way was to go forward with an appeal, it is a friendly appeal. He said they have also asked for a variance, should the appeal not be supported. But, nonetheless, he said he feels that the sign is grandfathered.

Mr. Shaw asked about the January 1996 sign permit. He said all indications was that it was a three-line sign, with no graphics. He said it appears to be similar to the new ordinance.

Mr. Currier researched the old "Daktronics" sign, and it appears that it has the capabilities of a full-screen tv.

Atty. Prunier said the old model could run either text or graphic messages, either separately or together, and they want the new one to do the same things. He said the new one has the same capabilities, and that's what they want today.

Mr. Carlson said this appears to be like a large-screen tv, that could have anything on the sign, which isn't in the spirit and intent of the ordinance.

Mr. Reppucci asked how long the sign has been out of order.

Atty. Prunier said it was from last summer.

Mr. Shaw stated that he wants to understand exactly what this sign can do.

SPEAKING IN FAVOR:

Cliff Conti, NH Signs, Londonderry, NH. Mr. Conti said he was involved with the new ordinance re-write. He said the old sign was the height of the new technology with these types of signs twelve years ago. The new signs, with LED technology, have much better colors, including white, and have the smoothest letters. The new sign will have the newest technology. The new sign will have great resolution, and will provide a high quality sign. He said they do training on the sign operations.

Mr. Currier asked about the signs from what he read about on the internet, and asked if it can look like a big-screen tv.

Mr. Conti said a lot of the new ones can do that. He said that's just how they are made now.

Mr. Currier said a model like the one proposed gets us into a non-compliance issue. He asked if the "three-line" text sign is still valid.

Mr. Conti said they can do the three lines of text, but can also do many other things. It is what the new technology offers today.

Mr. Duffy asked if it could do full animation graphics.

Mr. Conti said it can, the technology is there within the sign.

Mr. Carlson asked if they can run motion pictures on the sign.

Mr. Conti said it could be done.

Mr. Reppucci asked if the new sign could be programmed to run just like the old sign, with one color.

Mr. Conti said it could.

Mr. Shaw asked about the full range of what the old sign could do.

Mr. Conti said one color, but it had a full range of graphics.

Mr. Duffy said we may need more time to understand not only the new ordinance, but the old ordinance as well. Further

discussion ensued about electronic message center signs.

Atty. Prunier said his client is willing to stipulate that the sign will have one color, no multi-color, and it will be programmed to be just what it was in 1996.

Mr. Currier stated that he'd like to have a better understanding of the sign ordinance, and is in favor of tabling the application to the first meeting in April.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

MOTION by Mr. Duffy to table this decision request to the first meeting in April, to continue the public meeting to allow the Board to further review the application, the current Nashua Zoning Ordinance, and the Nashua Zoning Ordinance components all relative to electronic message center signs that were in effect when the original sign was up, that the applicant is requesting it be grandfathered too.

SECONDED by Mr. Currier.

Mr. Falk asked if the Board would like to hear staff's side of the appeal.

Mr. Shaw said it would be appropriate to hear staff's testimony, it is proper due diligence.

Mr. Duffy withdrew his motion, and Mr. Currier withdrew his second.

Carter Falk, Deputy Planning Manager, City of Nashua. Mr. Falk said the original sign received a permit in January 1996, with the capability for text, graphics and symbols. It was approved with the old sign ordinance. He said that the old sign had the older technology with the bulbs, and the new sign is much more technologically advanced, and is basically like a tv monitor.

Mr. Falk said that the old sign was legally nonconforming. The new sign permit, when submitted, the ordinance indicates that any application for a new electronic sign must sign an affidavit stating that they'll meet the sign ordinance. Staff thought it was a brand new sign that could only have three lines of text.

Mr. Repucci asked if there have been any complaints about the

old sign.

Mr. Falk said not to his knowledge.

Mr. Shaw asked about the requirements for a sign permit for an electronic message sign.

Mr. Falk said for these types of signs, an applicant must sign the affidavit stating that they must follow the ordinance.

Mr. Carlson asked who signs the affidavits.

Mr. Falk said the owner and whoever the applicant is, which is usually a sign company.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Gerald Prunier. Atty. Prunier said his client wants only what the sign could do before. He said they don't want it to do more. One color is fine. They didn't sign an affidavit in 1996, and they don't want to sign one now.

Further discussion ensued amongst the Board members.

MOTION by Mr. Duffy to table this item to the first meeting in April so that the Board can get a better understanding of the old and new ordinance relative to electronic message signs.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

6. **Ana Renteria (Owner) 17 Dublin Avenue (Sheet 53 Lot 55) requesting special exception to allow an accessory (in-law) dwelling unit. R9 Zone.**

Voting on this Case:

Sean Duffy
Jack Currier
Robert Shaw
Bob Carlson
Kathy Vitale

Dennis Cowan, Cowan Construction. Mr. Cowan said it is a 608 square foot addition within the basement, so the house will look

as it is. He stated it is within the 30% size rule.

Mr. Duffy assisted Mr. Cowan with the special exception criteria, and the Board was satisfied with all the responses that the ordinance will be, and has been, met.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No One.

MOTION by Mr. Currier to grant the special exception on behalf of the owners. It is listed in the Table of Uses, Section 16-61 for an accessory dwelling unit. The five criteria have been met, and the criteria for an in-law apartment have been met.

SECONDED by Mr. Carlson.

MOTION CARRIED UNANIMOUSLY 5-0.

7. **Maria Von Doellinger & Elais Ferreira (Owners) 2 Greenwood Drive (Sheet B Lot 1566) requesting variance to encroach 3 feet into the 20 foot required front yard setback to construct a detached 22'x28' garage. R9 Zone.**

Voting on this Case:

Sean Duffy
Jack Currier
Robert Shaw
Bob Carlson
Kathy Vitale

Elais Ferreira, 2 Greenwood Drive. Mr. Ferreira stated that they need the garage addition to store cars and other equipment. He said it will be beneficial to the City, there will be more revenue coming in. He said the driveway will be onto Greenwood Drive, we will use an existing curb-cut.

Mr. Currier asked why the garage isn't going to be attached to the house.

Mr. Ferreira said he needs a walkway.

Mr. Currier asked if the garage would impede anyone's view coming on Harris Road.

Mr. Ferreira said it will not interfere with anyone's view up the hill.

Mr. Duffy said he'd prefer it be attached to the house.

Mr. Shaw said the Board sees most garages as 24 feet wide, this one is 22 feet, and he'll have a walkway.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No One.

MOTION by Mr. Carlson to grant the area variance on behalf of the owner. Mr. Carlson stated that to deny this variance request would be a hardship to the property owner, and there is no reason not to grant the request. He said it is within the spirit and intent of the ordinance as well.

SECONDED by Ms. Vitale.

Mr. Shaw asked if there could be a restriction that there be no living space over the garage.

Ms. Vitale approved the restriction.

MOTION CARRIED 3-2 (Mr. Duffy and Mr. Currier).

8. Katherine Smith (Owner) Meenakshi Kumar (Applicant) 282 Main Dunstable Road (Sheet C Lot 90) requesting use variance to use existing premises for restaurant/catering business. R9 Zone.

Voting on this Case:

Sean Duffy
Jack Currier
Robert Shaw
Bob Carlson

Kathy Vitale

Sravan Kumar, 17 Forsythia Drive, Nashua. He said the applicant is actually his wife. He said the request is to cook and prepare vegetarian home recipes. He described the location of the property. He said the building will retain its residential look. Mr. Kumar also went over the variance points of law, as indicated in the application.

Mr. Carlson asked if he had ever opened up or ran a restaurant.

Mr. Kumar said no.

Mr. Currier said he is concerned with the location, as two traffic lanes go into one lane. He said it's a tough place to have a business.

Mr. Kumar said he wouldn't buy this place to use as a residence, because of the traffic.

Mr. Kumar said it won't be a restaurant, it will be a catering company.

Mr. Currier asked if there is any seating planned inside.

Mr. Kumar said there will be incidental seating inside, but it's not required. He said his application indicates that there will be any seating, it is in the staff report.

Mr. Falk stated that he asked about seating, and the applicant stated that there would be eight tables with four chairs per table, which would be eight parking spaces.

Mr. Currier asked if the applicant considered a location that is zoned for businesses.

Mr. Kumar said he's considered other locations, but thought this one was most convenient to his home. He said it could be a major home occupation but no one will live in the house.

Mr. Duffy said the house is pretty large for a catering business, especially with no one living there.

Mr. Duffy asked where the dumpster will be located.

Mr. Kumar said he's not sure of the exact location yet, but said he'd comply with the regulations.

Mr. Carlson asked Mr. Kumar if he's aware of all the different permits and licenses that will be required.

Mr. Kumar said he's aware of them, and will be prepared to obtain them.

Mr. Reppucci asked how much space and square feet will be needed for this use.

Mr. Kumar said he'll need at least 1,200 square feet, for everything.

Mr. Duffy said he's concerned with the traffic in this area, he said he sees this area as more of an R9 zone. He said there will be a full site plan needed for this use.

Mr. Kumar said he'll have two separate traffic areas, on either side of the house.

Mr. Duffy said he doesn't see this as a small catering operation.

Mr. Kumar said the residential look of the building will remain the same.

Mr. Falk said in regards to the plan shown on the wall, no parking can be allowed in the front yard setback, in any zoning district. He said there is a wetland buffer in the rear of the lot, as well.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Donald High, 283 Main Dunstable Road, Nashua, NH. Mr. High stated that he lives across the street from the subject lot. He said he's concerned with parking, and you can't park on the street. He wondered how many cars are to be parked at the property, and what type and size of sign would be there. He asked where the dumpster would be, and about the wastewater and

if it would overload the existing system.

Mr. Shaw said the answers to a lot of these questions would be from the Planning Board, the Zoning Board only answers questions as to the use of the land. He said the Zoning Board only votes on whether the use is reasonable and meets the variance criteria.

Robert Lessard, 285 Main Dunstable Road, Nashua, NH. Mr. Lessard stated that a lot of the concerns that were raised were already asked about. He said he didn't see the use as a benefit for this area.

Katherine Smith, 282 Main Dunstable Road, Nashua, NH. Ms. Smith said she's the seller of the home, and it had a beauty salon downstairs. She said she thought it would be an in-home catering business.

Mr. Currier said the proposed use will not be a home occupation, it will actually be a restaurant.

SPEAKING IN FAVOR - REBUTTAL:

Sravan Kumar, 17 Forsythia Drive, Nashua, NH. Mr. Kumar said the parking will be on the property, not on the street, so it will be safer for traffic. He said the building will not look like a business, it will look the same.

Mr. Duffy asked if Mr. Kumar has looked at other locations for a restaurant.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

No One.

Ms. Vitale said the left hand turn, and the parking, may be an issue for this neighborhood.

Mr. Shaw said it sounds like a great business, but is concerned about this use in this zone. He said there's been issues and concerns with the Shell station next door, about that use encroaching into the residential zone. He said by the time the site is modified, it will not preserve the full appearance of a residence, with residential character, it will look more commercial. He said there are also traffic concerns, and left

hand turning issues. He said there are too many issues against this use.

Mr. Reppucci said the property feels like a house, a residence, and it would be changed significantly.

Mr. Currier stated that he liked the proposed use, but is concerned with this site. He said the catering/restaurant use is pushing it, and is persuaded by the testimony of abutters.

Mr. Duffy compared this to a similar use in Manchester, but that use was about 25% of this building, much smaller.

MOTION by Mr. Currier to deny the use variance application. He said the zoning restriction as applied does not interfere with the landowners reasonable use of the property, it has been used as a residence for many years and it's also been used for a minor home occupation for a beauty salon, so he stated that he doesn't believe that there is an unreasonable interference with this property, so it is not within the spirit and intent of the ordinance to grant this use variance request. Mr. Currier stated that based upon the testimony tonight, there is no professional testimony one way or another, but believes it would adversely affect the property values of the surrounding parcels.

SECONDED by Mr. Shaw.

MOTION CARRIED 4-1 (Mr. Carlson).

OTHER BUSINESS:

REHEARING REQUESTS:

None.

MINUTES:

February 12, 2008:

MOTION by Mr. Duffy to waive the reading and place these minutes on file.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

REGIONAL IMPACT:

The Board did not see any items of Regional Impact on the next agenda.

Mr. Duffy said he will not be at the next meeting.

BY-LAWS:

Mr. Falk said all the changes were made, and he'll email them to the new members. Mr. Duffy said this is the third meeting in a row that they have been on the Agenda.

Mr. Falk will bring a copy of the By-Laws at the next meeting

MOTION by Mr. Shaw to ratify the ZBA By-Laws as presented.

SECONDED by Mr. Carlson

MOTION CARRIED UNANIMOUSLY 5-0.

Mr. Currier mentioned the Spring Conference coming up on April 26th in Manchester. He encourages all the Board members to set aside the day to attend.

Mr. Carlson asked Mr. Falk to check into whether the members can be compensated for attending the conference.

ADJOURNMENT:

Mr. Duffy called the meeting closed at 11:00 p.m.

Jack Currier
Acting Clerk

CF
Taped Hearing