

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
May 27, 2008

A public hearing of the Zoning Board of Adjustment was held on Tuesday, May 27, 2008 at 6:30 PM in the Auditorium at City Hall.

Jack Currier, Vice Chair, conducted the meeting.

Members present were:

Sean Duffy, Chair (arrived at 8:00 p.m.)
Jack Currier, Vice Chair & Secretary
Bob Carlson (arrived at 8:00 p.m.)
Kathy Vitale
Robert Shaw
Gerry Reppucci
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. MacThompson Realty, LLC (Owner) 3 Marmon Drive (Sheet A Lot 349) requesting the following variances: 1) to exceed maximum number of wall signs, 3 permitted - 4 requested; and, 2) to exceed maximum wall sign area, 150 square feet allowed - 182 square feet requested - to add two additional wall signs. HB Zone.**

Voting on this Case:

Jack Currier
Kathy Vitale
Robert Shaw
Gerry Reppucci

Attorney Gerald Prunier, Prunier & Prolman P.A., 20 Trafalgar Square, Nashua, NH. Atty. Prunier described the buildings location. He said that they are looking for approval for a 22 square foot "Service" sign on the side of the building, which he believes is a directional sign. He said they are allowed 150 square feet, but the front of the building will have only 162

square feet. The proposed sign is mandated by General Motors. He said they basically are looking for an additional 10 square feet on the front of the building, for a MacMulkin wall sign. Atty. Prunier gave the Board a copy of other auto dealerships and other large big box stores, all of which have much more in terms of wall signage. Atty. Prunier said the building is three stories high, and over 200 feet long. He said that with the bulk of the building it is necessary to have the signs that are requested.

Atty. Prunier went over the variance points of law, and stated that the public should have a reasonable expectation to find the building and the dealership, and said the sign is not out of character with the neighborhood, but all the other dealerships also have large signs. He said the ordinance allows signage, and it will not take away from any of the property values.

Mr. Shaw asked if General Motors is absolutely mandating the signage.

Atty. Prunier said yes, it is required. He said that all the other auto dealerships have to do this as well, the franchises tell the dealerships what to do with signage, as many, if not all the local dealerships have been before the Board.

Mr. Currier asked Atty. Prunier if the dealership can come to the Board all at once with their requested signage.

Atty. Prunier said he wasn't aware that the current request would be coming to the Board last month with the electronic message ground sign.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

David Bangs, 10 Superior Drive. Mr. Bangs asked why he wasn't notified, as he believes he's an abutter, and also is concerned about the light pollution and reflection of light against the residential zone.

Mr. Currier asked Mr. Falk if Mr. Bangs property abuts the subject lot.

Mr. Falk said Mr. Bangs property is very close, but does not abut the subject lot.

Mr. Bangs said his street was named due to a Superior Court case from the 1960's, and feels he should have been notified.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Prunier stated that no light will reflect to Mr. Bangs property from the requested sign.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

None.

The Board discussed the fact that if someone wants to apply for a rehearing, they have 30 days in which to do so.

MOTION by Mr. Shaw to grant the variance as advertised on behalf of the owner. Mr. Shaw stated that the variance is needed to identify the property as a franchisee of two different automobile dealerships, and per testimony, there are limits to the size increments available to the applicant for those brands, and the three signs that are requested for the front of the building will total about 162 sq. ft. of the 182 sq.ft requested, to property identify the large three-story building, the signage area is slightly larger than what is allowed, and the Service sign will give direction to the service bays

Mr. Shaw stated that the request meets the spirit and intent of the ordinance, to allow the applicant to properly sign the building for those major brands they are selling. Mr. Shaw stated that it should not negatively affect property values of surrounding parcels, it is not contrary to the public interest, and substantial justice is served.

SECONDED by Mr. Reppucci.

MOTION CARRIED UNANIMOUSLY, 4-0.

Mr. Currier said the Board will hear Case #3 next, and then Case #2.

2. **Bishop Guertin High School, Inc. (Owner) 194 & 196 Lund Road (Sheet 106 Lot 16) requesting the following variances: 1) to exceed maximum number of ground signs, 1 allowed - 3 requested; 2) to exceed maximum area of ground signs, 10 square feet allowed, a total of 126 square feet requested, 3) to exceed maximum height for two ground signs, 6 feet permitted - 10 feet requested; and 4) to exceed maximum area for 3 directional signs, 6 square feet allowed - 16 square feet requested for each. R9 Zone.**

Voting on this Case:

Jack Currier
Robert Shaw
Kathy Vitale
Gerry Reppucci

Atty. Gerald Prunier, 20 Trafalgar Square, Nashua, NH. Atty. Prunier stated that as part of a landscaping and beautification plan for the whole school, which will include these signs. He said the whole purpose of the landscaping plan is to put more landscaping along Lund Road and Almont Street, and also to connect the areas with a black fence to add some beauty to it. Atty. Prunier stated that it is a sign variance request for the Board, but is part of a larger landscaping plan for the school. Atty. Prunier said that a lot of the students, and opposing sports teams come from outside of Nashua, it will help to find and identify the school. They will be brick with lettering on them. The signs will identify Bishop Guertin, and the masonry will match the brick on the school.

Atty. Prunier described what the signs will look like, including the directional/information sign which will identify events happening at the school. He identified other schools and colleges in Nashua with similar type signage. He said this package will help to increase the property values in the neighborhood with the improvements.

Brother Mark Hilton, 196 Lund Road. Br. Hilton said that they do have neighborhood meetings to inform the neighbors of some of their plans, including the parking revision. They don't have any structured forum, but do tell the neighbors what they plan to do.

Ms. Vitale asked if the signs are lighted.

Atty. Prunier said they will be internally lit. He said some of the signs at Rivier College are also internally lit.

Mr. Shaw asked about "sign A", if it is internally lit or lit from the ground.

Atty. Prunier said yes.

Mr. Shaw asked what options they were going to go with, either option 1 or the LED.

Atty. Prunier said they'd prefer to go with the LED sign.

Mr. Shaw asked Mr. Falk if it was advertised correctly.

Mr. Falk said he was under the premise that there would be no electronic message sign, as that would have to be advertised differently.

Mr. Currier said the option #2 sign is an electronic changing message center.

Br. Hilton said one option is the standard sign with plastic changing letters that would change daily. He said they want a simple sign that will show a string of information that will change every day.

Mr. Shaw asked about the process that the applicant would be required to follow if in fact they want the electronic changing message sign.

Mr. Falk said the case would have to be re-advertised for an electronic changing sign.

Atty. Prunier said the applicant will not be going with the electronic changing message sign.

Paul Chasse, Ward 6 Alderman. Ald. Chasse said people can see the school, with the buses, the building and dugouts. He said he's received a lot of phone calls, and believes the signs requested are too large, when the Code allows for 10 square feet.

Mr. Currier asked about the value of the individual signs, which ones are most important to the school.

Atty. Prunier said the informational sign is good for the neighbors, so they'll no if there's a basketball game or some other event occurring that day. It is an opportunity to inform the neighbors what is going on, even Elementary Schools do this, because parents don't always receive the message.

Mr. Reppucci asked if the signs could be shut off after the events at night.

Br. Hilton said the school runs from 6:00 am to 10:00 pm most every day, but would be amenable to shutting the lights off on the sign after hours. Most of the student body, alumni, are from out of town. Safety will be increased with better signage and lighting as well. The landscape architect came up with the best plan possible for landscaping, fencing and signage.

Discussion ensued about the size of the proposed signs, and why the design submitted was chosen.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Kim Johnson, 127 Almont Street. Mr. Johnson said they never saw what was proposed. He thought they were going to put up a large banner sign, which is not going to be put up after all. He said they took photos of the area and school, and there is a large sign in the back of the school. He said everywhere you look, there is some reference to the BG Cardinals. He said they came to the meeting about the banner sign, but that sign is no longer proposed.

Joanne Johnson, 127 Almont Street. Ms. Johnson said she couldn't understand how someone could miss the school; it's in a residential zone and is a very big, yellow brick building.

Kim Johnson, 127 Almont Street. Mr. Johnson said the school has been a very good neighbor, they are glad that the large banner sign is not being proposed.

Jason Wesinger, 4 Dora Street. Mr. Wesinger said he's more concerned about an electronic informational changing sign. He

said you can't miss the school.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Gerald Prunier, 20 Trafalgar Square, Nashua, NH. Atty. Prunier stated that there will be no banner sign, no flashing sign, and no LED sign.

Ms. Vitale asked how the existing signs got on the building.

Atty. Prunier said the signs have been with the school all along.

Br. Hilton said their existing signs all meet the Code, and there is no plan to remove them.

Mr. Currier said it appears as if the school has done a good job at neighborhood outreach, but it seems like maybe the neighbors were aware of this case.

Br. Hilton said all the abutters were notified.

Atty. Prunier said public relations go a long way, and they will make every attempt to make the neighbors more aware of future plans.

Br. Hilton said they will continue to work as best as they can with the neighbors.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

No One.

Brief discussion ensued amongst the Board members about the proposed plan. The Board discussed whether the sign should be turned off at 10:00 p.m.

MOTION by Mr. Reppucci to grant the variances, all taken together, on behalf of the applicant. He said 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. He stated that the applicant has met

this criteria. Mr. Reppucci stated that the request is within the spirit and intent of the ordinance, per testimony, it will not adversely affect the property values of surrounding parcels, there was no negative opposition on this. Mr. Reppucci stated that the request is not contrary to the public interest, it should be advantageous to make it easy for people to find the school, and substantial justice is served to the general public to have these signs.

Mr. Reppucci said that the special conditions are that the sign will not be an electronic message changing sign, and that all lighting on the signs is to be off at 10:00 p.m.

SECONDED by Ms. Vitale. Ms. Vitale went over all the benefits of the sign, for both the school and for the community, she said it is comparable to other private schools and estates, and will be a benefit to the neighborhood.

Mr. Reppucci reiterated the positive aspects of the signage and landscaping.

MOTION CARRIED 3-1 (Mr. Currier).

3. Paul E. Grigas (Owner) 158 Amherst Street (Sheet 61B Lot 113) requesting use variance to convert a single family home to professional offices. RA Zone.

Voting on this Case:

Sean Duffy

Jack Currier (acting as Chair for this case)

Bob Carlson

Robert Shaw

Kathy Vitale

Attorney Gerald Prunier, 20 Trafalgar Square, Nashua, NH. Atty. Prunier identified the location, proposed for professional office space. He said this part of Amherst Street is in transition, and has been for a long while, changing from residential to commercial. Atty. Prunier identified the surrounding parcels, most all of them are commercial. He said some of the buildings which appear to be single-family residences already have some type of office use, like a chiropractor, and an insurance office.

Atty. Prunier said the traffic has increased on Amherst Street

as well, and no one is going to live in a single-family house in this location due to the traffic.

Atty. Prunier said that with the Belanger v. Nashua case, the Court said that the City must change their zoning ordinance to reflect the current character of the neighborhood. He said with the surrounding parcels, it doesn't make sense for single family any more, while a professional office would be more appropriate for the neighborhood, it would be a more reasonable use and would not be out of character, as the building has been renovated and cleaned up significantly.

Mr. Reppucci asked about the required parking.

Atty. Prunier said there will be nine spaces, which would meet the ordinance for office parking spaces. He said the attached garage will be used as part of the office space.

Mr. Carlson asked if the house has been renovated as residential, or for office.

Atty. Prunier said it's been renovated, but his client hasn't taken out the kitchen yet.

Ms. Vitale asked about the future use of this part of the City, in the Master Plan.

Mr. Falk said the Future Master Plan Map identifies this area as Commercial use.

Mr. Shaw asked if the garage is to be functioning.

Atty. Prunier said it will be used as part of the office space.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No One.

MOTION by Mr. Duffy to grant the use variance on behalf of the applicant. Mr. Duffy stated that a zoning restriction as applied interferes with a landowner's reasonable use of he

property, considering the unique setting of the property in its environment, this is located in one of the highest traffic corridors of a State owned thoroughfare in the City of Nashua, it is an area in transition over a number of years, even though single-family homes are a permitted use in this area, and the abutters are both commercial, and commercial is across the street, and the essential character of the neighborhood is one in transition. Mr. Duffy stated that the request is within the spirit and intent of the ordinance, a site plan will be required so there will be quite a lot of additional review, it is a less intensive use than any of the abutting properties, and is less intrusive, it is in keeping with the area.

Mr. Duffy stated that the request will not adversely affect the property values of surrounding parcels, and there was no expert testimony, it is not contrary to the public interest, and substantial justice is served with reasonable development rights in this area.

SECONDED by Mr. Carlson.

MOTION APPROVED UNANIMOUSLY 5-0.

REGIONAL IMPACT:

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

MINUTES:

May 13, 2008:

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

SECONDED by Mr. Shaw.

Mr. Currier said the minutes should reflect him as Clerk, not Acting Clerk. Mr. Falk will make the appropriate changes.

MOTION CARRIED UNANIMOUSLY 5-0.

Mr. Falk said he contacted Corporation Counsel to meet with the Board, and hasn't heard a response back yet.

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Mr. Duffy said there will be an outside training agency offering the Board additional training; it will be from the Local Government Center.

ADJOURNMENT:

Mr. Duffy called the meeting closed at 8:55 p.m.

Jack Currier
Acting Clerk

CF
Taped Hearing