



City of Laconia
Zoning Board of Adjustment
Tuesday, January 19, 2021 - 6:30 PM
City Hall in the Armand A. Bolduc Council Chamber

1/19/2021 - Minutes

1. PUBLIC PARTICIPATION (PDF)

S. Bogert read aloud the ZOOM meeting information.

2. CALL TO ORDER

S. Bogert called the meeting to order at 6:38 PM

3. ROLL CALL

Present: S. Bogert; M. Foote; R. Maheu; G. Ober; M. Dellavecchia

Alternate: M. Hayward

4. RECORDING SECRETARY

K. Santoro, Zoning Technician

5. STAFF IN ATTENDANCE

D. Trefethen, Director of Planning & Community Development

6. ELECTION OF OFFICERS

G. Ober nominated Steve Bogert as Chair.

R. Maheu seconded the nomination.

There were no other nominations.

Vote was taken by roll call. All in favor (5-0)

R. Maheu nominated Gail Ober as Vice-Chair

M. Foote seconded the motion.

There were no other nominations.

Vote was taken by roll call. All in favor (5-0)

R. Maheu nominated M. Foote as Secretary

M. Dellavecchia seconded the motion.

There were no other nominations.

Vote was taken by roll call. All in favor (5-0)

7. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

7.I. Zoning Board Of Adjustment Minutes December 21, 2020 (PDF)

G. Ober made a motion to accept the minutes of December 21, 2020 with the following corrections:

Section 9.4 (Comment by E. Newell) change "site" to "sight"

Section 9.6 Add "M. Foote made a motion to approve application ZO2020-0111VAR for a variance from Article VII Section 235-41A (8) Accessory Dwelling Unit to allow for a 1000 SF Accessory Dwelling Unit."

M. Foote seconded the motion.

Vote was taken by roll call. All in favor (5-0).

8. EXTENSIONS

9. CONTINUED PUBLIC HEARINGS, CONSIDERATION AND POSSIBLE VOTE Note: The Purpose Of This Agenda Section Is For The Board To Continue The Public Hearing For The Applicant And The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

9.I. ZO2020-0106VAR 108 Academy St Variance Application (PDF)
Applicant was not present in person or on ZOOM.

G. Ober made a motion to withdraw Application ZO2020-0106VAR without prejudice.

M. Foote seconded the motion.

Vote was taken by roll call. All in favor. (5-0)

9.II. ZO2020-0107VAR Province St Variance Application (PDF)
Application ZO2020-0107VAR and Application ZO2020-0108SE will be heard at the same time as they are for the same property and project. Votes will be separate. See below for presentation, public hearing and votes.

9.III. ZO2020-0108SE Province St Special Exception Application (PDF)
Due to the fact that both applications, ZO2020-0108SE and ZO2020- 109VAR concern the same project they were presented together with both sets of criteria being outlined.

Attorney P. Brouillard, agent for the applicant, outlined the Special Exception application. He noted that some of the Board members attended a Site Walk in December. P. Brouillard stated that the property is naturally buffered by its location off the road, it is bounded by a cemetery, forest, and the powerlines. He noted that even though it is isolated, it is near everything.

P. Brouillard stated that multifamily dwellings are allowed in the RG Zone by Special Exception. The allowed density is 6 units per acre, the applicant is also seeking a variance to allow for 9 units per acre.

P. Brouillard informed the Board that since the application was submitted, they have been in discussions with the City regarding a second exit via Growth Road (to Hounsell Rd). He also noted that there is sufficient water for the units and for the sprinkler system that will be needed. P. Brouillard noted that they have spoken with K. Larsen at DPW and she has indicated that the project will not overload the sewer system and that the only restriction would be 35' in height.

P. Brouillard then read the criteria for the Variance Application from his application. He also noted that Jon Rokeh was available for technical questions.

G. Ober asked about the intersection with Rte. 107 and the impact. P. Brouillard noted that this would be addressed at the Planning Board phase. Sidewalks were also briefly discussed, again it was noted that this would be addressed by the Planning Board.

M. Foote asked for clarification regarding the second entrance. At the time of the site visit the original proposal was going to be for utility access and emergency exit only. P. Brouillard explained that since the application was submitted the proposed second entrance has been relocated to utilize Growth Rd

to Hounsell Ave. There are discussions about making this a regular entrance/exit versus emergency only as the original plan proposed. To help clarify the second exit, J. Rokeh share a Google Earth image showing where Growth Rd is in proximity to the proposed site.

R. Maheu asked about how often area/zone density is reviewed. D. Trefethen noted that it has been over twenty years since any major revisions have been done.

M. Hayward asked how they determined if there was an impact. P. Brouillard noted that they utilized Apple Ridge Apartments as a guide. They also had conversations with the Water Department; DPW; and the Fire Department.

G. Ober asked if it is primarily one and two bedroom? Are there three bedroom units proposed? J. Rokeh explained is proposed to be primarily two bedroom units, some single bedroom units on the lower levels but not a lot of three bedroom units. The exact unit configuration has not been done.

There was discussion regarding the financial feasibility and how did they make the 90 unit determination. P. Brouillard noted that they have spoken with the Apple Ridge owner and 90 units is what is needed to make it financially feasible and have on-site management.

A basic layout of the site was discussed, outlining the parking, the ideas for greenspace areas and walking paths, it was noted it was formerly a gravel pit so the drainage is good; the lot naturally drains to the corner where a detention pond is shown on the plan sketch.

At 7:33 PM S. Bogert opened the public hearing for applications ZO2020-0107 VAR and ZO2020-0108SE.

D. Trefethen addressed the public attending the meeting on ZOOM, if they would like to speak, to use the "Raise Hand" button on their screen and they will be recognized.

A. A. Dufield (Province St @ Rte. 107) raised concerns regarding the number of cars; safety concerns for pedestrians on Province St; she expressed concern about compromising use of the dog park; she noted that there are no sidewalks.

Ellen Bean commented that a lot of people use the dog park; concerned about the number of cars/people.

Alexander Stewart (Portsmouth) noted that he wrote a letter to the editor; he asked the Board to consider the type of neighborhood; it would create a disconnected community; that the neighborhood would be car dependent.

M. Foote asked why he lives in Portsmouth. A. Stewart noted he works in the Greater Boston area.

Peter Stewart had concerns about what it will do for the residents of Laconia; did the developer think of the traffic impact; additionally how many kids will live in complex – this can have impact on schools.

D. Trefethen reminded the Board of the letters from abutters that have been provided to them and are part of the record.

Kevin O'Reilly (Emerald Dr) asked if it is affordable housing/Section VIII or are they market rate units; he noted that with more people there will be more issues.

P. Brouillard answered the question, they will be market rate units, not low income/subsidized housing; he noted that they are rental units, not sold.

Candace Davis (Province St) noted that she had sent a letter and provided a petition to the Board. She asked where the data is coming from for the rental units; where are the jobs to employ the tenants?

Ellen Bean commented that ninety families will bring an increase in crime and bring police involvement. She noted that there are residential aides at Apple Ridge.

G. Ober noted that the applicant is looking at an on-site manager.

A. A. Dufield commented that there would be an increase in domestic disputes; auto and foot traffic would increase and she was concerned about the number of homeless in the area.

S. Bogert commented that there were positives, if they are mid-level apartments, individuals would have good paying jobs; the increase in residents walking on trails etc. may discourage the homeless from living there.

Brian Gilbert (427 Province St) addressed everyone, he noted that he knows the area very well as he grew up there. He commented that people walking up in the woods would discourage the homeless. He also noted that years ago his father purchased the lot to prevent it from becoming a landfill.

Kevin O'Reilly, who stated he has been in law enforcement for over 18 years, has concerns it will turn into Section VIII housing, and that it will put a strain on the police. He also commented that with that many people in one area that there will be problems.

Candace Davis commented that she bought her house four and half years ago, if she knew there was going to be an apartment complex she would not have bought there. She commented it is supposed to be a "no through" street but that everyone uses it as a detour.

Ruth O'Hara (Opal Lane) noted she abuts the power lines and she has concerns about making an access point via Growth Rd, that it is a lot of people in a small area.

At 8:01 PM with no one else to speak for or against the applications S. Bogert closed the public hearing.

G. Ober commented that there is a shortage of over 21,000 units in NH, she noted this is all over the state, not just in Belknap County.

P. Brouillard commented that these are new state of the art units, even if people upgrade from an apartment they have locally, their former apartment becomes available for someone else.

The Board briefly discussed property tax income and it was restated that these would be market rent apartments, not Section 8.

D. Trefethen noted that the City of Laconia school system can accommodate additional students, but that apartments generally do not generate a large number of school age children. Additionally, during the last update of the Master Plan, the number one concern was mid-priced housing. These are not luxury apartments, not subsidized apartments, they are mid-range.

It was also noted that a lot of jobs at entry level, they can't buy a house but need housing. Traffic has been discussed, and two entrances would spread traffic out. Currently the City is trying to encourage businesses to move to the industrial park on Hounsell Ave, the road was built to handle more traffic.

S. Bogert commented that he always looks at the marketplace and there is nothing available in apartment complexes, something has to happen somewhere, we need to develop our future.

M. DellaVecchia commented that he went to the site walk, that the location appears larger because of its location. He also suggested that instead of a number of units, specify a number of bedrooms and suggested 180 to allow a mix of 1,2, and 3 bedroom units.

G. Ober agreed with the idea of using number of bedrooms but suggested a slightly higher number, 190 bedrooms, to allow the builder a little flexibility. She recognized the need for living units, and commented that it has held back companies because there is no market rate housing available for workers. This is consistent with the Master Plan.

G. Ober made a motion to approve application ZO2020-0108SE Province St. for a Special Exception

per Article V Section 235-26 Uses Permitted by Special Exception for a multifamily dwelling to allow for the construction of a 90 unit market priced apartment complex.

a. The use requested is specifically authorized in this chapter:
The use is authorized in the chapter by Special Exception.

b. The requested use will not create undue traffic congestion or unduly impair pedestrian safety: It will not create undo traffic, the project will be going to Planning Board for review, including traffic studies and the applicant is working on a second entrance. Pedestrians will utilize internal sidewalk on the premises.

c. The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets.

The use will not overload public water or sewer system, and the project will not create any significant increase in runoff, the soil drains well and a detention pond is proposed to minimize runoff onto adjacent property or streets.

d. The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.

The use will not create an excessive demand for municipal fire, police, schools or solid waste. The buildings will be sprinkled alarmed and complex will have hydrants. Solid waste is by private contractor.

e. Any special provisions for the use as set forth in this chapter are fulfilled.

Yes, they are/will be fulfilled. There are no special provisions for the multifamily apartment complex use other than height restrictions (35') and approval by the Planning Board.

f. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood.

The apartment complex will not create any hazards to the health, safety, or general welfare of the public because the apartment complex will not be detrimental or out of character with the adjacent neighborhood because of its isolation and privacy bounded by a cemetery and raw land owned by the City of Laconia and Lakes Region Business Park. There will be no noise or pollution caused by the apartment complex. There will be no view or contact with any residential abutters on Province Street.

g. The proposed location is appropriate for the requested use.

The proposed location is appropriate for the requested use because the isolated nature of the site, bounded by wooded portions of a cemetery, power lines, City of Laconia and Lakes Region Business Park.

h. The requested use is consistent with the spirit and intent of this chapter and the Master Plan.

The Zoning Ordinance allows Multifamily dwellings and apartment complexes by Special Exception in the RG Zone. The Master Plan for the City of Laconia mentions in several places the need for affordable mid-market priced housing for residents who work or who are moving into the area.

Condition of Approval: A traffic study be done as part of Planning Board application.

M. Foote seconded the motion.

Vote was taken by roll call. All in favor (5-0)

M. Foote made a motion to approve application ZO2020-0107VAR Province St for a variance from Article VI Section 235-33 Maximum Residential Unit Density to allow for 9 units per acre in the RG Zone to allow for the construction of a 90 unit market priced apartment complex.

1. Granting the variance would not be contrary to the public interest because:

An apartment complex (multifamily) use is allowed by the Zoning Ordinance; the apartment complex will not create excessive demand for municipal police, fire protection or schools; it will not create any hazards to the health, safety, or general welfare of the public because the apartment complex will not be detrimental or out of character with the adjacent neighborhood because of its isolation and privacy; no noise or pollution caused by the apartment complex; no view by or contact with any residential abutters; location of the apartment complex is appropriate for the required use because the isolated nature of the site; and the apartment complex is consistent with the spirit and intent of the Zoning Ordinance and the Master Plan.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The apartment complex is consistent with the spirit and intent of the Zoning Ordinance and the Master Plan. The Zoning Ordinance allows multifamily dwellings and apartment complexes by Special Exception in the RG Zone. The Master Plan for the City of Laconia mentions in several places the need for affordable mid-market priced housing for residents who work or who are moving into the area, as well as teachers, policemen, firefighters, nurses and other well paid professionals as well as factory and construction workers. This conventional market priced apartment complex will fill this need as stated in the Master Plan.

3. Granting the variance would do substantial justice because:

An apartment complex (multifamily) use is allowed by the Zoning Ordinance; the apartment complex will not create excessive demand for municipal police, fire protection or schools; it will not create any hazards to the health, safety, or general welfare of the public because the apartment complex will not be detrimental or out of character with the adjacent neighborhood because of its isolation and privacy; no noise or pollution caused by the apartment complex; no view by or contact with any residential abutters; location of the apartment complex is appropriate for the required use because the isolated nature of the site; and the apartment complex is consistent with the spirit and intent of the Zoning Ordinance and the Master Plan.

The only economically viable use is a 90-unit apartment complex and it is a gain to the owner and a gain to the public since it provides new affordable mid-market rentals for Laconia when they are so urgently needed.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

An apartment complex (multifamily) use is allowed by the Zoning Ordinance; the apartment complex will not create excessive demand for municipal police, fire protection or schools; it will not create any hazards to the health, safety, or general welfare of the public because the apartment complex will not be detrimental or out of character with the adjacent neighborhood because of its isolation and privacy; no noise or pollution caused by the apartment complex; no view by or contact with any residential abutters; location of the apartment complex is appropriate for the required use because the isolated nature of the site; and the apartment complex is consistent with the spirit and intent of the Zoning Ordinance and the Master Plan.

5. Unnecessary Hardship

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

The RG Zone allows 6 units per acre. The nearby RA Zone allows 9 units per acre. The subject site due to its isolation and no contact with any abutter and the fact that it is totally out of view is an appropriate site for an apartment complex. Subject is more like RA zoned land and can support the increased density due to favorable soil conditions and topography.

ii. The proposed use is a reasonable one because:

An apartment complex (multifamily) use is allowed by the Zoning Ordinance; the apartment complex will not create excessive demand for municipal police, fire protection or schools; it will not create any hazards to the health, safety, or general welfare of the public because the apartment complex will not be detrimental or out of character with the adjacent neighborhood because of its isolation and privacy; no noise or pollution caused by the apartment complex; no view by or contact with any residential abutters; location of the apartment complex is appropriate for the required use because the isolated nature of the site; and the apartment complex is consistent with the spirit and intent of the Zoning Ordinance and the Master Plan.

Condition of Approval: Maximum number of bedrooms allowed is 190

M. DellaVecchia seconded the motion.
Vote was taken by roll call. All in favor (5-0)

At 8:40 PM the Board took a five minute recess
At 8:45 PM the Board resumed the meeting.

9.IV. ZO2020-0110VAR 58 Edgewater Ave Variance Application (PDF)

Dave and Carol Varney presented their application to the Board. They explained that they are proposing a 24x24 garage next to an existing barn. The house and barn were built in the mid 1800s and they do not want to impede or cut into the barn. They are seeking a 2' variance to allow the garage to be constructed, the existing shed in that location is being removed.

At 8:53 PM S. Bogert opened the public hearing.
K. Hamel, 68 Edgewater Dr, noted he is the neighbor next door, he has no objections to the project.

At 8:55 PM S. Bogert closed the public hearing.

M. DellaVecchia noted that the neighbors house is on the opposite side of the lot and there was a stand of trees in between to provide visual buffer.

M. Foote made a motion to approve application ZO2020-0110VAR 58 Edgewater Ave for a variance from Article VI Section 235-35B to allow for the addition of a 24' x 24' garage.

1. Granting the variance would not be contrary to the public interest because:
Granting the variance would not be contrary to the public interest, it has no impact on the public.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The spirit of the ordinance would be observed, the majority of the building meets setback requirements, due to the age of the house and appurtenant structures to construct the garage requires relief.

3. Granting the variance would do substantial justice because:

It would do substantial justice as it will allow the owner to construct a garage, a structure enjoyed by many homes in the neighborhood.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

The property will be improved, it will not diminish the value of the surrounding properties.

5. Unnecessary Hardship

Due to the age of the existing home and barn (mid-1800s), which was built close to the side of the property, in order to build a garage without disturbing the historical nature of the barn, relief is required. The use is a reasonable one as it is a structure type that is enjoyed by many neighboring properties.

R. Maheu seconded the motion.

Vote was taken by roll call. All in favor (5-0)

10. PUBLIC HEARINGS, POSSIBLE CONSIDERATION AND VOTE Note: The Purpose Of This Agenda Section Is For The Board To Have A Presentation From The Applicant And Open A Public Hearing For The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

10.I. ZO2020-0114VAR 5 Parsonage Dr. Variance Application (PDF)

Daniel Brothers outlined his application to the Board. He is proposing a 28'x35' garage, the rear corner would extend into the side setback by two feet. He explained that he wants to line up the front with the existing shed he has on the property and due to the size and shape of his lot, the rear corner juts into the setback. He noted it is all wooded and would not be visible from the neighbor.

At 9:10PM S. Bogert opened the public hearing.

At 9:11 PM with no one to speak for or against the application, S. Bogert closed the public hearing.

M. DellaVecchia made a motion to approve application ZO2020-0114VAR 5 Parsonage Dr. for a variance from Article VI Section 235-35B to allow for the construction of a 28' x 35' steel garage.

1. Granting the variance would not be contrary to the public interest because:

The installation of the garage will have no impact on the public.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The large majority of the building meets setback requirements, maintaining the spirit of the ordinance. The encroachment is a small portion in the rear corner of the building.

3. Granting the variance would do substantial justice because:

It would do substantial justice as it will allow the owner to construct a garage in the best location on a narrow lot with no impact to the surrounding properties.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

The installation of the garage will not have any impact on the surrounding properties, their value would not be diminished.

5. Unnecessary Hardship

The lot is a long narrow lot in the RR2 zone which has substantial setbacks. The rear property line is not straight and the rear corner of the garage would encroach into the setback. The use is a reasonable one and is not out of harmony with the neighborhood.

R. Maheu seconded the motion.

Vote was taken by roll call. Three in favor (MD; MF; RM); Two opposed (GO; SB) Motion passes.

10.II. ZO2020-0115VAR 32 Pearl St Variance Application (PDF)

Jeff MacDonald, agent for the applicant, presented the application to the Board. He showed a photograph of the existing deck. The proposal is to remove the deck and replace with a bedroom addition. The footprint would be the same and the addition, like the deck, would not be visible from the street.

At 9:23 PM S. Bogert opened the public hearing.

At 9:24 PM with no one to speak for or against the application, S. Bogert closed the public hearing.

G. Ober made a motion to approve application ZO2020-0115VAR 32 Pearl St for a variance from Article VI Section 235-35B to allow for the replacement of a 16' x 16' deck with a 16' x 16' bedroom addition.

1. Granting the variance would not be contrary to the public interest because:

The project will have no impact on the public.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The spirit of the ordinance would be observed, it will allow the owners use of their home with no change in impact on the setback.

3. Granting the variance would do substantial justice because:

It will do substantial justice as it will allow the owners continued use of their home with no effect on the public.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

The project will improve the home and will not diminish the value of the neighboring properties.

5. Unnecessary Hardship

The home is non-conforming, the addition of the bedroom will allow the owner to remain in the home and it is a reasonable use and not out of harmony with the neighborhood.

M. Foote seconded the motion.

Vote was taken by roll call. All in favor. (5-0)

10.III. ZO2020-0116VAR 20 Winnicoash St Variance Application (PDF)

Jamie Irving, agent for the applicant, presented the application. He explained that they are proposing a second-floor addition to the existing garage, a portion of which is in the side setback. They are also proposing a small porch and entry stairs on the front of the house. The existing bay window from which it extends is in the front setback.

The Board briefly discussed the project.

At 9:50 PM S. Bogert opened the public hearing.

At 9:51 PM with no one to speak for or against the application, S. Bogert closed the public hearing.

G. Ober made a motion to approve application ZO2020-0116VAR 20 Winnicoash St for a variance from Article VI Section 235-35A&B to allow for the addition of a second-floor bedroom on existing garage and a covered front porch.

1. Granting the variance would not be contrary to the public interest because:

The project will have no impact on the public.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The spirit of the ordinance would be observed, it will allow the owners use of their home with no impact on the public.

3. Granting the variance would do substantial justice because:

It will do substantial justice as it will allow the owners continued use of their home, improve its appearance, with no effect on the public.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

The project will improve the home and will not diminish the value of the neighboring properties.

5. Unnecessary Hardship

The garage and porch are non-conforming, the addition of the second floor will not increase the footprint; the front porch addition improves the home and give the owner a safe entrance, it is a reasonable use and not out of harmony with the neighborhood.

M. DellaVecchia seconded the motion.
Vote was taken by roll call. All in favor. (5-0)

11. OTHER BUSINESS

11.I. Re-Hearing Request ZO2020-0109VAR 256 Gilford Ave (PDF)

S. Bogert, who was not at the December meeting, has read the minutes and understands the application. He feels he is able to participate.

The Board discussed the request for rehearing for application ZO2020-0109VAR 256 Gilford Ave.

M. Foote reiterated that the issue with the roaming dogs is an issue for animal control, not the Zoning Board and the scratching of the car is a civil matter between the neighbors. The dogs can go around the fence, it is aesthetically not pleasing and out of harmony with the neighborhood.

G. Ober reiterated that the ZBA is not the right venue for the issues that they are having with their neighbor.

M. DellaVecchia noted that the six-foot fence is not a resolution, the dogs can go around the front of it.

G. Ober made a motion to deny the request for rehearing for Application ZO2020-0109VAR.
M. Foote seconded the motion.

Reason for denial: Issues stated by the applicant are not in the purview of the Zoning Board of Adjustment. The issue of the dogs is an Animal Control issue; property damage is a civil matter.

Vote was taken by roll call. All in favor. (5-0)

12. ADJOURNMENT

At 10:04 PM R. Maheu made a motion to adjourn the meeting.

M. Foote seconded the motion.

Vote was taken by roll call. All in favor. (5-0)