

ZONING BOARD OF ADJUSTMENT  
MARCH 5, 2014 MEETING  
DRAFT MINUTES

- 21-13** **Carolyn A. Parker for VSH Realty, Cumberland Farms:** (Request for Rehearing) (Recessed to April 2, 2014) Applicant wishes to install a scroller type sign and requests Variances to Article 28-7-7, Signs Prohibited Under this Ordinance:
- 1) Section (a), to permit a sign which has parts and surfaces that physically or visually move when signs that have parts or surfaces that physically move are prohibited,
  - 2) Section (r), to permit an electronically activated changeable message sign (EMC) when EMC signs are prohibited in the City of Concord,
- for property at 47 Fisherville Road in a CG General Commercial District.
- 40-13** **Barlo Signs for Carlsons Motorcorp:** (Recessed to April 2, 2014) Applicant requests the Zoning Board overturn the Zoning Administrator's determination that the use of a remotely programmable electronic message sign for variable background illumination is a use that is not permitted under the City of Concord's Zoning Ordinance for property at 13 Manchester Street in a GWP Gateway Performance District.
- 41-13** **Barlo Signs for Baron's:** (Recessed to April 2, 2014) Applicant requests the Zoning Board overturn the Zoning Administrator's determination that the use of a remotely programmable electronic message sign for variable background illumination is a use that is not permitted under the City of Concord's Zoning Ordinance for property at 350 Loudon Road in a GWP Gateway Performance District.

A motion to recess case numbers 21-13, 40-13 and 41-13 was made by Marshall, seconded by Harrison and passed by a unanimous vote.

- 2-14** **Jo-Ann Kanter:** Applicant wishes to relocate a lot line which will result in an increase of the non-conformity of an existing lot of record and requests the following:
- 1) Variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit a lot line adjustment reducing an existing 7,059SF lot to 6,735SF where 10,000SF lot area is required and,
  - 2) Variance to Article 28-8-3, Non-conforming Lots, to grant non-conforming status to a substandard lot and allow future development or expansion of permitted uses,
- For property located at 18 Roger Avenue in an RN Residential Neighborhood District.

Attorney Mark Dunn testified. He was hired to represent the property owners at 3 Davis Street, the Kopczynski's. Attorney Steve Goldman who represents Mrs. Kanter asked him to speak for both clients. This is an amicable request. The two lots in question are 18 Roger and 3 Davis Street. These lots were created in 1928 by Edgar Eastman. The lots have not changed. The driveway on 3 Davis Street has been encroaching on 18 Roger Avenue since at least the early 1980's and most likely long before that time cars were parked in the side lot area. The Kopczynski's have very tight lot lines that make it difficult to get into the rear of their property. The rear of their property slopes down significantly. The lot line move will shift 324 s.f. from 18 Roger Avenue to 3 Davis Street. Nothing on either property will change, other than the lot line will be shifted. Approval of these requests will mitigate some driveway encroachment violations. Approval will not alter the character of the neighborhood. The driveway has existed since at least 1980. Approval will make it so that the driveway of 3 Davis Street will now be on their own property instead of the Kanter's property.

Marshall asked if there were any written agreement between the two property owners regarding the encroachment. Attorney Dunn stated that the Kopczynski's property was purchased in 2013. There has been none prior to that time.

Monahan asked if the easement had been recorded yet. Attorney Dunn stated that it had not yet been recorded. The last recording was July of 2013 when 3 Davis Street was purchased. Winters asked if they were just making legal what has been going on for years. Attorney Dunn said that that was correct.

In favor: none.

In opposition: none.

Comments from Code Administration: none.

DECISION: A motion to approve both requests was made by Harrison, seconded by Monahan and passed by a unanimous vote.

Winters & Harrison felt it was reasonable requests. Winters commented that the reasoning as presented in the applicant's application should be adopted by the Board as part of their approval.

**3-14 National Alliance on Mental Illness (N.A.M.I.) NH:** Applicant wishes to demolish an existing two car garage and construct a 2 story wood frame 1,152SF addition to an existing office building and requests:

- 1) Variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit the two story 24' x 24' addition with a 1 foot setback from the north property line where a 15 foot setback is required,
- 2) Variance to Article 28-7-7(f), Driveway Widths, to maintain (permit) a driveway width of 16 feet when a 24 foot width is required,
- 3) Variance to Article 28-7-12, Performance District Standards, Section, (b)(3), to maintain the existing parking lot in the front yard area when parking in a CVP Civic Performance District is to be located to the side or rear of a building,

For property located at 85 North State Street in a CVP Civic Performance District.

Steve Green, the contractor testified. Also present and testifying was Tammy Murray, the Chief Financial Officer of NAMI.

Mr. Green stated that they renovated this building 2 years ago. They put in a handicapped access to the building at that time. They would like to take the garage and demolish it to the foundation and rebuild a 2 story building. The first floor would be a training/conference room and the second floor would be 3 office spaces. The building is in the setback. The garage is the building least in the setback. There is no way to add to the building without encroaching into the parking, which complies at this time. In order to comply with the driveway width they would have to take down 2 mature trees. Traffic usage to and from the site does not warrant removing mature trees to widen the driveway. The new building would be in the same footprint as the garage. They will not encroach any more than is there now. They have already been through Architectural Design Review.

Marshall asked if with the addition there would still be enough parking spaces. Mr. Green stated that there would, including a handicapped space.

Ms. Murray stated that this request is part of a grant application. NAMI was encouraged to go through the process to strengthen their application for the grant.

Carley wanted clarification that the addition would be on the same foundation as the garage. Mr. Green stated that it would be the size and the same foundation. Marshall asked if there were vehicle access to North State Street. Mr. Green stated that there was no longer access on North State Street. They only have access on Maple Street. Monahan asked if this building still has a residential unit. Ms. Murry stated that it does not.

In favor: none

In opposition: none

Comments from Code Administration: The garage narrowly fell within the demolition review guidelines. The Demolition Review Committee has signed off on it. Monahan asked if the addition would affect the parking calculations. Craig explained the number of spaces required was based on the gross square footage of the proposed building and that the proposed parking plan was adequate.

DECISION: A motion to approve all three requests was made by Monahan, seconded by Marshall and passed by a unanimous vote.

Marshall felt that the parking would not change. It already exists and already is non-conforming. It is not a client service operation where traffic is not flowing all day. Justifies keeping driveway width.

(The use is reasonable and permitted on the site and there is no reasonable way to relocate the building, parking, or driveway that would improve the existing conditions. The vertical extension of the proposed addition will not have a negative impact on surrounding properties or be detrimental to public services. There will be no significant increase in traffic that necessitates widening the driveway. The loss of existing mature trees would not be outweighed by the improved traffic flows.

**4-14** **Nicholas Hedges**: Applicant wishes to demolish an existing one car garage and family room and construct a new one car garage and family room and requests a variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit the new garage to be built with an 11 foot side setback where a 15 foot setback is required for property located at 27 Conant Drive in a RS Residential Single Family District.

This case was heard by a four member Board. Mr. Harrison recused himself.

Nicholas Hedges testified. He agreed to a 4 member Board. He explained his site. The garage is undersized and cannot fit a standard sized car. He would like to take it down and rebuild it to make it more functional. The garage will be moved back on the site to make it wide enough. The new garage will go back and one foot over. Carley asked if the garage gets wider and it goes more into the rear setback. Mr. Hedges stated that that was correct. That would still allow access on the grass to get to the back yard.

Marshall asked if the square footage of the addition will be larger than what exist now. Mr. Hedges stated that it would. Monahan asked if there were a foundation under the garage now. Mr. Hedges stated that it was on a slab. Carley asked how old his home was. Mr. Hedges stated that it was built approximately 1957. The garage was added at a later date. He would like to make his home more functional. Marshall asked if the new garage will be 14 feet wide. Mr. Hedges explained the site plan and the new garage size. Mr. Walker stated that the new garage would be 14 feet 5 ½" wide. Winters questioned if he built the garage the same dimension, would not function well. Mr. Hedges stated that if it were built the same size you wouldn't be able to open the car doors.

In favor: none.

In opposition: none.

Comments from Code Administration: none.

DECISION: A motion to approve the request was made by Monahan, seconded by Winters and passed by a 4-0 vote.

Marshall felt that these changes to the property will add to the value. It is a reasonable request as the building and property are somewhat non-conforming as it is. This is basically the minimum variance necessary for a reasonable renovation and due to the existing conditions of the property cannot be otherwise accomplished. There will be no negative impact on the value of surrounding property. There will be no negative impact on the public interest or services.

**5-14** **Morning Rise Real Estate, LLC. For Charles E. Quirion, Jr.:** Applicant wishes to construct a drive-thru / carry-out retail food service use and requests a variance to Article 28-7-2(e)(I), Drive-Through Service, to provide a food service drive-through with 9 stacking spaces from the point of the ordering window when 11 stacking spaces are required for property at 245 Loudon Road in a CG General Commercial District.

This request was withdrawn by the applicant.

**6-14** **Thomas & Sandra Perry:** Applicants wish to remove an existing manufactured home with attached porch and carport and replace it with a conventionally constructed house and garage and request a variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit the construction of a building with a 39 foot front setback where a 50 foot setback is required, all at 36 Snow Pond Road in an RO Residential Open Space District.

Tim Bernier of TF Bernier, a land use consulting firm testified. Also available to testify was the property owner Thomas Perry. Mr. Bernier passed photos to the Board. The lot has wetlands in the back. The lot goes out to Snow Pond. There is an existing mobile home on the lot now which is 26 feet from the front setback. The mobile home was built in 1963 and has pretty much outlived its use. There is no way to purchase the same size mobile home. A stick built home would be most appropriate. They would like to build a 2 bedroom cape style home. They will have a center front door on the house, which usually has steps but the steps would be 4 feet more into the front setback. The new house will be 39 feet from the front setback. They have moved the house further back than the mobile home was located. They have tried to squeeze the house between the wetlands buffer and the street. It was designed based on trying to meet the intent of the wetland buffer and front setback required. They will need a Conditional Use permit from the Planning Board. They feel this is the best location to minimize the front setback impact. He has a State of NH approved septic design. The existing septic is too close to the wetland and could not be replaced so they are getting a new State of NH approved septic system.

Carley asked for clarification of the plans with the new home on it. Harrison asked about the location of the existing septic system. Mr. Bernier explained. Monahan asked if they had multiple wells. Mr. Bernier stated that there was a dug well and a drill well replaced it. Winter asked about the front steps. Will it encroach into the setback more than what was noticed on the application? Mr. Bernier stated that it would. The front setback is 35 feet to the front steps and 39 feet to house. Mr. Walker said he would look into that. He asked the Board to act on what was noticed for tonight's meeting and he will look into the step issue.

In favor: none.

In opposition: none.

Comments from Code Administration: A "manufactured home" would not be allowed at this location as they are not permitted outside of a manufactured housing park.

DECISION: A motion to approve the request was made by Harrison, seconded by Marshall and passed by a unanimous vote.

Harrison felt it was a unique situation. They have a new septic system, a small lot and this would definitely be an improvement. Marshall stated that a hardship does exist. There is no place to put a home on this lot and the property could not be rebuilt on without the variance. The use is permitted in the district and a new house will improve property values.

MINUTES of February 2014: A motion to approve the Minutes was made by Winters, seconded by Monahan and passed by a unanimous.

Comments from the Zoning Administrator: Mr. David Parker has resigned from the Board. He will be missed and his years of service are greatly appreciated.

A TRUE RECORD ATTEST,

Rose M. Fife, CLERK  
ZONING BOARD OF ADJUSTMENT