

**ZONING BOARD OF ADJUSTMENT
SEPTEMBER 3, 2014 MEETING
DRAFT MINUTES**

Board members present included Chairman Christopher Carley, Nicholas Wallner, Rob Harrison Jr., James Monahan and Andrew Winters. Also present was Zoning Administrator Craig Walker and Clerk of the Board Rose Fife.

- 19-14** **Ron Richter for RNL Properties, LLC.**: Applicant wishes to develop a residential planned unit development (PUD) of 4 duplexes and 6 single-family dwellings in addition to an existing 3 unit multi-family dwelling and requests the following:
- 1) A variance to Article 28-4-8(d)(1), (Permitted) Principal Uses, to permit the inclusion of an existing 3 unit multi-family dwelling as part of a PUD when multi-family dwellings are only permitted as part of PUD developments for the elderly,
 - 2) A variance to Article 28-4-8(e)(1), Minimum Tract Requirements for a PUD, to permit the development of a PUD on a 5.6 acre tract of land when a minimum tract size of 10 acres is required for a PUD in a Residential Medium Density District, and
 - 3) A variance to Article 28-4-8(f), Perimeter Buffer Required, to permit the reduction of the buffer on the easterly side of the property to 15 feet where a 50 foot perimeter buffer is required adjacent to the 2 story duplexes and a 30 foot perimeter buffer is required adjacent to the single story single family dwellings,
- for property at 61 Borough Road in an RM Residential Medium Density District.

Board member Harrison needed to recuse himself and could not hear this case. Chairman Carley explained to Mr. Richter that the Board would only consist of 4 members this evening for this case, not 5 members. Carley advised Mr. Richter he had the right to be heard by the 5 member Board and if he wished the case could be recessed. Mr. Richter stated he would like that. The Board recessed the case until the October 1st meeting at 7 pm. Walker advised the audience that since the case was recessed until October 1st no additional notice of the meeting would be sent in the mail and that the case would be taken up at the October 1, 2014 meeting at 7:00PM.

- 21-13** **Carolyn A. Parker for VSH Realty, Cumberland Farms:** (Request for Rehearing) **(Tabled until October 1, 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:** **(Tabled until October 1, 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:** **(Tabled until October 1, 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.

- 29-14** **Jonathan Chorlian for Suzanne M. Ellinwood Trust:** Applicant wishes to convert a single-family dwelling to a 3 unit condominium (a conversion permitted by right) and requests the following:

- 1) A variance to Article 28-4-1(h), Table of Dimensional Regulations, and 28-7-7(g)(1), Parking Restrictions in the Required Front Yard, to permit construction of a garage with a minimum front setback of 7 feet where a minimum setback of 15 feet is required;
 - 2) A variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit construction of a garage with a minimum side setback of 5 feet where a minimum setback of 10 feet is required; and
 - 3) A variance to Article 28-7-8(a), Restrictions on Backing into a Street, to allow a parking area design in conjunction with a multi-unit building that requires backing into the street to exit the parking area;
- for property located at 78 School Street in an RN Residential Neighborhood District.

Chairman Carley stated that the Board heard this last month but there was a defect in the notification as well as a new variance request added and Mr. Monahan had not sat on the previous hearing.

Mr. Chorlian stated the property was located at 78 School Street. The home is currently a 6000 s.f. single family home. His intent would be to create a condo project; a 3 unit high end condo project. Adequate parking is the issue at hand. The conversion is allowed by right. The Zoning Ordinance requires 6 parking spaces. With the in-town neighborhoods it's impossible to create some of the required parking and meet all the zoning requirements. He showed the Board his conceptual sight plan and explained it. The 2 car garage would be replaced with a 6 car garage. It would look like a 3 car garage but it will stack 2 deep. They are pulling the proposed garage a little closer to Summit Street (7 feet). They are doing that so that cars cannot park in front of the garage. Some vehicles would back into the street, which requires a variance. The last variance relates to the location of the garage in relation to 27 Merrimack Street. Carley asked if he was looking for a 5 foot setback or less than 5 feet. Mr. Chorlian stated they are looking for a 5 foot setback. Mr. Chorlian stated that he felt this represented an artful balance that is good for the neighborhood and the City. It is an in town location, which always has these issues. It is a reasonable balancing to try to preserve as much green space as possible.

Mr. Monahan asked if the current house were occupied right now. (It is currently unoccupied.) He asked to see how the garage would line up with the Gustafsson's garage. (Street view graphics were displayed)

Wallner asked about the expansion of the garage to accommodate 6 vehicles. What is the hardship that creates bringing the garage closer to the road? Mr. Chorlian feels that he is creating more parking and he is trying to conserve the green space. He is creating a barrier so that people do not park in front of the garage and make it unattractive. Monahan asked for clarification of entering and exiting the garage. Are you removing the swimming pool and putting a curb cut there? (Yes.) Carley asked how far the Summit Street wall of the garage will be from the street itself or the sidewalk. (From the street itself 14 feet.) At 14 feet the car would be sticking out into the street. (That would be his hope.) If someone where to park on the Summit Street side in front of the garage then the parking configuration would not work, correct? (He will do all he can to restrict that from happening.)

In favor: Martha Torrey. Lives at 18 Tahanto Street. She has a 5 car carport. Her experience has been that they have to back out onto Tahanto Street and it's been fine. They have lived there almost 8 years now. She feels this will work.

Leslie Thomas, 76 School Street. They agree with the condo project. She likes how the garage is being tucked to the back side of the property. She doesn't mind the 7 foot dimension being requested. On the 5 foot side yard change, she'd like to see him maintain greenery. Backing out into the street – probably most already do it. Not much a change to the neighborhood as well. Feels it is a good project.

Richard Love, lives across School Street for 25 years and have only known that house to be a single family home. Sooner or later this home won't be able to be maintained as a single family home. The conversion to condos is a salvation. He would hate to see this turned into an absentee owner apartment building. Feels this proposal is a tasteful way to do it.

Carley read a letter from Michael Gfroerer of 12 Tahanto Street in favor.

DECISION: A motion to deny request #1 was made by Wallner, failed for lack of a second. A motion to grant request #1 was made by Harrison, seconded by Winters and passed by a 4-1 vote with Wallner in the minority. A motion to approve requests #2 & #3 was made by Monahan, seconded by Harrison and passed by a unanimous vote. Monahan felt it was a creative use of the footprint of the current garage and parking.

Monahan asked Walker if there were on street parking on Summit Street. (On one side on the east side of Summit Street per Mr. Love.) Harrison felt it was a reasonable use of the property. Due to grade changes and “pinch” points between the bay window it was reasonable to move the garage closer to the street. There would be no negative affect on property values since it would be no significant change to traffic flows onto Summit Street. Carley expressed concern with granting a Variance for something that had not been define or clearly shown on the site plan but felt in this case they could say that it could be no closer than 5 feet to the property line. Wallner wasn’t persuaded of the hardship issue for the setback to the road.

27-14 [Jennifer Batchelder for Millwood Partners, LP VII](#): Applicant wishes to add a “doggy day care” use to and existing pet grooming salon and requests the following:

- 1) A variance to Article 28-2-4(j), The Table of Principal Uses, to permit a doggy day care (kennel use M-8) where such use is not permitted and
 - 2) A variance to Article 28-5-29, Commercial Kennels (outdoor facilities), to permit an outside animal yard area accessory to the doggy day care,
- for property at 248 Sheep Davis Road, unit #7 in a GWP Gateway Performance District.

Jennifer Batchelder and April Begosh testified. Jennifer owns the grooming shop at 248 Sheep Davis Road Suite 7. She’d like to add a doggie day care that April will operate. April testified that a dog grooming is a service business and doggy day care is classified as a kennel use. This location allows them to be in a corridor accessible by most parts of the City. This will not disturb neighbors as there are only commercial uses in the building and immediate vicinity. Past owners had similar uses there. They would also like to have an outside area.

Carley asked where the animal yard would be. April stated that it would be on the back of the building. The units are 25 feet wide and they will fence in 24 feet of that and bring it out 24 feet, which would still allow a 40 foot path for delivery trucks, etc for the adjacent units. Carley asked who the neighbors are to the south and east next to the units. April stated that to the south is North Pembroke Road. The Shell gas station is across the street. Jennifer stated that on the North is another set of buildings. Carley asked about what is to the east? April stated that there is nothing behind them. Carley asked if the unit tenants were notified. (Walker explained that they were not, only the property owner.) Carley asked who the tenants are. Jennifer stated that to the south side the building has 2 units that are empty and on the end there is some sort of manufacturing, welding use. To the north is a dance studio; Dance Inspirations is the studio and that business is aware of their request. Winters asked how many units total in the building. (The building is 10 units.) Carley asked Walker if the grooming business is allowed by right. (Yes, Personal Service Use)

In favor: none.

In opposition: Jeffrey Cyr who lives at 216 Pembroke Road. He is the neighbor that will be listening to the outside doggy day care. The previous setup for doggy day care was entirely inside, except for some dog walking. There is an aquifer protection area back there he is concerned with. Who is going to clean up after the dogs, etc. What are the hours of operation? (Winters stated that he read it was from 7 am to 6 pm.) Is it Monday through Friday? How many animals? They average about 25-30 trucks per hour (on Pembroke Road) during day light hours as it is. How much more noise are they going to add to this district. April runs a nice business, he is a customer of hers. He is just concerned about the kennel as he believes it does not fit the property.

Wallner asked how far he was from the back of that building. (He is approximately 500 feet.) Winters asked if it were primarily the noise he was worried about. (Yes.)

Comments from Code: Walker gave a short history on the property. When units were built it was zoned industrial. It is now a Gateway district.

Rebuttal: April stated that the space can’t accommodate more than 20 dogs. The outdoor space would be circulated so that 20 dogs will never be outside at once. Maybe 5 to 6 at a time. The dogs would never be unsupervised. Their hours would be 7am to 6pm Monday through Friday. The outdoor yard excrement is bagged and put into a container and a pet service comes in and takes it off site. Wallner asked if there were any operation on Saturday or Sunday. April stated that there would not be for the doggy day care. Harrison asked what they plan to do with the asphalt. April stated that they would use sand or pea stone.

Walker: The prior use did not include a doggy day care use, it was pet grooming, pet supplies and doggy training. This is a complete new use.

DECISION: Monahan asked Walker if there was anything in the City Ordinance that would limit the amount of dogs at the facility at once. (No, only the limits they have imposed upon themselves through testimony and presentation) Wallner stated that they had verbal testimony on the number of dogs. Winters asked a classification question to Walker. If this was granted, a noise complaint could still be made and enforced, correct? (Right.) Harrison is not sure that the dog kennel is consistent with the current neighborhood.

A motion to deny both variances was made by Harrison and seconded by Monahan. Discussion ensued. Harrison and Monahan spoke of the asphalt parking lot and the 24 x 24 run. Monahan felt this building does not seem to be set up to have outside activity. Carley heard no hardship. Harrison agreed. Motion to deny passed by a 4-1 vote with Winter in the minority.

28-14 West Congregational Church: Applicant wishes to construct a parking lot for 2 accessible parking spaces at the corner of Hutchins Street and Garrison Street and request the following:

- 1) A variance to Article 28-7-7(f), Driveway Widths, to permit a driveway width of no less than 12 feet when a 24 foot wide driveway is required for two-way traffic, and
- 2) A variance to Article 28-7-7(g), Setbacks and Restrictions, Section (1), to permit a portion of the parking lot to be located within the required front yard setback area for a non-residential use in a residential district, for property at 499 North State Street in an RN Residential Neighborhood District.

John Hutchinson and Carol Tate testified. John stated that they feels it is important to have handicapped parking as close to the building as possible. He drives the church bus so he understands the present state for their handicapped church goers. They park on Garrison Street. The proposed handicapped spaces are on the corner of Hutchins Street and Garrison Street. They want to take a piece of the property that has a shed and grass and put a couple of spots there.

Monahan asked what the total space that they have there now. (The area of parking and loading facilities if 5,390 s.f.) Walker stated from the edge of the building to the corner is about 40 feet along Hutchinson Street. Monahan asked if they were proposing to use 12 feet for handicapped parking space. (Carol: The 12 feet would be the width of the drive coming in and then it would widen out and there would be 2 head in handicapped spots there.)

In favor: none.

In opposition: none.

Comments from Code Administration: none.

DECISION: A motion to approve both requests was made by Harrison, as he felt it was a reasonable use, seconded by Monahan, who thinks the nature of the property being on a hill makes it challenging to accommodate handicapped folks now, and passed by a unanimous vote.

A TRUE RECORD ATTEST,

Rose M. Fife, CLERK
ZONING BOARD OF ADJUSTMENT