

**ZONING BOARD OF ADJUSTMENT
APRIL 1, 2015 MEETING
DRAFT MINUTES**

Board members present included Chairman Christopher Carley, James Monahan (Conflict with Case #7-15), Nicholas Wallner, Rob Harrison, and Andrew Winters. Also present was Zoning Administrator Craig Walker and Clerk of the Board Rose Fife.

03-15 Concord Coalition to End Homelessness: Applicant wishes to establish a non-residential social service center (Use B-6) and requests relief from the parking standards as follows:

The Board recessed the following item at the March 4, 2015 hearing with the request that the applicant return at the April 1, 2015 meeting to present more specific information about what can be done to provide an accessible parking space on the property.

Item #2: Variance to Article 28-7-5, Requirements for Handicapped Accessible Parking Spaces, to provide no zoning-compliant handicapped accessible spaces where 1 space is required, For property at 238-240 North Main Street in a CU Commercial Urban District.

Attorney Richard Uchida testified. He submitted an informational handout. The Concord Coalition to End Homelessness (CCEH) cannot provide a fully compliant handicapped parking space. They can provide a handicapped parking space on the left side of the property. It would be a 10' x 27' hard packed gravel parking space with a sign asking the drive not to be blocked. They have tried to provide a dedicated handicapped space that will remain open unless needed by the handicapped. The space just doesn't meet all dimensional requirements.

Winters asked how it fails to comply with all of the regulations. Attorney Uchida said that for a van accessible space you would need an apron for someone to get out on and they don't have the width there to provide it.

Walker stated that the space is needed due to the change of use of the building. Most of the work being done is cosmetic and no significant renovations being done that would, however, trigger accessible ramps to be installed.

In favor: none.

In opposition: none.

Code: none.

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

Wallner feels a variance is warranted for a handicapped spot. Reasonable accommodations are being made to provide for an accessible space on-site and it would be over burdensome to require and additional site development.

06-15 Loretta Y. Webster: Applicant wishes to establish a physical therapy clinic (office of healthcare practitioner, use E-3) and equestrian center (use M-6) and requests the following:

- 1) Variance to Article 28-2-4(j), Table of Principal Uses, to permit the establishment of an outpatient pediatric clinic (Use E-3),
- 2) Special Exception under Article 28-2-4(j), Table of Principal Uses, to permit an equestrian center (Use M-6) subject to the supplemental standards of Article 28-5-28, Raising or Keeping of Livestock or Poultry,
- 3) Variance to Article 28-5-28(a), to permit a building for keeping horses, and associated facilities to be located within 150 feet of the property lines (27' +/- front, 105' +/- west & 130' +/- east),
- 4) Variance to Article 28-7-7(g)(1), Parking restrictions in the required front yard, to permit off-street parking and drive aisles associated with a non-residential use to be located in the required front yard in a residential district,

- 5) Variance to Article 28-7-7(g)(2), Setbacks from lot lines, to permit a portion of the parking to be within 5 feet of the front lot line where a 5 foot setback is required,
All for property located at 297 Pleasant Street transected by an RM Residential Medium Density District and an RO Residential Open Space District boundary with the proposed buildings and use to be located on that portion of the property located in the RM Residential Medium Density District.

Testified: Loretta Webster, property owner, Web Stout, Surveyor of record and Colleen Sullivan, purchaser. Web Stout made the presentation. For orientation purposes Walker explained to the Board that this was the previous Douglas Everett property located on the south side of Pleasant Street. Mr. Stout put maps up for the Board to see and explained the site. It is a long narrow property that broadens out at the back. It's approximately 31 acres. The existing building in the front has parking as required by zoning. They are proposing a 4000 s.f. addition to the barn and a separate building not shown on the plans to be used for an inside ring for the horses. This use is for children with disabilities. Colleen Sullivan submitted a packet of information. Ms. Sullivan is the owner of Pediatric Physical Therapy. She has operated that business for 30+ years. She has about 18 employees. 60% of the work is done off site at a local school district and 20% is done in a clinic on Hall Street and 15% is done with HIPPO therapy and pool therapy. They often have a long waiting list for Hippo therapy. She would like to provide a clinic where children can come and participate in therapy programs. The location here is perfect. Prior to renting a space on Hall Street they were on the Hospital Campus at the Pillsbury building. She would like to purchase this property and create a therapy center for children with disabilities in this area. They now have 5000 s.f. and can downsize as they see 15-20 children a maximum per week (day). They rent time at local hotel pools. This is often very crowded and over stimulating for the children. She would like to provide all aspects of their therapy in one location. It nicely fits into the medical community in that area. It is in direct proximity to veterinary clinics and health care centers. It's easy access to many of her clients. She has a low volume of clients that attend the clinic as most of the practice is done throughout local school districts. This property has sufficient space. It has open areas as well as a residential home. If she were to build a stable or a riding area for children it would be small. It would not be a public facility. It would only be for the practice. A maximum of 4 horses will be housed there. They will not board other horses or offer public riding lessons. The property has sufficient space for parking, it is easily accessible, and it has a flat surface for wheelchairs and walkers. The current residence would be occupied by either herself or a renter to care for the animals and supervise the property at all times.

Monahan asked if the property is now being used as just a residential home. Ms. Sullivan stated that it was. Monahan asked if there were no business activity on the property now. Ms. Sullivan stated that there was not. Harrison asked if she had no riding therapy anywhere now. Ms. Sullivan stated that she's been doing riding therapy for 20 years and has been practicing out of 2 barns.

Walker stated this is an RM zoning district. Carley asked if it were strictly residential. Walker stated that a residential social service center and/or assisted living facilities would be permitted by right or Conditional Use Permit. Monahan asked if on the other side of the street there was Russell Animal Hospital. Does the zoning line go down the middle of the street? Walker stated that Russell Animal Hospital is the last property in the IN zone on that side of the street. Carley explained that with a use variance the Board has to find that there's a hardship involved in attempting to enforce the Ordinance as it is written and there are criteria to meet. What hardship is peculiar to this property? Ms. Sullivan stated that the distance from the road that would need to be traveled to build the facility within the open area. Walker stated that RM or RO zone does not allow the health care use. Walker asked the applicant what was unique and special about this property that makes it reasonable to grant a variance to allow this type of use there. Ms. Sullivan stated that the property has an existing building that is a potential residence for the kind of supervision that would be needed for a Hippo therapy program. The property is close to medical facilities, close to past locations, has a pool, and has 30 acres of space that is not typical found in areas that are easily accessible. Monahan asked if there were quite a slope to that property downhill to the point that it wouldn't be suitable for agricultural uses. Mr. Stout said that the property slopes to the sewer line and then it is flat all the way down. He could add that it is a residential neighborhood. The configuration of the lot doesn't lend itself to a residential development. Monahan asked if it was surrounded by institutional uses. Walker said that there are 7 lots on the east and a couple to the west of the property that are residential. That section has been specifically zoned as residential and the back portion is an RO zone. Wallner asked where the stable unit would be located. Mr. Stout showed them the (approximate) location on the plan. Wallner asked if further back on the property they would meet zoning setback requirements. Mr. Stout said that they could but access is difficult. Ms. Sullivan added that her vision was to keep with the agricultural nature of the property. She would like to provide a space for children with disabilities and their families to be outdoors. Carley asked Ms. Webster, the property owner, why not keep the

property as a residence? Ms. Webster stated that Ms. Sullivan approached them and what she has planned for the property is a perfect fit and a good thing. Winters asked if there were any other properties that would not require these types of variances in the area. Ms. Sullivan stated that she hasn't looked at great lengths as she's been discussing this with Ms. Webster for a couple of years. Wallner asked if there were any other horses in the area. Ms. Webster stated that there is a farm across the street.

In favor: none.

In opposition: Robert Fishwick, 289 Pleasant Street. He resides in the general vicinity of the 4000 s.f. building and the barn. He appreciates her vision. He is a physical therapist and his wife is a nurse. The issue that they have is that this is a residential zone, not an IN zone or a medical zone and it is not designed for clinics. His concerns is that he doesn't want to see another building or barn. He lives 3 houses away at 289 Pleasant Street. The back yard does slope down significantly. His yard is a 30% grade down. The back area is wet all the time from snow melt to August. This is not in the best interest of the neighborhood.

Babbett Rittmeyer, 292 Pleasant Street. She lives across the street and up the hill and has 2 horses in her barn. How many children will be seen a day or is it a week? It was not clear what the existing buildings would be used for. Where is the placement of the proposed barn? Parking impact is another of her questions. How many spaces allotted and will they be on the road. Carley showed her the plan that was submitted. Carley then invited Web Stout to explain the plans to the neighbors. Web explained that they have to provide off street parking; 19 spaces provided per zoning.

James Bailey, 295 Pleasant Street. He lives on the eastern border of the property. He is not fully in opposition. He's concerned about a variance that allows for a barn that we don't yet see a plan for.

Carley stated that generally the Board does not grant variances for things they cannot see, i.e. the barn. That piece of the request is probably going to be moot tonight as the Board does not have a plan before them.

Katherine Baldwin, 191 Pleasant Street. She lives 2 doors up towards Concord from the property. She has 2 children. The added traffic and cars that would be going by is of concern. Her children are small and they are outside a lot. There is quite a curve in the road there. Concerned with more strangers in the area.

Laura Bailey, 295 Pleasant Street wanted to know if enclosing the pool would be a consideration.

Comments from Code: Walked agreed that the location of the barn is a concern of his also. He spoke with the applicant about it a little bit. The discussion then was that it would be located near the addition.

Rebuttal: Ms. Sullivan addressed the questions asked. Location of the barn: she has not had an engineer or architect go out there yet as she wanted a sense of the board's thoughts as it is a huge financial burden without their approval. Traffic into the property would be a minimal impact as to what is there now. She sees 15 children in the clinic. Carley: asked what her hours would be. Ms. Sullivan stated they would be 8:30 am to 6:00 pm. Carley asked if the children arrived all at once. Ms. Sullivan stated that they would be spaced out. They come for an hour with a family member. There are three therapists in the office at any one time. The afternoons from 2 pm to 6 pm would be busy. Hippo therapy program: in the winter they would see 15 children a week spread out over a course of several days. She would reside in the home or she would rent it. She sees herself there living to care for the animals, etc. Pool: she hasn't had an engineer look at the pool. It is old. She's not sure if it's workable or if they may have to install a smaller pool and it will be enclosed to be able to be used during the winter. Winter asked if the barn had to be within 150 feet of the property line. Mr. Stout said that the setback for the barn is 150 feet on either side but the property is not 300 feet wide so they would not meet the setbacks for the barn. Winters asked why they couldn't build it further down. Mr. Stout said that it dealt more with her caring for the kids. Winter asked if it were too far from the other activities. Mr. Stout said yes. Walker reiterated that an equestrian center would be permitted within an RO zone by right, not an RM (SE in the RM).

DECISION: The Board agreed that they could not take action this evening on request #3. Harrison said he was inclined to Table the whole case until they see where they want to put the building. Winters felt that the use request stands alone. Monahan is troubled with the hardship. It wasn't part of the presentation by the applicant. The area is more residential. Winters said that in fairness to the applicant if they can rule on variance 1 it would save them quite a bit of

effort into designing the rest. Carley said that if the Board is not disposed to granting the use they should say so now. Carley felt that the argument for hardship wasn't very well made. Harrison felt that there was enough going on in this area that he would be inclined to allow that. Carley said the neighbors were concerned. Harrison felt that the case was not complete. Carley can see a glimmer of an argument that this 30 acre parcel is suitable for this use and may not be incompatible with the residential uses and it is not compatible for subdivision. Harrison said it is unique as it is 30 acres and it doesn't have a lot of road frontage and it could be wet outback.

A motion to **Table** the whole case was made by Harrison, seconded by Monahan and passed by a 3-2 vote with Wallner and Winters in the minority. The rationale is that a key piece of information is missing. Where is the barn going? What is the configuration of the pool? The Board feels that with regard to the variance from Principle Uses, they are not ready to make a decision as they have not heard enough information to make a decision

07-15 Riverbend Community Mental Health: Applicant wishes to convert second floor space into two 2 bedroom apartments, to be used as a Residential Social Services Center (Use A-12) and requests a Variance to Article 28-2-4(j), The Table of Principal Uses to permit a Residential Social Service Center at 40 Pleasant Street in a CBP Central Business Performance District.

Monahan recused himself. Case was heard by a 4 member Board.

Attorney Daniel Luker testified as well as Alan Moses, the Senior VP of Riverbend Community Mental Health. Also available for testimony were Jay Bliss and Sunshine Fisk, Controller.

Attorney Luker said that the general purpose of the CBP zone was to provide for a wide range of uses. This is not a multi-family use. They are asking for just 2 units. It's a residential social service center, mostly. This is for half of a space that is already completely utilized by 30 or 40 people in an allowed clinical office use. This is for people that need immediate assistance and counseling for acute psychiatric episodes and they can only stay there for 7 nights. There will be no exterior changes to the building. Interior use only. They will remove office space that exists there now and put in 2 two bedroom apartments and office/sleeping area for staff that is there around the clock. This property is unique as they have been utilizing this building for this type of use for 30 to 35 years. This provides a complimentary safety and support for people who are in crisis. It is small scale. He feels they meet the hardship standard as the property is unique. This is part of a court ordered upgrade in state wide mental health systems. The values of the surrounding properties won't be diminished. The surrounding properties are mostly businesses.

Alan Moses spoke. He gave an overview of the building. They call it Pillar House. Riverbend has owned the property since 1980. They also own the former Concord Monitor building next door. The building has 50-60 staff that works there now. They were awarded a 3.5 year contract to complete this from the State as part of a Court Ordered mandate. They are only renovating the 2nd floor. He showed the Board plans of what the new 2 bedroom apartments would look like. Staff will be there 24/7. There will be 2 staff there all the time, every shift. The regulations for clients are that they can stay there for no more than 7 days. For the most part the community doesn't expect to see much different than what is there now. It is a good location for the project and society. They will call it the Behavioral Health Urgent Care Center.

Harrison asked if currently no people were seen there. Mr. Moses said that that no clients/patients are residing in that building now. But they see lots of people there. Winters asked if it falls into the definition of residential social service center but it is not a classic residential social service center. Attorney Luker said that is correct. It is a mini residential social service center.

In favor: none.

In opposition: none.

Code: none.

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

08-15 Thomas A Roy: Applicant wishes to locate a dwelling unit on the ground floor of a mixed use commercial/multi-family building located in a CBP Central Business Performance District where dwelling units are required to be located on or above the second story of the building and requests a Variance to Article 28-4-5(e), Development Standards in Performance Districts, Section (4), Locational Restrictions, and Article 28-5-48, Central Business Performance District Standards, Section (a), Multi-Family Dwellings, to permit the subject dwelling unit to be located on the ground floor of the rear of the building and requests that the Board recognize that the remainder of the rear portion of the building is vested as a parking/storage use for property located at 59 South Main Street in a CBP Central Performance .

Testified: Thomas Roy and David Jaquith, Architect.

Mr. Jaquith explained the request. The ground floor normally stays retail/office use. This unit is in the rear of the building on the ground floor which is below the first floor of the S. Main Street frontage. The Zoning Ordinance, as written, really doesn't cover this type of use in its location. Carley asked if this would face east. Mr. Jaquith said East and north. Walker read the Ordinance section to the Board to help clarify why the applicant was before them. Winters asked if there was store front on S. Main Street. Mr. Jaquith said that was correct. Mr. Winters asked if it were occupied now. Mr. Jaquith said it was. Mr. Winters asked what it was historically used for. Mr. Jaquith stated that it has been used as a warehouse/garage. Mr. Winters asked if this would not be an attractive store front. Mr. Jaquith said no. Carley wanted clarification on the other request noted regarding vested parking/storage. Walker explained that traditionally that has been used for parking/warehouse space. He put the request in there for the record so that if the Board granted the variance it recognized that the rest of the use on that ground floor is utilized in this manner.

In favor: Marianna Latchis. She owns the property next door to the north. She wanted to know where the entrance to the apartment would be located. Is this technically at the garage level? Or is it first floor?

In opposition: none.

Code: none.

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

MINUTES: A motion to approve the March 2015 Minutes was made by Wallner, seconded by Harrison and passed by a unanimous vote.

A TRUE RECORD ATTEST,

Rose M. Fife, CLERK
ZONING BOARD OF ADJUSTMENT