

**ZONING BOARD OF ADJUSTMENT
DECEMBER 5, 2012 MEETING
DRAFT MINUTES**

Board members present included Chairman Christopher Carley, Nicholas Wallner, David Parker, Ben Kelley, Robert Harrison Jr. (conflict with case #44-12) and James Monahan (for Case #44-12 only). Also present were Zoning Administrator Craig Walker and Clerk of the Board Rose Fife.

44-12 Jeremy Woodward for Gloria & Pasquale Alosa: Applicant wishes to convert 2,700 SF of Office Space to a Privately Owned Indoor Health and Fitness Center (use C-4) and requests the following Variances:

- 1)to Article 28-7-2(e), Table of Off-street Parking Requirements, to permit a net increase in parking demand of 14 parking spaces for a total site demand of approximately 377 parking spaces when approximately 305 spaces are provided for a site containing mixed office, retail, service and residential uses,
- 2)to Article 28-7-7(e), Minimum Aisle Widths, to maintain existing non-conforming aisle widths and travel ways,
- 3)to Article 28-7-10(a), Parking Lot Perimeter Landscaping, to maintain no landscaping along the property line on Manchester Street, and along the easterly and westerly property lines when a 10 foot landscaped strip is required, and to maintain the approximately 5 foot landscaped strip along Old Suncook Road when a 10 foot landscaped strip is required, and
- 4)to Article, 28-7-10(b), Parking Lot Interior Landscaping, to maintain existing conditions with no significant interior landscaping when interior landscaping of 6 percent of the gross parking area with no parking space being more than 120 feet from a portion of such landscaping is required, all for property at 153 Manchester Street in a CH Highway Commercial District.

The Board for this case consisted of Carley, Parker, Wallner, Kelley and Monahan.

Jeremy Woodward testified. He owns Hi Point Fitness and Jeremy's Boot Camp. This is his existing business that he's moving to a larger space. He wants to open his new facility in one month. Classes are either early in the morning or late in the evening.

Carley asked Walker if it was a permitted use. (Yes it is. This is an increase in parking demands and it is already a non-conforming parking lot.)

Mr. Woodward stated that his business operates 6:00 am to 7:00 pm Monday through Friday. Classes are 6:00 to 7:30 am and 5:45 to 7:00 pm. He submitted photographs of parking at various times of the day. The unit he will be occupying is 2,700 s.f. on the first floor.

Wallner asked how many units were in the building. (There are 6 units and 4 are occupied.) Parker asked where his business is currently located. (He is located at 2 Pillsbury Street. He is leasing space from 1 to 1 Fitness.) Wallner asked Walker what the parking requirement was for this building based on what is there now. (Walker stated that 41 spaces were required. But the fitness center is a difference of 14 parking spaces.) Parker asked how many total clients he expected. (He is hoping for 50 members monthly.) Carley asked how many clients at a time? (He expects 6-8 at a class at a time.) Monahan asked if there is a curb now on the property. (Walker stated that as part of the roadwork done in that area this year the curb lines were redefined and there are curbs and defined drive entrances there now .)

In favor: none.

In opposition: none.

Comments from Code Administration: Walker stated that they calculate parking based on gross square footage.

DECISION: Monahan asked Walker if the pizza place sought similar variances. Walker stated that they had. Monahan asked if the Board had granted those variances. Walker stated that they had. Parker felt that this was a small business coming into the area and it didn't seem to be adding any impact on the area. Parker asked where the hardship was. Monahan felt that the hardship was that the landscaping requirements would reduce the parking.

Motion to approve all 4 requests was made by Monahan, seconded by Kelley and passed by a unanimous vote.

41-12 Bill Ray: Applicant wishes to construct a 5 foot by 20 foot enclosed entry and requests the following:

- 1) a variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit an addition with a minimum front setback of 35 feet +/- where a 50 foot front setback is required,
 - 2) a variance to Article 28-7, Access, Circulation, Parking and Loading Requirements, Section 1(a), Applicability, to waive the requirement that if any building is enlarged the entire site shall be brought up to current standards in accordance with Article 28-7 and maintain the existing non-conforming parking configuration including:
 - (a) Article 28-7-7(g), Setbacks and Restrictions, to permit parking with no setbacks from the front and side lot lines where setbacks of 10 feet and 5 feet, respectively, are required,
 - (b) 28-7-10(a), Parking Lot Perimeter Landscaping Required, to continue with no perimeter landscaping around portions of the parking lot,
 - (c) 28-7-14, Off-street Loading Areas for Refuse Containers, to allow the continuance of a refuse container loading area with no concrete pad or fenced in area,
- for property located at 106 Manchester Street in a CH Highway Commercial District.

The Board from this case on consisted of Carley, Parker, Wallner, Kelley and Harrison.

William Ray, property owner testified. Contractor Rick Bagley was also available to testify.

Mr. Ray stated that he wanted to add a small foyer area to keep the wind from blowing directly into the restaurant as his customers entered. It would create a buffer zone and keep the cold out from the dining area. It would be an added convenience for his customers. The addition would extend out 6 feet. Mr. Ray showed the Board the area on the maps. Harrison asked him where the dumpster was placed. Mr. Ray showed him and also stated that during the summer the dumpster is moved further from the restaurant so that any odor emanating from the dumpster would not bother his customers. During the winter the dumpster is moved closer to the restaurant so that his employees would not have to deal with the elements. Both Harrison and Parker felt that the dumpster needed a permanent home that would meet the requirements for screening, etc. Kelley asked if he would lose any parking by adhering to this requirement. Mr. Ray stated that he would not.

In favor: none.

In opposition: none.

Comments from Code Administration: Walker stated that this area had a zoning change on 8/8/11. It changed from general commercial to highway commercial zoning and the front setback requirement increased from 30' to 50'.

DECISION: A motion to approve request #1 and #2a & b was made by Wallner, seconded by Parker and passed by a unanimous vote. Wallner felt that this request is not contrary to the public interest or the spirit of the Ordinance.

A motion to deny request #2c was made by Parker, seconded by Harrison and passed by a unanimous vote.

42-12 Coles Gardens Center of Concord: Applicant wishes to modify variances granted under Case #07-10 and expand a seasonal, December through April, indoor retail farmers market to a year round market and increase the number of outside vendors from 1 to 6 vendors and requests maintenance and expansion of:

- 1) a variance to Article 28-2-4(j), Table of Principal Uses to permit retail sales of goods and merchandise (use H-1) in the form of an indoor farmer's market,
 - 2) a variance to Article 28-2-4(j), to permit expansion from 1 to 6 peddlers, as defined under Article 15-8, Peddlers & Solicitors, to operate outdoors at the subject location where such use is neither listed nor permitted in the base district,
- all for property located at 430 Loudon Road in an RO Residential Open Space District.

Doug Cole and Charlie Cole testified. Charlie stated that he wanted to go from the approved 1 outside vendor to up to 6 outside vendors throughout the year. He would like the market season to be held year round.

Carley asked if there would be any changes to the site. (No.) Parker asked about the impact on the parking. (Charlie stated that in the winter there is no change. During the rest of the year they would take up the bottom 6 parking spaces.) Doug Cole noted that there was more room on the site for parking. Carley asked if the farmer's market and nursery business would run all year. (Charlie stated that this is not a "true" farmer's market; just 1 to 6 vendors.) Parker asked if they knew what kind of vendors would be there. (Doug stated that it depended on the season and the market.) Harrison asked if the peddlers would be mobile. (Yes.)

In favor: none.

In opposition: none.

Comments from Code Administration: none.

DECISION: Parker asked Walker if they would be able to put vendors in the parking lot. Walker stated that the plans would be looked at and a meeting with the applicants would take place. Any arrangement of peddlers would have to be done in a manner that maintained compliance with the parking requirements.

A motion to approve both variances was made by Harrison, seconded by Parker and passed by a unanimous vote.

45-12 Dragan Garvanovic: Applicant wishes to remove an existing 16'5" x 20'10" garage and replace with a 26' x 26' garage and maintain current and requests a variance to Article 28-4-1(h), Table of Dimensional Regulations, to maintain a minimum front setback of 12' +/- where a minimum setback of 25' is required for property at 151 Penacook Street, Penacook in an RS Residential Single Family District.

Dragan Garvanovic testified as well as Robert Hoy. He would like to remove a single car garage and create a 2 car garage in the same spot. He will not encroach on the road anymore. The existing garage is 12 feet to the property line.

Walker stated that setbacks for this property, as it has 2 front yards and 2 side yards being a corner lot, are 25 foot front and 15 foot side setbacks. Harrison asked why they cannot relocate the garage. (The angle would make it awkward to drive into.) Harrison asked what the other building was by the fencing. (That is a greenhouse.)

Mr. Garvanovic went on to say that this is an old garage in poor condition. He use to have drainage there but the City sealed it so now there is very poor drainage. Building the garage would increase his property value.

Harrison stated that building the garage in front may not be aesthetically pleasing to the neighbors.

Mr. Garvanovic stated that there are trees behind the garage. Parker asked if he was going to keep the trees and he said he was.

In favor: none.

In opposition: none.

Comments from Code Administration: none.

DECISION: A motion to approve the request was made by Wallner, seconded by Parker and passed by a 4-1 vote with Harrison in the minority.

Wallner felt that they were not adding to the setback encroachment. Substantial justice was being done. Parker stated that they were moving the garage into the property, not closer to the setback.

OTHER BUSINESS

A motion to approve the November 2012 Minutes was made by Kelley, seconded by Harrison and passed by a unanimous vote.

A TRUE RECORD ATTEST,

_____, CLERK
ZONING BOARD OF ADJUSTMENT