ZONING BOARD OF ADJUSTMENT
JUNE 6, 2012 MEETING
DRAFT MINUTES

Board members present included Chairman Christopher Carley, David Parker, Stephen Norton, Robert Boley, Robert Harrison Jr., James Monahan and Jim Marshall. Also present Zoning Administrator Craig Walker and Rose Fife, Clerk of the Board.

As there was a conflict with Case 14-12 for two of the Board members, this case was heard first to enable the alternates that filled in for them to leave.

14-12 **Bianco Professional Association:** Applicant wishes to construct a second story addition and expand the Professional Office use contained within and requests the following:

1) Variance to Article 28-4-1(h) to permit a 608 +/- square foot elevated addition to the second floor, horizontally extending the non-conforming 2 foot building setback 28 feet north along the west property line in a district where 15 foot side setbacks are required,
2) Variances to Article 28-7-1(a), Applicability, to permit an enlargement of an existing structure while maintaining existing access, circulation, loading and parking configurations and not bring the property into compliance with Articles:
   a. 28-7-2(e), Table of Off-Street Parking Requirements, to recognize the continued provision of 8-10 non-compliant onsite parking spaces when 17 spaces are required.
   b. 28-7-5, Handicapped Accessible Parking, (0 when 1 van accessible required)
   c. 28-7-7, Parking Area Design Standards, (aisle widths, driveway widths, setbacks)
   d. 28-7-8, Access and Driveway Standards, (driveway separation)
   e. 28-7-10, Parking Area Landscaping Standards, (perimeter landscaping)
   f. 28-7-12, Performance District Standards, (to permit parking in front of a building, north side)
   g. 28-7-14, Off-street Loading for Refuse Containers,
3) Variance to Article 28-8-5(b), Non-conforming Structures, to permit the alteration of a non-conforming structure that increases its non-conformity,

All for property at 18 Centre Street in a CVP Civic Performance District.

The Board for this case consisted of Acting Chair Monahan, Parker, Norton, Boley and Marshall.

Attorney Jim Bianco and Attorney Bob Best testified. Attorney Bianco submitted photographs to the Board. They were here in August 2011 and were granted a variance for an expansion. In the fall, after talking with the engineer and construction company, they found that the addition was economically not feasible. Their parking lot is in the back of their building and they would like to do some kind of construction there. They would like to cantilever over the parking lot. This way they will not lose any parking spaces. The addition above would be office space and a conference room. They now encroach the side setback as it exists and the property owner next to them has no objection to this request. They neighbor will continue to allow them to park on their lot. They have contacted Attorney Goldman and Attorney MacIntosh who have offices on Montgomery Street and those attorneys are willing to lease their firm some spaces. They will not hire any additional employees. They just need more space. He explained the photographs in the packet.

Attorney Best testified. This is a small site. The request is not contrary to the public interest. The side setback is at a line where the building already encroaches. The building is consistent with other buildings in the CVP zone. The Spirit of the Ordinance is observed as granting the request would not crowd between the buildings. They are keeping the site consistent with what is there. The parking will stay the way it is. This is the only way that they can accommodate an expansion. The property values of the surrounding property will not diminish. This is architecturally attractive. There are no other options. The building is within the setbacks and existed prior to the Ordinance being adopted.

Norton asked if the relief that they sought previously was off of the north side of the building. (Attorney Best explained.) Marshall asked how many parking spaces exist now. (Ten exist.) Monahan asked if they would be parking under the overhang. (Yes they will. They will not lose a parking space.)

In favor: none.

In opposition: none.

Comments from Code Administration: none.

DECISION: Norton asked Walker if the building was ground level up construction, would it have changed the request. (It would have decreased their parking spaces.) Norton asked why more nonconforming? (It increases a building that encroaches the setbacks.)

A motion to grant variance request #1 was made by Norton, seconded by Boley and passed by a unanimous vote.

A motion to deny request 2B was made by Norton and seconded by Marshall and failed. A motion to approve all items of variance #2 with the exception of 2B was made by Norton, seconded by Boley and passed by a unanimous vote.

A motion to grant variance #3 was made by Norton, seconded by Boley and passed by a unanimous vote.

A motion to deny #2B was made by Marshall, seconded by Norton and passed by a unanimous vote.

11-12 **Lon Setnik & Cynthia King:** Applicant wishes to expand and existing driveway in the front of the house and construct a three season porch onto the rear of the house and requests the following:

1) Variance from Article 28-7-7(g)(2), Setbacks from lot lines, to permit a driveway parking area with a setback of 1 foot from the easterly property line where a 5 foot setback is required and
2) Variance from Article 28-4-1(h), Table of Dimensional Regulations, to permit the construction of an addition with a 9 foot setback from the west property line where a 15 foot setback is required,
3) Variance to Article 28-8-5(b), Non-conforming Structures, to permit the alteration of a non-conforming structure that increases its non-conformity,
for property at 17 Rockland Road in an RS Residential Single Family District.

The Board for this case and each case thereafter consisted of Chairman Carley, Parker, Harrison, Norton and Monahan.

Bob Pollock of Pollock Land Planning testified. For clarification purposes, the addition that is being added onto the back of the house is an "all season" room. The existing structure is on a 7,621 s.f. lot. This zoning district calls for a 12,500 s.f. lot. No matter where they add on or what they do on the site, they would need a variance. The parking area is in the front. It is a very narrow parking area. They would like to go from only having width enough to parking 1 vehicle to having width enough to park 2 vehicles. They would like to widen the driveway within 1 foot of the property line. Their existing garage is already into the setback. Vegetation between the properties will stay the same. They are adding a 2 foot retaining wall to hold the expansion of the parking space. Rockland Road is very narrow – only 22 feet wide. The four season room will not encroach on the rear setback. The house is already 2 feet into the side setback. The addition encroaches 4 more feet. There will be better grading on site. The addition proposed will be used for gathering space, office, family room. The addition situated as it is as there is a bulk head in the way. They have looked at other alternatives, but they are trying to keep the architecture in harmony with the building.

Eric Buck of Pollock Landscaping also testified. The property is located at the bottom of Rockland Road and they have drainage issues that they are trying to mitigate. The requests are in harmony with the rest of the neighborhood. They will reinforce the buffer with additional landscaping.

Norton asked if there was a fence there now. (Mr. Buck answered that there is a low 4 foot stockade fence now.) Carley asked why they can't make the addition narrower. (Mr. Setnik stated that they would lose useable back yard space by doing that. And their side yard is not useable space.) Parker asked if the main home were a colonial. (Yes.) Harrison asked for pictures of the house. (They were submitted.) Harrison asked why the side yard was not useable. (It is a narrow space and not a 'play' space for the kids.) Harrison asked if the retaining wall was in the drive. Why? (Mr. Pollock stated that there is a slight slope going down.)

In favor: Jeffrey Malone, 23 Rockland Road. He has no problem with the addition.

In opposition: none.

Comments from Code Administration: Mr. Walker stated that there was a phone call into the office from an abutter that lived on Watkins Way/Liberty Street. They were concerned with potential increase of drainage. After the abutter spoke with Engineering they were okay with the request.

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

12-12 **Shelly Fajans:** Applicant wishes to construct a second story on an existing 1 story single family 40' x 28' structure and requests the following relief:

1) Variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit a the construction of a second story addition with a 16 foot setback from the southerly (side) property line and 36 foot setback from the northerly (side) property line when a 40 foot setback is required,
2) Variance to Article 28-8-5(b), Non-conforming Structures, to permit the alteration of a non-conforming structure that increases its non-conformity,

for property at 54 Snow Pond Road in an RO Residential Open Space District.

Ken and Shelly Fajans testified. Ken stated that they would like a second story to add a master bedroom and they would convert the downstairs bedroom to storage and a stair case. They are not increasing their footprint at all.

Harrison asked if they were right on Snow Pond. (Yes.) Are they removing the downstairs bedroom? (Yes, the bedroom on the first floor will be removed and a bedroom added to the second floor.) Walker asked if they had a new septic system. (Yes, they put in a new leach field.) Monahan asked if they were water front property. (Yes.)

Ken stated that as they are water front property, they cannot increase the building on the property.

In favor: letter received from David Nemitz, 60 Snow Pond Road in favor.

In opposition: none.

Comments from Code Administration: Walker stated that they are right on Snow Pond approximately 100 feet from the edge of the pond.

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

13-12 **Concord Boys and Girls Club:** Applicant wishes to expand the existing Concord Boys and Girls Club, Community Center (Principal use B-14) and requests the following:

1) A Special Exception in accordance with Article 28-2-4(j), Table of Principal Uses, to permit the expansion of a community center in an Urban Transitional District,
2) A variance to Article 28-4-1(j), Table of Dimensional Regulations, to permit a building addition with 0 side setbacks from the north property line in a district where a 10 foot side setback is required,

3) A Variance to Supplemental Standards, Article 28-5-10(a), Access Requirements, to permit the expansion of a community center located on a lot which does not have direct access to and from a collector or arterial street when such access is required,
4) A variance to Article 28-7-2, Off-Street Parking Requirements, to permit the provision of 15 parking spaces when 96 spaces are required,
5) A variance to Article 28-7-7(g)(1), Parking Restrictions in the Required Front Yard, to permit parking with a minimum setback of 5 feet from the front property line along Bradley Street in a district where parking within the 15 foot required front yard setback is prohibited,
6) A variance to Article 28-7-13, Off-street Loading Requirements, to waive the requirement to provide 1 on site loading space,
for property at 55 Bradley Street in an UT Urban Transitional District.

The following people testified for this case: Attorney Mike Cretella of Orr & Reno, Erin Reardon of Nobis Engineering, Chris Edmonds, Director of the Boys and Girls Club, and Frank Ansell, Architect.

Mr. Edmonds testified that the club has been in existence approximately 68 years. They serve the ages of 6 through 18. They are now a licensed facility. The facility itself is aging and they would like to make it more child friendly. They have 7 parking spots right now and they would like to redesign that and the pick-up area.

Ms. Reardon explained the site plan. There are 15 new parking spaces. They will improve Bradley Street and the sidewalk and would reconstruct 35-40 parking spaces. They are trying to bring the parking that is happening on Bradley Street now into the site.

Parker asked about the route for bus drop offs. (Ms. Reardon explained.) Carley asked if there were a deep slope on the west side of the building. (Ms. Reardon explained that the grades would be pulled back.) Are there woods on the west section of the lot? (Ms. Reardon explained that there is a tree line back there but they are only disturbing low brush, not trees.)

Frank Ansell testified. The club has increased their enrollment in the age span that they serve. They tried to use as much of the existing building as they could. They pulled the entrance into their lot, they have improved the kitchen and added bathroom facilities.

Attorney Cretella testified that the club is working with the City of Concord. They are renting space from the City. The addition would bring the building up to the lot line.

Carley asked if they were combining lots. (Not yet. They had to pick a spot to start the process so they decided on Zoning Board relief first.)

Attorney Cretella went on to state that the addition is on the north side of the property and moves it away from Penacook Street. There will be additional 60-65 parking spaces available for use by the public. The setback variance will not change the look of the neighborhood. It will not diminish surrounding property values. They are encroaching on only the City of Concord's property. The use is for the youth exclusively. They will have access through Bradley Street which has been adequate the last 35 years. They have spoken with the abutter who had no objections. As far as the parking variance, they will be doubling onsite parking. There is a unique nature of a community center. The parking requirement does not really show the use of the center. It will not change the character of the neighborhood. They are asking for loading relief as the staff and volunteers bring in their supplies. It has worked this way for 20+ years. The special exception is to continue the use as it is.

Parker asked a site/parking question related to the front parking area. Attorney Cretella stated that they needed to allow onsite parking vs. none. Walker stated that this is the only dedicated parking to the club.

Carlos Baia, Deputy City Manager of Community Development for the City of Concord testified. Staff has been working with the club for several months. The lease includes the parking lot in front and it would have to be amended. The lot to the north planned for the additional parking is currently encumbered by a conservation easement; it is limited for recreational use. The City is trying to work with DRED to approve transfer of the easement to that portion of the lot that is westerly of the building. The land swap area is approximately equal in size.

Harrison asked if it makes an impact on the northwest bypass. (No.)

In favor or opposition: Meredith Hatfield of 5 Perkins Street is neither for nor against, but has some questions. (1) The east side informal bus parking area; how will it be impacted? (2) The use of the site – the dumpster is loud as they empty it at 4:30 to 5:00 a.m. If it is moved, it would be an improvement. (3) The Bypass – are they setting the building back far enough? (4) Traffic concern regarding the intersection of Bradley and Penacook Streets.

Robert Baker, 26 Penacook Street is concerned with trash removal and lighting. The lights on the main entrance of the building shine into his home. What is the pedestrian access? (Carley stated that that piece was a Planning Board issue.) The Bypass is a concern as far as accessing the park.

Comments from Code Administration: none.

Rebuttal. Frank Ansell stated that the bus parking right now is on the lawn. They will be parked in a dedicated area in the rear on the west side. The dumpster will be enclosed with a fence. They empty it in the morning as there are no children there at that time. Walker stated that the location of the dumpster is limited by the leased area of the club and any other location would need to be negotiated with the City. Mr. Ansell went on to say that the building is not expanding in the direction of the bypass. There is congestion at the entrance and that is why they laid out the parking as they did. The lighting will meet Planning Board requirements and have shielded fixtures. They will have bike racks. They have added sidewalks on the southwest side of Bradley Street.

DECISION: Mr. Walker went through the special exception criteria as requested by Mr. Norton. Monahan asked about the lease issues. Does it go before Council? (Mr. Walker stated that this still goes before the Planning Board and then there are contracts between the City of Concord and the Boys and Girls Club that need to be done.)

A motion to approve the special exception was made by Parker, seconded by Norton and passed by a unanimous vote. A motion to approve all the variance requests was made by Parker, seconded by Harrison and passed by a unanimous vote. Parker felt that it improves the access and safety.

OTHER ITEMS

A motion to approve the May Minutes was made by Norton, seconded by Harrison and passed by a 4-0 vote with Parker abstaining.

A TRUE RECORD ATTEST,

_____, CLERK
ZONING BOARD OF ADJUSTMENT