

**ZONING BOARD OF ADJUSTMENT
JANUARY 4, 2012 MEETING
DRAFT MINUTES**

Board members present included Acting Chairman Nicholas Wallner, David Parker, Robert Harrison Jr., Stephen Norton and Robert Boley. Also present Zoning Administrator Craig Walker.

42-11 Jessica Corr: Applicant wishes to utilize a portion of a warehouse/flex office space for a hair salon use for up to 4 chairs and requests a variance to Article 28-2-4(j), The Table of Principal Uses to permit a hair salon (personal service use D-1) for property located at 30 Henniker Street, Unit 11, in an IN Industrial District.

Applicant did not show up for the meeting. This case had already been recessed from the December 2011 meeting.

A motion to Table the case until the end of this meeting was made by Norton, seconded by Parker and passed by a unanimous vote.

46-11 Linda Hoidahl: Applicant wishes to keep 2 horses, 1 full size and 1 miniature, as pets on her and requests the following:

- 1) Variance to Article 28-5-33, Keeping of Pets, Section (d)(2), Minimum lot Size, to permit the keeping of 2 horses on a lot that is 1.5 +/- acres in size where a lot size of 3 acres is required,
- 2) Variance to Article 28-5-33, Keeping of Pets, Section (d)(1), Enclosure or Structure Required, to permit the placement of the barn with a setback of 46 feet from the east and west property line where a 50 foot setback is required,
- 3) Variance to Article 28-5-33, Keeping of Pets, Section (d)(1), Enclosure or Structure Required, to permit a paddock area with a setback of 31 feet from the east and west property line when a setback of 50 feet is required,
- 4) Variance to Article 28-5-33, Keeping of Pets, Section (d)(1), Enclosure or Structure Required, to permit a pasture area with a 20 foot setback from the east property line and no setback from the south and west property line where a 50 foot setback is required,

All for property located at 45 Ironworks Road which is located in both an RS Residential Single-Family and RO Residential Open Space District.

Linda Hoidahl testified. She would like to keep her horse and a companion miniature horse on her property as pets. Three acres are required but she only has 1.5 acres, most of which is pasture. Her property is narrow so she cannot meet the setback requirements. On the west side there is a neighbor who is okay with her placing a fence on the property line. At this time her horse is being boarded in Henniker and she would like to bring it home.

Wallner asked Walker about the lot size requirements for horses. Walker explained. Norton asked what the purpose was to establish these constraints. Walker explained that this was area for grazing, roaming, odors, setbacks from neighbors. Parker asked about fencing. Ms. Hoidahl explained that it would be all around the property line and one near the barn. The fencing is movable to enable her to rotate the grazing area. Wallner asked about waste removal. Ms. Hoidahl explained that they would have the waste removed twice yearly or possibly more. She is not sure where the manure pile would be placed as she is not sure where the barn is going to be placed at this time. Harrison asked her if she had a tractor on site. (Yes, a small lawn tractor with

a bucket.) Wallner asked if the manure pile was going to be close to the neighbor on the right. (Yes.) Boley asked if there were any other horses in the neighborhood? (No.)

In favor: none.

In opposition: Mark Stewart who lives at 41 Iron Works Road and Art Bourbeau who lives at 41b Iron Works Road. Mr. Bourbeau testified that she only has 1½ acres and needs three acres. The RO portion of her property is small. He showed their home in relationship to the applicants on the maps. During high water the backyard is flooded. It floods 4-5 times a year. There is a swale on the property. When her pony gets in an area all the grass is gone. In the summer this turns the loam into dust and they cannot open their windows as the dust flies into their living space. There are odors from the manure. There are flies from the manure. She has put the manure right on top of their property line. They are impacted more than any of their neighbors. The property is not zoned for this use. The property area is not large enough. He submitted photographs. Mr. Stewart testified that he was concerned with his property value going down. The manure and urine odors will devalue his property. Wallner asked him if he thought there was any better place on the property for her to put the manure. Mr. Stewart said no. Mr. Bourbeau explained that their home is 200 feet off the road. Norton asked if the water issues eliminate a good portion of her property for use.

Comments from Code Administration: Walker explained that there is an uncertainty regarding the property boundaries and the owner has been requested to verify those boundaries. Norton asked if she were in the RO District, would she still not be in compliance. Walker stated that that would be correct.

Rebuttal by Ms. Hoidahl. Her pony does not have full range of her property. Her property doesn't really flood, only a corner of it does in the Spring.

DECISION: Norton stated that he was not in support of request #1 and #4 and without those, the whole request wouldn't work for her. It is a very small area to cram 2 animals. The lot is small. There is no hardship. Parker stated that the lot is ½ the size it should be. They are asking for no setback vs. 50 feet required. It is significant. The lots are narrow. The impact on the adjacent property would be significant. Boley agreed it was a narrow lot and there would be impact on the neighbors.

A motion to deny all of the requests was made by Norton, seconded by Boley and passed by a 4-1 vote with Harrison in the minority.

01-12 NH Signs for Vasilios Lazos (Brookside Pizza III): Applicant wishes to replace existing building signage with a rooftop sign and requests a variance to Article 28-6-7, Signs Prohibited Under This Ordinance, Section (f), to be permitted to place a sign on the roof of a structure when the ordinance prohibits signs to be located on the plate of a flat roof, for property at 151 Manchester Street in a CH Highway Commercial District.

Vasilios Lazlos testified. He is the owner of Brookside Pizza III. Clough Conte of NH Signs also testified.

Mr. Conte passed out photographs of the property. The building signs are low. A roof sign would give him visibility. He will take down the wall signs. He's been there a year.

Walker explained the site location and layout.

Norton asked who owned the freestanding signage. (The Alosa family owns the signage.) Why can't you add to their signage? (They will not let him.) Mr. Conte stated that Manchester Street will be widening there so another freestanding sign will not work. They looked at a lot of different options. The traffic conditions affect

his business and blocks the sign they have now. The new sign will be on the flat part of the roof. Land conditions restrict his sign options. His building is unique in the way it is set on the property. Vasilios stated that he has been at this site for 14 months. Customers can't see his signs going west to east and east to west. He submitted a petition with approximately 300 signatures on it. Harrison asked how high the sign would be off the ground. He stated that it would not be more than 18 feet and it would cover some of the air conditioning units on the roof. Parker sees 7 existing signs, 2 open signs, 3 pizza signs and a tri fold sign and one by the door. Are you willing to give those up? It looks cluttered. Mr. Lazlos stated that his new customers won't see him.

In favor: none.

In opposition: none.

Comments from Code Administration: Walker stated that widening of Manchester Street is a factor. The City would like to see the pole sign go away. The maximum freestanding sign height is 20 feet. The building sign is up to 25 feet on a wall. Parker asked what was the purpose of sign restrictions on rooftop signs. Walker explained. Norton asked who owned the lot. Walker stated that the Alosa family owns the lot.

Rebuttal: Mr. Conte stated that the height of the sign will be equivalent to what's in the plaza already.

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

02-12 Ron Jobel: Applicant wishes to convert an existing building into a two-family residence and requests the following:

- 1) Variance to Article 28-2-4(j), Table of Principal Uses, to permit a two family structure where mixed commercial/residential or more than 3 units are required,
 - 2) Variance to Article 28-5-3, Conversion of a Residential Building,
 - a. Section (b)(2), Other Dimensional Requirements, to permit the conversion on a lot with 107 feet +/- of frontage where frontage of 150 feet is required,
 - b. Section (b)(4), Minimum Size of Dwelling Unit, to permit a conversion resulting in one (1) of the units being 420 square feet when a minimum dwelling size of 600 s.f. is required.
 - 3) Variance to Article 28-8-4, Non-conforming Uses of Land, Section (c)(1) to permit an expansion of a non-conforming use when expansion or increase of non-conformities is not permitted,
- All for property located at 89 Village Street, Penacook in a CG General Commercial District.

Ron Jobel testified. He would like to convert a single family that had retail (antique shop) in a front portion to a single family with an efficiency apartment in the area that use to be retail. It is a residential area. He will be cleaning up the property. He had abatement people go through the property before he purchased it. The property goes back approximately 400 feet. There is plenty of room out back. He wants to keep the efficiency part affordable, approximately \$500 a month. Harrison asked what the exterior of the house was. Mr. Jobel stated that it was vinyl siding. He is not changing the foot print of the building. Norton asked why he didn't want to convert it into 3 units? Mr. Jobel stated that they would have to be 3 very small 1 bedroom units. He felt that there was more use for a 3 bedroom unit for a family. They will have a backyard. Norton asked what the existing square footage is now in the home. Mr. Jobel stated that it is 2732 s.f. gross area and the living room is 1858 s.f. Boley asked what uses are in the neighborhood. Mr. Jobel stated that there are residences. Norton asked if they were all single family. Mr. Jobel thinks so, but he's not sure.

In favor: none.

In opposition: Richard Webb of 93 Village Street. His wife also submitted a letter. He is the only abutting property to the north. A 420 s.f. efficiency apartment leads to low rent value and more transient clients. An apartment building next to their property will lower their property value. He is concerned with the abatement that is being done. This was a single family area when they purchased their property. They didn't want to live near an apartment building. He wouldn't mind a 9-5 business next door instead. Norton asked when he purchased his home. He stated almost 7 years ago. Walker stated that no residential uses were allowed in the CG zone until around July of 2011.

Letter read into the record from Tracy Webb of 93 Village Street.

Comments from Code Administration: none.

Rebuttal by Mr. Jobel. It was the professional opinion of the abatement company he brought in before he purchased the property that there was not a lead issue or asbestos on the property. The property will be code compliant when he is finished.

DECISION: A motion to approve the request was made by Parker, seconded by Norton and passed by a unanimous vote. Parker was not convinced that the use of this property would diminish or devalue the property around it. The property is being upgraded.

MINUTES: A motion to approve the December 2011 Minutes was made by Parker, seconded by Harrison and passed by a 3-0 vote.

42-11 Jessica Corr: Applicant wishes to utilize a portion of a warehouse/flex office space for a hair salon use for up to 4 chairs and requests a variance to Article 28-2-4(j), The Table of Principal Uses to permit a hair salon (personal service use D-1) for property located at 30 Henniker Street, Unit 11, in an IN Industrial District.

A motion to dismiss this case without prejudice was made by Parker, seconded by Norton and passed by a unanimous vote.

A TRUE RECORD ATTEST,

_____, CLERK
ZONING BOARD OF ADJUSTMENT