



City of Laconia
Zoning Board of Adjustment
TUESDAY May 19, 2020 - 6:30 PM
City Hall in the Armand A. Bolduc Council Chamber

5/19/2020 - Minutes

1. PUBLIC PARTICIPATION

Chairman S. Bogert read aloud the following information regarding logging in to the Zoom meeting.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/89403205692?pwd=bi9ERnVlcGZCWE9CWm9FQ2duaDRNUT09>

Password: 339163

Or iPhone one-tap :

US: +13017158592,,89403205692#,,1#,339163# or +13126266799,,89403205692#,,1#,339163#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656 or
+1 253 215 8782 or +1 346 248 7799 or +1 669 900 9128

Webinar ID: 894 0320 5692

Password: 339163

International numbers available: <https://us02web.zoom.us/j/89403205692?pwd=bi9ERnVlcGZCWE9CWm9FQ2duaDRNUT09>

2. CALL TO ORDER

At 6:55 PM Chair S. Bogert called the meeting to order.

3. ROLL CALL

Present: R. Maheu; S. Bogert; M. Dellavecchia; G. Ober (via Zoom)

Absent: O. Gibbs (absent with notification); M. Foote

4. RECORDING SECRETARY

Karen Santoro, Zoning Technician

5. STAFF IN ATTENDANCE

Dean Trefethen, Director of Planning and Codes

6. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

6.I. April 20, 2020 Zoning Board Of Adjustment Minutes (PDF)

R. Maheu made a motion to accept the minutes of April 20, 2020 as written

M. DellaVecchia seconded the motion.

Three if favor; One abstention (G. Ober)

7. EXTENSIONS

8. CONTINUED PUBLIC HEARINGS, CONSIDERATION AND POSSIBLE VOTE Note: The Purpose Of This Agenda Section Is For The Board To Continue The Public Hearing For The Applicant And The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

9. PUBLIC HEARINGS, POSSIBLE CONSIDERATION AND VOTE Note: The Purpose Of This Agenda Section Is For The Board To Have A Presentation From The Applicant And Open A Public Hearing For The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

9.I. ZO2020-0005SE 358 & 386 Leighton Ave N Special Exception Application (PDF)

Applications ZO2020-0005SE and ZO2020-0006VAR were heard at the same time as they pertain to the same property and project. It was noted that the Variance will have to be voted on first as the Special Exception can only happen if the Variance is granted by the ZBA.

9.II. ZO2020-0006VAR 358 & 366 Leighton Ave N Variance Application (PDF)

Attorney S. Nix presented both applications via Zoom. The owners, the Compsons also were present via Zoom.

S. Nix explained that Compsons purchased the property at 366 Leighton Ave N from the Schmidtchens which abutted their other property at 358 Leighton Ave. In the past both properties had been owned by the Schmidtchen family and used as one lot. Now that both lots are owned by the Compsons, they would like to merge the lots and are requesting a variance to allow them to keep the smaller cottage on the lot as an Accessory Dwelling Unit to be used by the Schmidtchens as long as they wish. The Compsons explained that they want to make this their permanent home but that they would like to merge the lots to allow them to put an addition on the existing house at 358 Leighton Ave N to make it more functional for full time residential use.

S. Nix explained that they lots are currently being used like one lot with a common driveway, shared landscaping and a shared beach area. He outlined the criteria for the variance first and noted that this will be a gain to the public as it would decrease the overall potential density from 4 units (2 house each with ADU) to 2 units (1 house and 1 ADU). He also noted that currently the two houses have old septic systems, the plan is to install a new modern septic system that would be shared by both units. S. Nix outlined the hardship, even when combined the two lots would not meet the 2 acre minimum for the zoning district; the topography is very steep and the original structures are already in the setback area. The proposed use is reasonable and would reduce the possible overall density of the lots if they remained separate.

S. Nix then outlined the criteria for the Special Exception. He noted that they are essentially the same as the Variance application.

In response to questions by the Board, S. Nix noted that the septic system has been designed to be large enough to support both units; if the Schmidtchens no longer wish to utilize the ADU, the Compsons have adult children who would utilize it in the future; and he noted that prior to any work being done all permits including a Shoreland Permit would be acquired.

At 7:37 PM S. Bogert opened the public hearing.

He noted that if the public wishes to speak via Zoom, to utilize the "raise hand" icon and they would be recognized by the host.

At 7:39 PM with no one to speak for or against the applications S. Bogert closed the public hearing.

G. Ober made a motion to approve application ZO2020-0006VAR 358 & 366 Leighton Ave N Variance Application ZO2020-0006VAR Applicant requests a Variance from Article II Section 235-13 Definition of ADU and Article VII Section 235-41(A) Residential Accessory Uses - ADU to allow a detached Accessory Dwelling Unit.

(1) The variance will not be contrary to the public interest;

Granting the variance would not be contrary to the public interest as it is specific to these two properties, it does not alter the essential character of the neighborhood and is not a hazard to the

health, safety and welfare of the public.

(2) The spirit of the ordinance is observed; AND

If the variance were granted, the spirit of the ordinance would be observed as the owners are giving up development rights to two lots therefore reducing potential development and reducing traffic if both lots were developed individually.

(3) Substantial justice is done; AND

Granting the variance would do substantial justice because it would not alter the character of the neighborhood and it does not have any impact on municipal services or the neighbors and will improve the waterfront area with a new, modern septic system.

(4) The value of surrounding properties are not diminished; AND

If the variance were granted, it will not have a negative effect on surrounding property values, it will improve the surrounding area with improved and aesthetically coordinated structures.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

The properties are an existing nonconforming lots in an old subdivision, the lots are steeply sloped (28%), the existing septic systems are of unknown design and adequacy, and owners are willing to give up rights to develop both lots individually by merging them into one lot.

R. Maheu seconded the motion.

G. Ober amended to motion to include the conditions that the lots be merged and all other local and state permits are applied for and approved.

R. Maheu seconded the amended motion.

All in favor. (4-0)

G. Ober made a motion to approve ZO2020-0005SE 358 & 386 Leighton Ave N Special Exception Application ZO2020-0005SE Applicant requests a Special Exception from Article V Section 235-26 to allow an Accessory Dwelling Unit.

a. The use requested is specifically authorized in this chapter.

The use is allowed by Special Exception in the zone.

b. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.

The amount of traffic will be reduced when compared to the potential traffic that could be generated if the lots were developed independently. There will be no impact on pedestrian safety.

c. The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets.

The property will be serviced by a new septic system and the existing well. The property is being developed with a Shoreland Permit from NHDES which requires stormwater management on the site. The property is downslope from the road and will have no impact on road drainage.

d. The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.

The proposal will lessen the demand for municipal services by releasing the right to develop each lot independently with the potential of two primary residences and two ADUs

e. Any special provisions for the use as set forth in this chapter are fulfilled.

All special provisions are fulfilled. All other provisions of the ADU ordinance as to size, parking and use will be fulfilled;

f. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood.

Health and safety is protected with a new septic system and stormwater management systems. The development will be keeping in character with the surrounding neighborhood that consists of small waterfront lots developed with camps being converted to year round dwellings.

g. The proposed location is appropriate for the requested use.

The merged lots will provide adequate area for the primary dwelling and the ADU. The pre-merger condition is two dwellings on two lots where the post-merger condition will be one primary dwelling and an ADU on a single lot.

h. The requested use is consistent with the spirit and intent of this chapter and the Master Plan.

As outlined in the variance request, this proposal is consistent with the spirit and intent of the ordinance and master plan by eliminating the owners ability to develop completely separate lots that could potentially have a total of four units.

R. Maheu seconded the motion.
All in favor (4-0)

9.III. ZO2020-0019SE 231 237 243 Court St Special Exception Application (PDF)

Representative for the applicant, Steve Smith, outlined the proposed merger of the three lots and the upgrade and expansion of the business. In order to accomplish this, a Special Exception is required for the use Fuel, Wholesale/Bulk Storage and Sales. The company, Stafford Oil, currently operates on one of the lots, this would not change, they are going to reconfigure some of the buildings and add office space, parking for their trucks, etc. It is an older facility, this would upgrade the parking, improve stormwater management, overall allow for better use of the property.

The Board briefly discussed the old house that would have to be demolished. It was noted that due to its age it would be reviewed by Historic Commission but that due to its extremely poor condition it is not salvageable.

Curtis Stafford, owner, and Steve Laramie, General Manager, participated via Zoom and indicated that they were there to answer any questions or concerns that the Board may have.

At 8:14 PM. S. Bogert opened the public hearing.

He noted that if the public wishes to speak via Zoom, to utilize the "raise hand" icon.

At 8:15 PM with no one to speak for or against the applications S. Bogert closed the public hearing.

G. Ober made a motion to approve Application ZO2020-0019SE for a Special Exception from Article V Section 235 Table of Permitted Uses to allow Fuel, Wholesale/Bulk Storage and Sales.

a. The use requested is specifically authorized in this chapter.

Fuel, wholesale/bulk storage and asles are listed as an allowed use by special exception under the Table of Permitted Uses – Commercial and Industrial and in the Urban Commercial Zone by Special Exception.

b. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.

The property is serviced by Court Street a major roadway corridor through the City of Laconia. The use is a current use of the site today. All new curb cuts have been established at the site and sidewalks upgraded through the work being completed on Court Street all to improve traffic and pedestrian safety.

c. The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets.

The site is currently served by municipal sewer and water. The proposed improvements to the site will not add any burden to the existing services being provided. AS part of the proposed improvements to the site a new stormwater collection system will be installed, and treatment provided prior to the release of stormwater at or below the current rate of release upon post improvements.

d. The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.

As indicated above George C. Stafford & Sons Inc. currently occupies the site. The proposed improvements will not result in excessive demands beyond current police and fire protection today, additionally the improvements will better facilitate day to day operations and the general public. The type of use does not generate additional impacts to schools in general.

e. Any special provisions for the use as set forth in this chapter are fulfilled.

Except for meeting current zoning and site plan regulations there are no special provisions for the use as set forth in this chapter.

f. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood.

The subject site is and has been used for ht purpose requested for many years. Improvements are being proposed to protect the health, safety and welfare of the general public served by George C. Stafford & Sons, Inc. The neighborhood is a mixed use of professional, commercial. Industrial and residential single and multifamily uses.

g. The proposed location is appropriate for the requested use.

The proposed use is allowed specifically by Special Exception within the (UC) Urban Commercial Zone and the proposed improvements will meet both Zoning and Site Plan Regulations.

h. The requested use is consistent with the spirit and intent of this chapter and the Master Plan.

The Urban Commercial District is designed in recognition of the fact that historically commerce and business tended to concentrate in a central area and that over the years the area has expanded outward from its traditional center along the major roadways such as Court Street. The intend of the district is to permit expansion of existing uses.

R. Maheu seconded the motion.

All in favor (4-0)

9.IV. ZO2020-0020AR 77 Emerald Dr Variance Application (PDF)

Richard Ellis of Tradesmen Builders, agent for the applicant, outlined the proposed construction of an attached garage. The variance is necessary due to the fact that the front corner of the garage will extend into the front setback. The proposed design allows use of the existing driveway and is in synch with the character of the neighborhood. The lot is on a corner and the front property line is curved, the bulk of the garage meets the setback requirement but due to the curve the front corner would encroach

into the setback area.

The Board briefly discussed the project and asked the owner, Gary Glaude, if other designs were looked at, if other options were considered.

At 8:33 PM. S. Bogert opened the public hearing.

He noted that if the public wishes to speak via Zoom, to utilize the "raise hand" icon.

At 8:34 PM with no one to speak for or against the applications S. Bogert closed the public hearing.

M. Dellavecchia made a motion to approve application ZO2020-0020VAR. for a variance from Article VI Section 235-35(A) to allow for the construction of an attached garage in the front setback.

(1) The variance will not be contrary to the public interest;

Granting the variance would not be contrary to the public interest as the encroachment is minimal and it does not alter the essential character of the neighborhood and is not a hazard to the health, safety and welfare of the public.

(2) The spirit of the ordinance is observed; AND

If the variance were granted, the spirit of the ordinance would be observed as the owner is looking to improve his property in harmony with the surrounding neighborhood.

(3) Substantial justice is done; AND

Granting the variance would do substantial justice because it would not alter the character of the neighborhood and it does not have any impact on municipal services or the neighbors.

(4) The value of surrounding properties are not diminished; AND

If the variance were granted, it will not have a negative effect on surrounding property values, it will improve the surrounding area with improved and updated home and garage.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

The property has a curved front property line, the project has been designed with minimal encroachment and, due to the curve and the layout of the existing house, cannot be completed without relief from the board.

R. Maheu seconded the motion.

All in favor (4-0)

9.V. ZO2020-0021SE 72 Church St Special Exception Application (PDF)

The applicant was not in attendance at the meeting, either in person or via Zoom.

S. Bogert made a motion to table the application to the June Zoning Board of Adjustment meeting.

G. Ober seconded the motion.

Discussion: The Board noted that the application was very sparse and that one of the questions was not answered. It was requested that prior to the next meeting the application be reviewed and more information provided by the applicant.

Three in favor, one opposed (R. Maheu)

9.VI. ZO2020-0022VAR 76 Crescent St Variance Application (PDF)

Applicant Jeff Holt, via Zoom, outlined his application. He explained that the original garage was built in the 1930s and is a small single car garage. He would like to demolish and rebuild a two car garage (28x28) in the same location. Jeff Holt also noted that it is only a garage, no second floor or living space above it. The increase size is to allow both vehicles to be parked inside the garage and room for yard equipment storage.

The Board asked if the existing garage was to be demolished. The applicant explained that due to its age and condition it cannot be reutilized. The noted that the yard is on an incline making it difficult to locate the garage on another part of the lot.

At 8:52 PM. S. Bogert opened the public hearing.

He noted that if the public wishes to speak via Zoom, to utilize the "raise hand" icon.

At 8:53 PM with no one to speak for or against the applications S. Bogert closed the public hearing

S. Bogert made a motion to approve Application ZO2020-0022VAR for a variance from Article V Section 235-35(B) rear setback to allow the demolition/reconstruction of a garage.

(1) The variance will not be contrary to the public interest;

Granting the variance would not be contrary to the public interest as the encroachment is minimal and it does not alter the essential character of the neighborhood and is not a hazard to the health, safety and welfare of the public.

(2) The spirit of the ordinance is observed; AND

If the variance were granted, the spirit of the ordinance would be observed as the owner is looking to improve his property in harmony with the surrounding neighborhood, the public was noticed, and the setback would be the same as the existing garage.

(3) Substantial justice is done; AND

Granting the variance would do substantial justice because it would not alter the character of the neighborhood and it allows the owner to make use of the structure for both vehicle and yard equipment storage.

(4) The value of surrounding properties are not diminished; AND

If the variance were granted, it will not have a negative effect on surrounding property values, it will improve the surrounding area with improved and updated home and garage.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

The property has a sloped yard, placing the structure elsewhere would require extensive regrading and would diminish the homeowners use of his yard. By granting the variance the new structure will be placed on an existing flat area.

R. Maheu seconded the motion.

All in favor (4-0)

9.VII. ZO2020-0030VAR 730 Endicott St North Variance Application (PDF)

Applicant Steven Grant, in attendance, outlined his proposal for indoor storage at his property. Currently there is a retail/commercial use on the front portion. He is requesting a variance to allow indoor storage so that he may utilize the back portion of the property. He informed the board that the buildings would be 200-300 feet off of Route 3 (Endicott St North) and would not be visible from the roadway. Steve Grant indicated that outdoor and container storage are allowed uses in the zone. He would like to create indoor storage to keep boats, etc out of the public view, such as with the recently approved boat storage on the corner of Rollercoaster Road.

Steve Granted noted that since he submitted the application he has purchased the additional 3.9 acres adjoining the property. He provided a basic proposed set of plans, noting that he did not want to spend extensive amounts of money on plans without the approval from the Zoning Board. If approved he will have new plans drawn up for the Planning Board submission.

R. Maheu asked for clarification on the location and noted that the ordinance was changed in recent

history to prohibit indoor storage. Dean Trfethen briefly outlined the history of the change. The Board also discussed the 50' wetland buffer (which was met)

At 9:40 PM. S. Bogert opened the public hearing.

He noted that if the public wishes to speak via Zoom, to utilize the "raise hand" icon.

At 9:41 PM with no one to speak for or against the applications S. Bogert closed the public hearing

G. Ober noted that the ordinance was specifically enacted to prevent this type of development (indoor storage), if they approve the variance it would contradict what Council wanted.

G. Ober made a motion to deny Application ZO2020-0030VAR. for a variance from Article V Section 235-28 to allow indoor storage/self-storage use on the property.

(1) The variance will not be contrary to the public interest;

Granting the variance would not be contrary to the public interest as there is some level of need for storage.

(2) The spirit of the ordinance is observed; AND

If the variance were granted, the spirit of the ordinance would not be observed as it is in conflict of the Ordinance as it was passed for a specific reason.

(3) Substantial justice is done; AND

Granting the variance would do substantial justice because it would not alter the character of the neighborhood as it would not be visible.

(4) The value of surrounding properties are not diminished; AND

If the variance were granted, it will not have a negative or a positive effect on surrounding property values.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

The only hardship is an economic one as the owner has use of the property and that does not meet the requirement for a variance.

G. Ober clarified that all criteria must be met and that even though it meets some of the criteria it does not meet all five.

R. Maheu seconded the motion.
Three in favor. One opposed (M. Dellavecchia)

10. OTHER BUSINESS

- 10.I. Re-Hearing Request ZO2020-0014SE 16 Birdie Way Special Exception (PDF)
Chair S. Bogert read aloud the letter from the Mitchell Municipal Group (letter is part of packet) outlining the request for a rehearing of Application ZO2020-0014 16 Birdie Way Special Exception.

S. Bogert read to the record the letter from former mayor Ed Engler outlining the history and intent of the Short Term Lodging Ordinance. (If you would like to read the letter in its entirety, please contact the Planning Office)

G. Ober made a motion to grant the request to rehear application ZO2020-0014 16 Birdie Way Special Exception for Short Term Lodging.

Discussion:

The Board discussed taking this as an opportunity to look at the new section and what is considered a community benefit. G. Ober noted that community benefit is not something tangible and that up until the ordinance was passed short term lodging was not an allowed use in Laconia. She presented the question of whether the Board should have their own attorney weigh in on the issue.

S. Bogert clarified that a vote to rehear the application is not a vote to deny, it is to rehear and then make a decision. G. Ober clarified that, with the rehearing, the Short Term Lodging permit application would be put on hold; D. Trefethen confirmed that it is on hold.

S. Bogert commented that this is an opportunity to determine if they misinterpreted the intent of the Council with the Short Term Lodging Special Exception criteria. M. Dellavecchia noted that if people have been doing it illegally for five or more years that it qualifies them for a Special Exception, it does not make sense. M. Dellavecchia noted that the exception was put in with one specific property (Holman St) in mind. S. Bogert commented that visiting nurses could be considered a community benefit. This would be an opportunity for clarity as to the intent of the Council.

D. Trefethen noted that the City was hoping that progress towards state legislation would be made on short term lodging but with the current pandemic that was all put on hold.

S. Bogert expressed concerns about trying to interpret something that has a wide meaning and is not tangible. M. Dellavecchia noted that short term lodging has its place with the appropriate rules and regulations.

D. Trefethen informed the Board that if they grant the rehearing then a representative of the Council would most likely be present to provide further explanation of their intentions.

R. Maheu seconded the motion.

S. Bogert noted that the exception was granted on the fact that the house would not be vacant (the community benefit as presented by applicant). He noted that it is not different than when anyone goes on vacation and the house is empty.

Vote: Four in favor; none opposed (4-0) to rehear the application.

11. ADJOURNMENT

At 10:39 PM R. Maheu made a motion to adjourn the meeting.

S. Bogert seconded the motion.

All in favor (4-0)