



City of Laconia
Zoning Board of Adjustment
Tuesday, June 18, 2019 - 7:00 PM
City Hall in the Armand A. Bolduc Council Chamber

6/18/2019 - Minutes

1. CALL TO ORDER

Meeting was called to order by Chair S. Bogert at 7:04 PM.

2. ROLL CALL

Present: Steve Bogert; Orry Gibbs; Michael DellaVecchia; Roland Maheu

Absent with Notification: Suzanne Perley

Absent: Mike Foote

Michael DellaVecchia was seated as a voting member.

3. RECORDING SECRETARY

Karen Santoro, Zoning Technician

4. STAFF IN ATTENDANCE

Dean Trefethen, Planning Director

5. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

5.I. May 21, 2019 Zoning Board Of Adjustment Meeting Minutes (PDF)

R. Maheu made a motion to accept the minutes of the May 21, 2019 meeting as presented.

O. Gibbs seconded the motion.

All in favor (4-0)

6. EXTENSIONS

7. 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.

8. 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.

8.I. ZO2019-0012 VAR 11 Kingsley Ave Variance (PDF)

Applicant Susan Hewey and neighbor Nancy Rowley outlined the request to the Zoning Board of Adjustment. They are proposing a boundary line adjustment between the two properties to allow a driveway to be contained on Lot 17. The lot frontage would be reduced on lot 18 by approximately 18 feet; Lot 17 would increase by 18 feet however both would remain nonconforming in regard to Minimum Lot Frontage.

At 7:09 PM S. Bogert opened the public hearing.

Kathleen Cronin, Simpson Ave, addressed the Board. She inquired if the driveway is going to be paved or remain grass? She stated she is concerned with runoff. She also noted that a tree had been removed.

Barbara Rillahan, 3 Simpson Ave, addressed the Board on behalf of her brother Brian Rillahan, 24 Simpson Ave. She stated that he is concerned with the drainage. She asked if the Board would do a site visit before approving the variance.

At 7:14 PM, with no other public comment, S. Bogert closed the public hearing.

The applicant and neighbor returned to the podium. Nancy Rowley noted that the tree that had been removed was taken down because it had been severely damaged in a storm. She intends to grind the stump and plant a new tree. She stated that the driveway will not change.

O. Gibbs made a motion to approve ZO2019-0012 VAR 11 Kingsley Ave Variance (146-125-18) from Article VI Section 235-34 Minimum Lot Frontage to allow for a boundary line adjustment. Lot frontage would be reduced on Lot 146-125-18 by 18 feet from 85 feet to 67 feet on lot 18 and increased on Lot 146-125-17 by 18 feet from 30 feet to 48 feet.

1. Granting the variance would not be contrary to the public interest because the properties are existing non-conforming lots. The boundary line adjustment will allow the existing driveway to be located on lot 17. Nothing would change, they are moving an invisible lot line.

2. If the variance were granted, the spirit of the ordinance would be observed it would not alter the character of the neighborhood, it provides off street parking for the homeowner on her own lot, has no effect on traffic, nothing would change.

3. Granting the variance would do substantial justice because it would not alter the character of the neighborhood, it provides off street parking for the homeowner on her own lot, has no effect on traffic, nothing would change.

4. If the variance were granted, the values of the surrounding properties would not be diminished because it would not alter the character of the neighborhood, nothing would change and it allows for off-street parking.

5. Unnecessary Hardship. Literal enforcement of the regulations would not allow the property owners to use their property and park off street. The lots are old and were created prior to current zoning regulations, anything that would be done on the lot would most likely require relief from the zoning regulations.

R. Maheu seconded the motion.

All in favor (4-0)

8.II. ZO2019-0015SE 53 Walker St Special Exception (PDF)

Applicant Sean Cochrane outlined his request for a Special Exception to the Zoning Board of Adjustment. He informed the Board that he had installed the bonus room with bathroom over the garage at the time it was constructed, he stated he converted to a living space late last fall/early spring and has rented it out since April of this year. He stated that he had contacted the State of NH regarding the regulations on Accessory Dwelling Units (ADU) and thought he was all set. He noted that the building is 660 square feet and meets the requirements for an ADU.

At 7:24 PM S. Bogert opened the public hearing

Mike MacFadzen, 43 Walker St, address the Board. He stated that he objects to the application on principal, Mr. Cochrane had made multiple attempts in the past and was denied on his original permit application. He noted that it is supposed to be a garage with a bonus room. M. MacFadzen also stated that the construction of the garage has created an erosion and drainage problem.

At 7:28 PM, with no other public comment, S. Bogert closed the public hearing.

D. Trefethen commented that the Board could condition an approval with the requirement that any required building permits, inspections and certificate of occupancy be obtained.

S. Cochrane addressed the Board with closing comments. He noted that the tenant moved in during month of April and that he had obtained a building permit for the garage with a bonus room above. S. Cochrane stated that the lease is for one person and that there is 75 feet of grass area between garage and neighbors house.

The Board briefly discussed the application.

O. Gibbs made a motion to approve Application ZO2019-0015SE 53 Walker St for a Special Exception as required by Article VII Section 235-41 (4) to create a detached Accessory Dwelling Unit with the condition that the applicant apply for and receive all necessary permits, have all required inspections and receive a certificate of occupancy for the living unit.

a. The use requested is specifically authorized in this chapter. ADUs are permitted by Special Exception in all zoning districts that permit single family dwellings.

b. The requested use will not create undue traffic congestion or unduly impair pedestrian safety. A single occupant will not create increase in traffic.

c. The requested use will not overload any public water, drainage or sewer system or any other municipal system. A single occupant will not provide substantial increase in use of water, sewer or any other municipal system.

d. The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services. There is no increase in demand on school or other services; no increase in demand on solid waste.

e. Any special provisions for the use as set forth in this chapter are fulfilled. If the lot meets or exceeds the required minimum lot size, the ADU may be located in a separate detached structure such as a garage or barn, provided the existing structure conforms to required yard setbacks for the respective zoning district. The lots meets or exceeds required minimum lot size and the structure conforms to setback requirements.

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.

g. The proposed location is appropriate for the requested use. ADU is permitted by Special Exception in all zoning districts that permit single family dwellings.

h. The requested use is consistent with the spirit and intent of this chapter and the Master Plan. ADUs are permitted by Special Exception in all zoning districts that permit single family dwellings.

M. DellaVecchia seconded the motion.

All in favor. (4-0)

8.III. ZO2019-0018VAR 18 Sanborn St (PDF)

The applicant, John Adams, addressed the Board, presented a list of points and outlined his request for a variance to install a 12'x18' shed within the setback area.

The Board briefly discussed the topography and size of the lot and the possibility of meeting setback requirements.

At 7:52 PM S. Bogert opened the public hearing.

Richard Bennett, an abutting neighbor, addressed the Board. He noted that he would be most impacted by the placement of the shed. R. Bennett stated that he did not see why the applicant could not meet the setback requirements and put it ten feet from the side property line. By putting it in the setback area Mr. Adams adversely affects his property to maintain open space on his own.

At 7:54 PM, with no other public comment, S. Bogert closed the public hearing.

The Board discussed the hardship, and reviewed the size of the lot. It was noted that, due to the size, the shed would require a building permit.

S. Bogert made a motion to deny application ZO2019-0018VAR 18 Sanborn St for a variance from Article VI Section 235-35(B) Side Setback to allow for the construction of a 12' x 18' shed.

1. Granting the variance would be contrary to the public interest by adversely affecting the neighbor to benefit the applicant.
2. If the variance were granted the spirit of the ordinance would not be observed.
3. Denying the variance would do substantial justice because it protects the abutters' properties
4. If the variance were granted the values of surrounding properties would not be diminished. Value is not diminished as far as residential properties; however abutters would be affected and the enjoyment of their property diminished.
5. No unnecessary hardship exists. The lot is large enough and has ample space for a shed to be placed in an area that meets setback requirements.

O. Gibbs seconded the motion
All in favor. (4-0)

8.IV. ZO2019-0019VAR 80 Highland St Variance (PDF)

Agent for the applicant, Steve Smith, outlined the request to the Board. Currently in the Professional Zone only two signs are allowed with a 42 sf maximum. Due to the large size of the hospital campus, over ten and a half acres with seven points of access, and multiple buildings on the property, multiple signs are needed to move people and traffic both safely and logically.

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

At 8:14 PM with no one to speak for or against the application, the public hearing was closed.

O. Gibbs made a motion to approve application ZO2019-0019VAR 80 Highland St for a variance from Article IX Section 235-58(A) Table of Sign Regulations to allow for additional signage over and above allowed 2 signs and 42 sf maximum.

1. Granting the variance would not be contrary to the public interest because LRGHealthcare serves the lakes region and beyond. The facility consists of 10.45 acres of land area fronting on four different streets with seven access points, containing five different buildings with 362,000sf +/- of medical office space, supported by 564 parking spaces. Directing of patients to the correct facility is paramount to their health, safety and welfare. Allowing additional signs for a facility of this size would not be contrary to the public interest.
2. If the variance were granted, the spirit of the ordinance would be observed because the ordinance was drafted to protect the general public's health, safety and welfare. In this case, because of the massive size of the facility, number of individual buildings, and multiple points of access from four different streets a maximum of two signs and 42sf are not appropriate. In granting the variance the spirit of the ordinance will be observed and the general public's health, safety and welfare protected.
3. Granting the variance would do substantial justice because by allowing additional conforming signs the hospital will be able to better serve the interest of its patients and the general public's health, safety and welfare by providing order for vehicular and pedestrian traffic on and off the site.
4. If the variance were granted the values of the surrounding properties will not be diminished because the proposed signs will meet the size requirements allowed for the types of signs proposed. The signs will allow orderly vehicular and pedestrian traffic within the confines of the hospital campus and surrounding neighborhood.

5. Unnecessary Hardship

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of the provision of the property because: the fact that the hospital campus consists of 10.45 acres of land area, fronts four different streets with over seven points of access, supporting five different buildings containing over 362,000 sf of medical office space with multiple services, 2 signs with a maximum of 42 sf cannot possibly support the uses and provide a safe environment for the patients and general public.

ii. The proposed use is a reasonable one because the proposed use meets all zoning requirements as set forth in the Professional zone. The additional signs proposed will provide a safe environment for hospital patients and the general public visiting the site.

M. DellaVecchia seconded the motion.

All in favor. (4-0)

8.V. ZO2019-0020VAR 12 School St Variance (PDF)

Applicants George and Nola Landry addressed the Board and outlined their request for a variance to allow the installation of a front deck and stairs. They explained that the current steps are steep and the landing is very small. The front deck and wider stairs would allow for safer ingress and egress to the home.

At 8:25 PM S. Bogert opened the hearing to the public.

It was noted by the Chair that a letter of support for the project was received from neighbors Linda and Tom Peary of 159 Franklin St.

At 8:25 PM with no one to speak for or against the application, the public hearing was closed.

O. Gibbs made a motion to approve application ZO2019-0020VAR 12 School St for a variance from Article VI Section 235-35(A) Front Setback to allow for the construction of an 8'x24' deck with stairs.

1. Granting the variance would not be contrary to the public interest because the deck would be in character with the neighborhood and would provide safe ingress and egress from the home.

2. If the variance were granted, the spirit of the ordinance would be observed it would not alter the character of the neighborhood character with the neighborhood and would provide safe ingress and egress from the home.

3. Granting the variance would do substantial justice because it would not alter the character of the neighborhood, it provides for safe ingress and egress from the home, has no effect on traffic and does not create any demand on public services and utilities.

4. If the variance were granted, the values of the surrounding properties would not be diminished because it would not alter the character of the neighborhood and it will increase the value of the home as well as increase safety.

5. Unnecessary Hardship. Literal enforcement of the regulations would not allow the property owners to improve or upgrade their home. The house was built prior to current zoning and is located on the front setback line. Anything that would be done on the front of the home would require relief from the zoning regulations.

R. Maheu seconded the motion.

All in favor (4-0)

8.VI. ZO2019-0021SE Endicott St East (PDF)

Attorney Philip Hastings, Ted Van Zant of New England Solar Gardens and Ting Cheng of Novis Engineering provided a brief overview of the proposed project at the former landfill site (now capped) located on Endicott St East.

Attorney Hastings addressed the Board, he noted that the proposed use is a passive one, once constructed there are no visitors or employees on site, it is self-sustaining. The site would be monitored on a schedule for maintenance purposes.

D. Trefethen noted that the Special Exception is for the use (power generation facility); the project would then go to the Planning Board for Site Plan Review and appropriate approvals.

At 8:39 PM S. Bogert opened the hearing to the public.

At 8:39 PM with no one to speak for or against the application, the public hearing was closed.

S. Bogert made a motion to approve application ZO2019-0021SE Endicott St East for a Special Exception from Article V Section 235-26 Uses Permitted by Special Exception to establish a Photovoltaic Power Generation Facility.

1. The use requested is specifically authorized in this chapter. Table 1, Table of Permitted Uses, of the Zoning Ordinance, specifically provides that power generation facilities are permitted by special exception in the RS District.
2. The requested use will not create undue traffic congestion or unduly impair pedestrian safety. After construction of the solar farm, maintenance and upkeep will be minimal, resulting in minimal traffic or other nuisances. The solar farm will have no customers or vendors coming to or from the property, and maintenance traffic is typically limited to one light truck on an infrequent basis. As such, the solar farm will not increase traffic or impede the ability of pedestrians to safely use existing public rights of way.
3. 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 Solar Farm will not create any stormwater runoff concerns, as only minimal grading of the Property will be required to allow construction. The general topography of the Property will not be changed, and drainage and stormwater runoff will meet all local, state, and federal requirements. The Solar Farm will create no demand on public water, public sewer or other municipal systems.
4. The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services. The Solar Farm will not require any additional police or fire protection, as the use will be passive, requiring little oversight or maintenance. The Solar Farm will have no negative effect on schools and will create no solid waste.
5. Any special provisions for the use as set forth in this chapter are fulfilled. There are no additional special provisions. There are no special provisions specifically applicable to power generation facilities in the Zoning Ordinance.
6. 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 Solar Farm will have a low profile, will not be an eyesore or nuisance, will not result in increased traffic, will not create noise or other emissions, will be contained in a secure site, and will be designed to mitigate any stormwater runoff. The proposed use will allow for the Property to be put to a higher and better use, in addition to providing a passive, fiscally responsible and renewable energy source. The proposed use will not alter the character of the neighborhood, as the Property is currently a capped landfill.
7. The proposed location is appropriate for the requested use. The current use of the Property is a capped landfill. The proposed use will have little impact on surrounding properties as the solar panels will have a low profile.

8. The requested use is consistent with the spirit and intent of this chapter and the Master Plan. The purpose of the Zoning Ordinance is to regulate dimensional and design standards in the City to lessen congestion in the streets, secure safety from fires and other panics or dangers, promote health and general welfare, provide adequate light and air, prevent overcrowding of land, avoid undue concentration of population, facilitate the adequate provision of public services, and assure the proper use of natural resources. Zoning Ordinance, §235-2. The Master Plan provides that the vision for Laconia is to maintain a balance between its beautiful natural resources and continuing economic development for the benefit of current and future residents, businesses, and seasonal visitors. Master Plan, at 4.

The construction of the Solar Farm is consistent with the purposes of the Zoning Ordinance and Master Plan because it will promote the general welfare of the residents of Laconia, assure the proper use of natural resources, increase the potential sources of electricity, and provide for the development of a passive, fiscally responsible and renewable energy source. The solar panel farm will not result in increased congestion or fire hazards. Additionally, the low profile of the solar panels will maintain clear airspace and will not violate dimensional or design standards.

O. Gibbs seconded the motion.
All in favor. (4-0)

9. OTHER BUSINESS

D. Trefethen informed the Board that the request for Special Exception for the Opechee St application has been appealed to Superior Court. He noted that the process has just started.

10. ADJOURNMENT

At 8:45 PM S. Bogert made a motion to adjourn the meeting.

O. Gibbs seconded the motion.

All in favor. (4-0)