

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
March 8, 2016

A public hearing of the Zoning Board of Adjustment was held on Tuesday, March 8, 2016 at 6:30 PM in Room 208, City Hall.

Members in attendance were:

Gerry Reppucci, Chair  
Jack Currier, Vice Chair  
J.P. Boucher, Clerk  
Mariellen MacKay  
Kathy Vitale

Carter Falk, AICP, Deputy Planning Manager/Zoning

Mr. Reppucci explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Reppucci explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Reppucci also explained procedures involving the timing light.

- 1. John J. Flatley Company (Owner) Expose Sign & Graphics, Inc. (Applicant) 1 Tara Boulevard (Sheet A Lot 721) requesting variance to allow for a 44.2 square foot off-premises tenant panel on an existing ground sign for Homewood Suites, (located at 15 Tara Boulevard). PI Zone, Ward 8. [TABLED FROM 11-24-15 MEETING]**

Voting on this case:

Gerry Reppucci  
Jack Currier  
J.P. Boucher  
Mariellen MacKay  
Kathy Vitale

Mr. Reppucci said that they have received a letter from them, and they wish to withdraw the case. He said that they may re-apply in the future.

- 2. G. Hurd & Son Construction, LLC (Owner) 257 & "L" Pine Street (Sheet 101, Lots 26, 27, 29) requesting the following variances: 1) minimum lot width, 60 feet required, 50 feet proposed for "Lot A"; and, 2) minimum lot width, 60 feet required, 50 feet proposed for "Lot "B" -**

**both requests to subdivide 257 Pine Street into two lots and combine them with "L" Pine Street. RB Zone, Ward 6.**

Voting on this case:

Gerry Reppucci  
Jack Currier  
J.P. Boucher  
Mariellen MacKay  
Kathy Vitale

Attorney Colin Jean, 64 McKean Street, Nashua, NH. Atty. Jean said that he submitted two drawings of the property, one as it exists now, it's approximately 18,500 square feet, and the other one is how it would look with two individual lots, each of which meet all the dimensional requirements with the exception of the minimum lot width. He said the Code requires 60 feet of lot width, and they would have 50 feet each. He said that at some point in the proposed lots, they would have at least 60 feet of width.

Atty. Jean said that each lot would be well in excess of the minimum lot area, one would be about 12,000 square feet, the other over 6,600 square feet for a single family home lot. He said that the variances are simply for relief of the lot width. He said that the lot width was put in place to accommodate cul-de-sac lots from the early 1970's. He said that the property is in a well-established neighborhood, all of which pretty much conforms to the older style rectangular lot sized neighborhoods. He said that many lots in the neighborhood have 50 foot wide lots. He said that the proposed lots would fit nicely into the neighborhood, and the houses would be set back further from the street than the current house that is there, which will be removed.

Atty. Jean said that the developer will raze the current building, which sits no more than seven feet from the road, and build two new homes. He said that there won't be any safety factor, if anything, the existing house depreciates the value of the neighborhood, and two new homes will help appreciate the values in the neighborhood. He said that the request would be in the spirit and intent of the ordinance. He said that for the hardship, if the applicant would not be able to build two single-family lots here, it would be nonconforming to the rest of the neighborhood, it would be an 18,600 square foot lot,

which isn't economically feasible and the best use of the property.

Mr. Reppucci asked if the proposed two homes would be otherwise conforming, except for the lot width, or would they be back for other relief.

Atty. Jean said no, all of the ordinance requirements would be met, with the exception of the lot width.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Roger Morgan, 249 Pine Street, Nashua, NH. Mr. Morgan asked where the houses would go on the lot, and if they'd interfere with other homes.

He was given a copy of the proposed layout.

Mr. Reppucci said that there is a next step, if this case is approved tonight, it will still have to go to the Planning Board for a subdivision.

David Roy, 5 Hampton Drive, Nashua, NH. Mr. Roy said that he owns 251 Pine Street, the house immediately to the right. He said that he has a side porch that would open up directly onto the next door property. He said he has concerns that it would open up directly to a driveway there could be problems, and asked if it's possible to get some kind of a privacy fence, at least running from the front towards the back.

Mr. Reppucci said that on the drawings, it shows where the garages are, and you can see where the driveways would be.

**SPEAKING IN FAVOR - REBUTTAL:**

Atty. Jean said that he's been informed that there are plans to have a fence. He said it would make sense to have a fence. After conferring with the owner, the intention is to definitely put a fence up. He said that one of the concerns is that the setback on 251 Pine Street is pretty close to the property line, and doesn't want any concerns with people leaving their own home

if a fence was right on the line. He said that they are willing to work something out.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:**

Mr. Roy said he's willing to work with the new owners to make sure that there is an equitable line for a fence. He said the only concern he has are the three trees right along the property line, more on the other property side that might get in the way of a fence. He said that there's not a lot of room between his side porch exit/entrance.

Mr. Reppucci asked if the porch door go towards the property or towards the front of the house.

Mr. Roy said it opens in, and it goes in the back away from the street. He said its perpendicular to the property line, it's not parallel.

Mr. Reppucci asked if he felt comfortable that they could work this out.

Mr. Roy said he's comfortable working with the new landowner.

Mr. Currier said that he believes that the application has a lot of merit, there are other lots with similar widths in the neighborhood. He said it would be a benefit to removing the old house, there will be better parking too, and the request is reasonable. He said its best if the two neighbors can work out something with the fence by themselves.

Ms. Vitale said that what they propose meets the spirit and intent of the ordinance, the proposed lots would be similar to other nearby properties, and the houses would be within their building envelopes.

Mrs. MacKay said she's in favor, the proposal would be in keeping with the rest of the houses there, and it goes towards Mr. Morgan's comment about not being able to see your neighbors. She said that she's not adverse to any stipulation about them working with each other for the fence.

Mr. Reppucci said that parking will be better, the houses will be set further back, and property values should increase, and it'll be better for the neighborhood. He said that the

neighbor's concerns were reasonable, and they'll be addressed reasonably as well.

**MOTION** by Mr. Currier to approve the variance application as advertised on behalf of the owner, with both requests considered together. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, which is subdividing an oversized lot into two lots that are still meeting the minimum size but not the minimum width. He said that the Board finds that the special conditions of the property are that generally, most of the adjoining properties have the same width as would be proposed for these properties, and therefore, it's within the spirit and intent of the ordinance

Mr. Currier said that it will probably improve the property values of surrounding properties, as an old house would be removed and two new houses would be situated more ideally on the lot. He said it is not contrary to the public interest, and substantial justice is served to the owner.

Mr. Currier said that for a stipulation of approval, the G. Hurd Construction Company will work with the abutter at 251 Pine Street to agree, and erect a privacy fence, with no greater detail on what it is other than that.

**SECONDED** by Mrs. MacKay.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MISCELLANEOUS:**

**REGIONAL IMPACT:**

The Board did not see any cases that have regional impact.

**REHEARING REQUESTS:**

None.

**MINUTES:**

2-10-16:

**MOTION** by Mr. Currier to approve the minutes as presented, waive the reading, and place them in the permanent file.

**SECONDED** by Mr. Reppucci.

**MOTION APPROVED UNANIMOUSLY 5-0.**

Mr. Reppucci said that for signs, he spoke with Attorney Bolton. He said that ideally, if everyone can come up with some legal questions that Attorney Bolton can answer, he'd be happy to meet with us. We should come up with specific questions, given to him in advance, so he has the time to do his research. He said it would be great to send him our questions as a package through Mr. Falk.

Mr. Currier said he'd like to send him the letter he just sent.

Mr. Reppucci said it would be great to get the questions ready within two weeks, and we'll package them to Attorney Bolton, and then we'll set up a time to meet.

Ms. Vitale said it would be good to keep track of anything ordinance-wise, over the past year, often we talk about something that has come up that should be addressed.

Mr. Reppucci said its flaws in the ordinance, where we would like to see changes made.

Ms. Vitale said yes, and it has to come out of the Board of Aldermen to propose a change, but every so often we see something that could be different.

Mr. Reppucci said he believes the sign code could be looked at.

**ADJOURNMENT:**

Mr. Reppucci called the meeting closed at 7:14 p.m.

Submitted by: Mr. Boucher, Clerk.

CF - Taped Hearing