

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
January 12, 2021

A public hearing of the Zoning Board of Adjustment was held on Tuesday, January 12, 2021 at 6:30 PM, via Zoom.

Mariellen MacKay, Chair, asked Mr. Falk for a Roll Call. All members stated that they are alone:

Mariellen MacKay, Chair
Steve Lionel, Vice Chair
Jack Currier, Clerk
JP Boucher
Rob Shaw
Jay Minkarah
Nick Kanakis

Matt Sullivan, Planning Manager
Carter Falk, Deputy Planning Manager/Zoning
Kate Poirier, Zoning Coordinator

Mrs. MacKay explained the Board's procedures, stating that the Board is operating under the Governor's Executive Order via Zoom. Mr. Lionel explained how public access is available by telephone, and additional access means by video or other electronic access, as well as the meeting being streamed through the City's website on Nashua's Community Link and also on Channel 16 on Comcast. Mrs. MacKay identified the points of law required for applicants to address relative to variances and special exceptions. Mrs. MacKay 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.

1. Ernest & Constance Gagnon Family Trust (Owner) JLS Holdings, LLC, by its Attorney, Thomas Hildreth, McLane Middleton Law Firm (Applicant) 49 Buckmeadow Road (Sheet C Lot 18) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#148) to allow a landscaping business and landscaping equipment storage. R40 Zone, Ward 5.

[CASE POSTPONED TO THE JANUARY 26, 2021 MEETING.]

2. One Chestnut Realty, LLC (Owner) Mark Conserva, Metro Sign & Awning (Applicant) 1 Chestnut Street (Sheet 80 Lot 1) requesting variance from Land Use Code Section 190-101, Table

101-7 (C) for maximum number of ground signs, one permitted, one existing - one additional ground sign requested. GI/MU Zone, Ward 4.

Voting on this case:

Mariellen MacKay, Chair
Steve Lionel, Vice Chair
Jack Currier, Clerk
JP Boucher
Rob Shaw

Mark Conserva, Metro Sign & Awning, Tewksbury MA. Mr. Conserva said that this sign would be for the Landing at 1 Chestnut Street. He said that the property is a rectangular piece of property, stretching about 1,600 feet from Chestnut Street to Pine Street, and has entrances and frontages on both. He said that there is one principal structure on the lot, and it is a multi-story brick warehouse storage facility.

Mr. Conserva said that the property had a new free-standing sign installed this past summer, to replace an older dilapidated sign, it is near the Chestnut Street entrance. He said that the Pine Street entrances serves several commercial and industrial business tenants. He said that there is also a lot of deliveries and shipments from the Pine Street entrance, and there is no sign there. He said that there is no ID sign at this location, and the sign is set back about 100 yards from Pine Street, and there is a landscape buffer zone, a chain-link fence, and a large parking lot.

Mr. Conserva said that the Ordinance limits the number of ground signs in the GI/MU zone to one sign. He said that the sign is a double-sided free-standing pylon sign, it is a 8-inch deep, 72 inch circular cabinet, with identical copy on each side, with leasing information, and will be painted black with white acrylic lettering. He said that the size is 36 square feet, and is 9.5 feet in height.

Mr. Conserva said that the variance will not be contrary to the public interest, as the Pine Street entrance into the property is without signage, and it is difficult for customers to safely navigate into the property and it creates confusing traffic, and the proposed signage will help with a modest sign.

Mr. Conserva said that the spirit and intent of the Ordinance is kept in good faith, as the Code restricts the number of ground signs to one per lot, but this sign is about 1/3 of a mile away from the other entrance, so it will not look cluttered, and you cannot see the other sign at Chestnut Street from the entrance off of Pine Street.

Mr. Conserva said that substantial justice will be served as the proposed sign will serve to identify an entrance to the property in which there is no sign, and each entrance services a distinct and different use.

Mr. Conserva said that property values will not be diminished, he said that this section of Nashua is experiencing a lot of anticipated renaissance, and the ownership has invested heavily in the exterior of the property in anticipation of the revitalization efforts.

Mr. Conserva said that hardship is satisfied, as the building is 160 feet in width, 560 feet in length, and the parcel is a 4.5 acre lot, and the exceptionally large building only has one freestanding pylon sign at the Chestnut Street entrance, which is only 36 square feet, and it makes sense to have a sign at each entrance, and there is no identification sign at the Pine Street entrance to this large property, and the building is 100 yards away from Pine Street and the entrance itself may not necessarily be associated with the building. He said that the building is obscured by the building at 100 Factory Street, which is right at the roadway, and the turn is just not evident. He said that the variance is reasonable.

Mr. Currier asked how long this building has been called the Landing.

Alexandra Freeman, 17 Barrett Avenue, Boston, MA. Ms. Freeman said that she purchased the building in April, 2019 from Michael Tichnor.

SPEAKING IN FAVOR:

No one.

SPEAKING WITH QUESTIONS, CONCERNS OR OPPOSITIONS TO THE CASE:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Board members all expressed support for the application.

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the Board recognizes that it is a very large piece of property, and has two frontages, one on Chestnut Street and one on Pine Street, and they are over 1,600 feet apart from one another, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance.

Mr. Boucher said that the request is within the spirit and intent of the Ordinance.

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice to the owner will be served.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL OF THE VOTING MEMBERS.

3. Pinnacle Amherst, LLC (Owner) Eric Crosswell (Applicant) 472 Amherst Street (Sheet H Lot 136) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#156) to use a portion of an existing building for a winery/retail business. HB Zone, Ward 2.

Voting on this case:

Mariellen MacKay, Chair
Steve Lionel, Vice Chair
Jack Currier, Clerk
JP Boucher
Rob Shaw

Eric Crowwell, 472 Amherst Street, Incredibrew, Nashua, NH. Mr. Crowwell said that they are planning on moving their business from Daniel Webster Highway to this location, and have been at the current location for 25 years. He said that he doesn't see any issues with their business moving here, as there are a lot of like-minded businesses nearby, and they are looking forward to contributing another retail business to this industrial park, which has been getting more retail traffic in there, and will increase interest for businesses in this location, and will feed off other businesses located on Amherst Street, so it should not conflict with anything or any business nearby, and it observes the spirit and intent of the ordinance. He said that their business is very unique, and help people make their own batches of wine.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Board members all expressed support for the application as presented.

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the Board stated that this has been a property that has had several use variances, and it does fit in with what is going on in the area, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance.

Mr. Boucher said that the request is within the spirit and intent of the Ordinance.

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest,

and substantial justice to the owner will be served.

SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL OF THE VOTING MEMBERS.

4. Debra & Sean Lang (Owners) 34 Robinhood Road (Sheet C Lot 1297) requesting variance from Land Use Code Section 190-16, Table 16-3 to encroach 3 feet into the 20 foot required front yard setback (on Pollard Road) to construct an attached 26'x26' two-story addition. R9 Zone, Ward 9.

Voting on this case:

Mariellen MacKay, Chair
Steve Lionel, Vice Chair
Jack Currier, Clerk
JP Boucher
Rob Shaw

Debra & Sean Lang, 34 Robinhood Road, Nashua, NH. Mr. Lang said that they are joined by their contractor, Steve Rousseau. He said that they are looking to put in an addition for his mother, who cannot live by herself anymore. He said that the variance is to encroach 3 feet into the setback.

Mr. Minkarah asked when the addition was going to go into the setback, if they looked at any other alternatives to reduce the size of the footprint.

Mr. Lang said that they invested funds into the plans, and figured that since it was only 3 feet, they felt that the plan was reasonable.

Steve Rousseau, Rousseau Enterprises, 14-16 Hill Street, Nashua, NH. Mr. Rousseau said that they discussed shortening the addition by three feet, but where there is a decent sized set of stairs that takes the applicant's mother from the downstairs area to the upstairs living area, that would encroach substantially into her living space, as the stairway would be a handicap stair lift to go up the stairs, so to shorten it by three feet would make it really small for her downstairs. He said that the owner has street frontage on two streets, so there is an additional front yard setback to follow. He said it would

make the space much less comfortable to shorten it by three feet.

Mr. Currier said that on the plans, one face shows a chimney, and asked if it would be facing Robinhood Road or Pollard Road.

Mr. Rousseau said it would be facing Pollard Road. He said it will be sided, not with stone as shown. He said it would be for a zero clearance fireplace in the living room upstairs.

Mr. Currier asked if the flags in the lawn were to show the location of the addition.

Mr. Rousseau said they are there to help the Board out.

Mr. Currier asked if there will be any visibility issue with cars maneuvering around the corner.

Mr. Lang said that they've been there for 25 years, and Pollard Road is very quiet, and there is a stop sign. He said that there won't be a blind spot, there is still plenty of room. He said that the lawn is sort of messy, they had a sprinkler system relocated.

SPEAKING IN FAVOR:

Karen Green, 3 Pollard Road, Nashua, NH. Mrs. Green said that she is in favor, and said it will be beautiful. She said that she has an email in saying the same thing.

Email sent in from Kevin Morse, abutter, Nashua, NH. Mr. Morse said that he is in favor.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Board members all expressed support for the application, stating that two abutters at the corner of the intersection are both in support.

MOTION by Mr. Lionel to approve the application on behalf of the applicant as advertised. Mr. Lionel stated that the variance is

needed to enable the applicant's proposed use of the property, given the special conditions of the property, the Board stated that it is a corner lot, and the benefit sought by the applicant cannot be achieved by some other method reasonable for the applicant to pursue, other than the variance, the Board examined whether reducing the size of the encroachment was feasible and it was determined that it was not, because it being a corner lot it has two front yard setbacks that pose restrictions and the Board believes that this is reasonable.

Mr. Lionel said that the request is within the spirit and intent of the Ordinance.

Mr. Lionel stated that the request will not adversely affect the property values of surrounding parcels, the Board received testimony from two of the neighbors who are in favor of the proposal.

Mr. Lionel said that it is not contrary to the public interest, and substantial justice to the owner will be served.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL OF THE VOTING MEMBERS.

5. Richard Drouin (Owner) 6 Cote Avenue (Sheet 123 Lots 27-28) requesting variance from Land Use Code Section 190-16, Table 16-3 to encroach an 10 additional feet into the 25 foot required front yard setback (on Chapman Street), 14 feet existing, 4 feet proposed - to construct an attached 10'x10' enclosed porch. RA Zone, Ward 6.

CASE WAS WITHDRAWN BY THE OWNER.

MISCELLANEOUS:

MINUTES:

12-8-2020:

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

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS (Mrs. MacKay abstained).

REGIONAL IMPACT:

The Board did not see any cases of Regional Impact.

BY-LAWS:

Board members did not see any items that need to be changed in the By-Laws.

Mr. Falk said that the only revision may be to change the approval date of the By-Laws, as the last time the By-Laws were signed was in 2017, so it should be updated after the new slate of Officers for 2021. He said he would bring a clean copy for the next meeting.

ELECTION OF OFFICERS FOR 2021:

Mr. Lionel said he's been Vice Chair the past two years, and would like to run for Chair position. He said that he believes he can do the job and give it a go.

Mrs. MacKay said that she would also like to run for the Chair again, she said that there's been some past precedent that the Chair goes for two one-year terms, and would like to continue. She said that we've all been in some tenuous times with COVID and we've done very well, and would like to continue as Chair.

Mr. Currier said that he's delighted that there's interest in the members to run for officers. He said he'd be happy to be the Clerk again.

Mr. Falk said that only the full members can run for an officer position.

Mr. Shaw said he'd welcome Mr. Currier to remain as Clerk, and for the Chair, he said that if someone doesn't get elevated to Chair, they could still serve as Vice Chair. He said that he's served in all the roles in the past, and is not interested in serving in any of them now.

Mr. Boucher said he's not interested in an officer position now, and also has done all three roles in the past. He said that he'd be happy to have Mr. Currier again as Clerk, and for the Chair, he doesn't want anyone to have any hard feelings about it, and it's really only the Chair and Vice Chair that seem open.

Mr. Lionel said that he's been the Vice Chair for two years, and said he would stay as Vice Chair if he's not the Chair.

Mrs. MacKay said that would be fine with her, she said she's been the Chair for a year, and has been the Clerk for many, and would be fine with whatever the Board determines.

Mr. Shaw said that there should be a vote for each position. He suggested that the Board vote on it tonight.

MOTION by Mr. Boucher to nominate Mr. Currier for Clerk.

SECONDED by Mr. Shaw.

Mrs. MacKay asked if there are any other nominations for Clerk.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE MEMBERS.

Mr. Currier said he'd like to make a nomination for Mrs. MacKay as Chair, and is making the nomination first of all with no disrespect to Mr. Lionel, but with an observation, a COVID observation, and that is, the attendance of these meetings has been great by the Board since COVID came along, typically, the Vice Chair sees a lot more action, historically, the Vice Chair was probably Chair at a very large percentage of the meetings, perhaps 25% of them over the years, and also, there's been such little voting by the alternate members because it was hard to make a quorum of even three, and Mr. Minkarah and Mr. Kanakis have excellent attendance and they hardly get a chance to vote because the members have such good attendance. He said that he is making a Motion for Mrs. MacKay with no disrespect to Mr. Lionel. He said it's also great to have a female Chair.

Mr. Shaw said that he'd like to nominate Mr. Lionel for the position of Chair. He said that it's been a long practice of the Board to try to give opportunity to all of the full-time members a chance to rise to Chair of the Board, and willingness

of whomever the current Chair is to look to those members to have the chance to serve before. He said it would be reasonable for Mr. Lionel to step in as Chair. He said that all the rest of us have served as Chair before, and it's good when the Board has that exposure throughout the membership as well.

Mrs. MacKay asked for a SECOND on either or both of the nominations.

SECOND by Mr. Boucher to Mr. Shaw's nomination for Mr. Lionel as Chair. He said that no disrespect to Mrs. MacKay, as she's done a great job. He said that he enjoyed being Chair, and knew when others had interest, he had no problem stepping aside, and remembers the second year he was nominated, he said that because of Mr. Shaw's travelling and some other issues, he continued to fulfill that role, but was completely accepting and knowing that it was going to be for one year, and was ok with that. He said that he agrees with Mr. Shaw that anytime we can give someone an opportunity to serve, it's great. He said that Mrs. MacKay did a great job this year, especially doing the meetings from home. He said that he is seconding Mr. Shaw's vote for Mr. Lionel as Chair.

SECOND by Mr. Shaw for Mr. Currier's nomination as Clerk.

MOTION by Mr. Currier for Mrs. MacKay as Chair, and Mr. Lionel as Vice Chair.

MOTION by Mr. Boucher to have Mr. Lionel as Chair, and Mrs. MacKay as Vice Chair.

Mr. Shaw said that he is voting for Mr. Lionel as Chair. He said that the Board should make separate motions for the positions.

Mr. Lionel said that he is voting for himself as Chair.

Mrs. MacKay said that she is voting for herself as Chair.

MOTION CARRIES 3-2 (Mrs. MacKay and Mr. Currier against) for Mr. Lionel to serve as Chair for 2021.

MOTION by Mr. Currier for Mrs. MacKay to serve as Vice Chair for 2021.

SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE MEMBERS.

ADJOURNMENT:

MOTION by Mr. Lionel to adjourn the meeting at 7:49 p.m.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE MEMBERS.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing