

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
April 23, 2019

A public hearing of the Zoning Board of Adjustment was held on Tuesday, April 23, 2019 at 6:30 PM in the Auditorium, 229 Main Street, at City Hall.

Members in attendance were:

JP Boucher, Chair
Steve Lionel, Vice Chair
Mariellen MacKay, Clerk
Jack Currier
Jay Minkarah

Carter Falk, Deputy Planning Manager/Zoning

Mr. Boucher explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Boucher 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. Boucher also explained procedures involving the timing light.

1. Parrott Family Revocable Trust (Owner) Tim & Donna Parrott, Trustees (Applicant) 23 Wood Street (Sheet 47 Lot 250) requesting variance from Land Use Code Section 190-192 (C) to exceed maximum 24-foot wide driveway curb-cut - 18 feet existing on Courtland Street, an extra 16 feet proposed on Wood Street, for a total width of 34 feet. RA Zone, Ward 3.

Voting on this case:

JP Boucher, Chair
Steve Lionel, Vice Chair
Mariellen MacKay, Clerk
Jack Currier
Efstathia Booras

Mr. Parrott said that he has an 18-foot curb-cut on Courtland Street to access a detached garage, as the property is located at the corner of Courtland Street and Wood Street. He said that the driveway on Courtland Street is actually 12 feet wide, but the curb is cut at 18 feet. He said that he purchased the

property in 2012, and it has a side entrance to it on the Wood Street, north side of the home, that has access to the side lot. He said that he has purchased an RV, and is currently parking it on the property in the location of the proposed driveway. He said that instead of driving it on the lawn, he'd prefer a driveway in that area to keep the lawn in better condition.

Mr. Parrott said that the request is for a 16'x94' long driveway. He said the 16 foot width is at the beginning, but it will reduce down to 12 feet wide, with vegetation on both sides. He said that his property is very well maintained. He said that he has a vinyl fence that will be moved forward in the yard, as the house is 38 feet from the front from the street, and the RV will be parked behind the fence. He said that the driveway will be more than 50 feet from the intersection of Wood Street and Courtland Street. He said that Wood Street is a much quieter road.

Mr. Parrott said that he can't park the RV off of Courtland Street, it is a much busier road, and it would be difficult to back in and out of Courtland Street. He said that his detached garage is 7 feet from the property line, and it will not accommodate the vehicle, and there is no room to park it on the back side of the garage. He said it really doesn't make any sense to park the RV on the Courtland Street side, there isn't the room that is needed. He said in order to do so; a whole new garage would need to be constructed. He said that of the four houses at the intersection, all of them have their driveways on Courtland Street, which was done in 1949. He said that there are many homes in the City that have two driveways, especially on corner lots. He said the driveway would be 85 feet away from the corner, and no traffic would be blocked. He said by having the driveway, it will be safer for access in and out of the property.

Mr. Lionel asked if he had considered constructing a garage that would accommodate the RV.

Mr. Parrott said they did, and it would cost over \$100,000. He said that the traffic on Wood Street compared to Courtland Street is minimal. He said that his existing garage is 24'x24', it was built in the 1940's, it would have to be torn down, and the new garage would need to be 16'x48' for the RV, with extra height. He said that it would just not be feasible from a

financial standpoint. He said that there are dozens of RV's on gravel driveways in the City, some are in people's front yards.

Mr. Currier asked if he thought about going 12 feet and 12 feet for both driveways.

Mr. Parrott said that he has a 12 foot wide driveway, but the curb-cut is 18 feet.

Mr. Falk said that staff measures the curb-cut at the property line, so if he did two 12 foot driveways, he would just need to file for a curb-cut permit with the DPW.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Susan Gagnon, 31 Wood Street, Nashua, NH. Mrs. Gagnon said that the curb-cut is not in keeping with the neighborhood, the character of the houses. She said that the safety issue is disingenuous; there are children, cars around. She said it's not in keeping with the neighborhood, no one else on the street has two driveways, two curb-cuts, and they are parking a very large, expandable RV. She said that she and her husband are in opposition.

Mr. Boucher said that residents may park an RV in their property. He asked if she would rather see a nice driveway there, or the RV driving and parking on the lawn.

Mrs. Gagnon said she would prefer to not see a driveway there, and it sets a precedent for others to have a second driveway, and other vehicles can park there.

Mr. Boucher read two letters into the record from Mr. Chrissis from 61 Courtland Street

SPEAKING IN FAVOR - REBUTTAL:

Mr. Parrott said for safety, he spoke with his propane company, and they need two feet away from windows, and two feet away from everything around it. He said that the vehicle is not hooked up to the propane tanks. He said that there are some properties

with two driveways nearby. He said that they have a fully gated back yard, with a 9-foot gate. He said that the RV is registered, it's brand new, and is used on a regular basis, it comes and goes, and sometimes it stays at the campground.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

None.

Mr. Currier said in looking at the criteria, especially the literal enforcement of the provisions that would result in an unnecessary hardship, he said he isn't seeing it for this property. He said that there are many instances where the Board sees two driveways, but a typical situation is a long existing lot, or it has inadequate parking, or in a congested area. He said that a proposed 96 foot long driveway can fit more than three large cars, and it can be filled up with things with that length. He said he's struggling to support it, and doesn't see the hardship.

Mr. Minkarah said it's not about the RV. He said that there's nothing about the property that makes it distinctive or special. He said he doesn't see the hardship. He said that size-wise, there is nothing unusual about it, or its shape. He said he can't get to the special conditions of the property.

Mr. Lionel agreed with Mr. Currier and Mr. Minkarah. He said he doesn't see any special conditions with the property that justify exceeding the maximum driveway width. He said that the variance runs with the property, so it's permanent. He said that it may detract from the value of surrounding homes, and it is near the property line, and it doesn't meet the spirit and intent of the ordinance, and doesn't see a compelling reason to support it.

Mrs. MacKay said she lives next to a property that has two driveways, and down the street from her is a large RV, and it's right across Concord Street, in this same neighborhood. She said that the street is a beautiful street. She said it doesn't seem fair to suggest that they take down their existing garage to build a new one. She said that she hears both sides of the arguments.

Mr. Boucher said it is a beautiful neighborhood, and Courtland Street can have heavy traffic. He said it may be safer off of

Courtland Street. He said to remove and reconstruct a new garage is unreasonable, and it's not in front of the Board. He said that even though the driveway is 96 feet, it will be continued past the fence that would be moved up, and a lot of it would be in the rear yard, so only 25 or so feet of it would be seen as it would go past the house. He said he is fully confident that the owner would continue to park it where it is, and the driveway would make the area neater. He said that he is supportive of the request.

Mr. Falk said that by not having the driveway paved, they would have to drive from the paved street onto the grassed swale area, across the sidewalk, and eventually the sidewalk will be damaged.

Mrs. MacKay said at this point, she is hard-pressed to say no. She said that Courtland Street is a thoroughfare, and her street crosses it too, it is very busy, and said she understands the rationale by having the driveway on Wood Street.

MOTION by Mr. Currier to deny the application on behalf of the owner as advertised. He said that the majority of the Board believes that the variance is not needed to enable the applicant's proposed use of the property, given the special conditions of the property, and a portion of the Board finds that there are no special conditions of the property that warrant a second driveway, and that the literal enforcement of the ordinance would not place an undue burden on the property owner.

Mr. Currier said that a portion of the Board feels that it is not within the spirit and intent of the ordinance to allow the second driveway. He said that a portion of the Board finds that it would negatively impact surrounding property values.

SECONDED by Mr. Lionel.

MOTION CARRIED 3-2 (Mr. Boucher and Mrs. MacKay).

2. Kyle & Brittney Cavagnaro (Owners) 83 Dublin Avenue (Sheet 53B Lot 4) requesting variance from Land Use Code Section 190-16, Table 16-3 to allow a portion of a proposed attached 10'x48' carport to encroach up to 10 feet into the 30 foot required rear yard setback. R9 Zone, Ward 1.

Voting on this case:

JP Boucher, Chair
Steve Lionel, Vice Chair
Mariellen MacKay, Clerk
Jack Currier
Jay Minkarah

Kyle Cavagnaro, 83 Dublin Avenue, Nashua, NH. Mr. Cavagnaro said that they have plans to build a garage addition, and on the side of the garage addition, the request is to construct a carport. He said that only a corner would encroach into the setback.

Mr. Cavagnaro said that they bought the house about a year ago, and have been fixing it up.

Mr. Lionel asked if there is any fencing or screening in the back of the property.

Mr. Cavagnaro said that there is none, except for a lot of trees.

Mr. Lionel asked what he can see from the back of the carport.

Mr. Cavagnaro said that he submitted some pictures from all the abutting lots, there is significant distance from the edge of the carport to the abutting properties, and there is some topography changes and many trees.

Mr. Cavagnaro said that the carport would be eight 8"x8" pine beams that would tie into the garage. He said that he'd like the carport to run the whole length of the garage. He said that they currently have a carport, but it is rather dilapidated. He said it would be finished with cedar shake siding and stonework on the bottom. He said that only a couple posts and a small portion of the carport would be in the setback, and it would be a story and a half tall. He said that the roof pitch would match the house.

Mr. Minkarah asked how many vehicles would park in the garage and carport.

Mr. Cavagnaro said three cars in the garage, plus lawn equipment, motorcycles. He said it would be a total of five

vehicles.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Margo Robes, 39 Meredith Drive, Nashua, NH. Mrs. Robes said that there used to be a fence there, a split rail fence, has rotted away, so there's nothing there. She said at some time, someone will need to get the property line marked out. She said she can't find one of the markers. She said she is curious how close it would be to the lot line.

Mr. Boucher said that a corner of the carport would encroach up to 10 feet into their 30 foot setback, and the carport itself would be at least 300 feet from the back corner of their house.

Mr. Falk said it's doubtful that the neighbor would even see it, it's pretty far away, the lot slopes down, and there are numerous trees.

SPEAKING IN FAVOR - REBUTTAL:

None.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

None.

Board members all expressed support for the application.

MOTION by Mr. Lionel to approve the variance application on behalf of the owner as advertised. He said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the property has an unusual shape, 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. Lionel said that it is within the spirit and intent of the ordinance. He said that it will not negatively impact property values of surrounding parcels.

Mr. Lionel said that the request is not contrary to the public interest, one abutter had some questions about the request, but the proposed carport is a significant distance away to other properties, and substantial justice is served.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

MINUTES:

3-26-19:

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

SECONDED by Mr. Minkarah.

MOTION CARRIED UNANIMOUSLY 5-0.

REGIONAL IMPACT:

Mr. Falk said that there is an extra week in the Agenda, and will email an Agenda when it is available.

ADJOURNMENT:

Mr. Boucher called the meeting closed at 7:38 p.m.

Submitted by: Mrs. MacKay, Clerk.

CF - Taped Hearing