

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
June 23, 2020

A public hearing of the Zoning Board of Adjustment was held on Tuesday, June 23, 2020 at 6:30 PM, via WebEx.

Members in attendance were as follows, via verbal Roll Call from Mr. Falk. All members stated that they are alone:

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

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 WebEx. Mrs. MacKay 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 including 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.

Mr. Falk asked for a Roll Call. All members present, along with alternates Mr. Minkarah and Mr. Kanakis. Everyone stated that they are alone.

- 1. Andrew Cott & Jeannine LaBranche (Owners) 7 Plum Drive (Sheet B Lot 1724) requesting variance from Land Use Code Section 190-16 (E)(2) to construct an attached 12'W x 20'L x 5'-5"H deck to encroach 5 feet into the 40 foot required rear yard setback. R18 Zone, Ward 8.**

Voting on this case:

Mariellen MacKay, Chair
Steve Lionel, Vice Chair

Jack Currier, Clerk

Rob Shaw

JP Boucher

Jeannine LaBranche and Andrew Cott, 7 Plum Drive, Nashua, NH.

Mr. Cott said that the proposed deck is not contrary to the public interest, the proposed deck is similar to others in the neighborhood, and it would not be visible from the street, and would be mostly hidden. He said that the proposal meets the spirit and intent of the ordinance, as it has a small degree of encroachment, and will not be visible.

Mr. Cott said that substantial justice would be served, and they love their back yard, and there is some wildlife out there and they find it peaceful. He said that the deck would be at the same height as the living area in the house, it would be 5 feet - 5 inches above grade, and it would be helpful if the deck was the same level.

Mr. Cott said that they did have a deck that was built before they owned the house, and they believe it was built without a permit, but it was 10'x20', and the proposed deck would be 12'x20', as the 10 foot width made it difficult to get a table and chairs out there.

Mr. Cott said that it will not diminish the property values of surrounding properties, the proposed deck will be built using pressure treated lumber, and with composite decking, and it will be very high quality construction. He said that the old deck was beginning to become an eyesore.

Mr. Cott said that they really want to maintain the 5'-5" height, as they have elderly family members that come over. He said that it is his understanding that if the deck was four feet or less in height, it would meet the ordinance. He said that the encroachment is minimal, and the house is located at an angle with respect to the rear property line. He said that they also have an A/C compressor under the bumpout, and that also makes it difficult to have a deck four feet in height.

Mr. Currier asked about the four feet height issue with respect to setbacks.

Mr. Falk said that if a deck is four feet in height or under, only the part that you walk on, it can go up to five feet to a

property line.

SPEAKING IN FAVOR:

Robert Taylor, 3 Plum Drive, Nashua, NH. Mrs. MacKay read Mr. Taylors letter of support into the record.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

All members expressed support for the application.

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 discussed the topography, the closeness of the setback line to the back of their house, the oddly-shaped lot, 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 the request is within the spirit and intent of the Ordinance, as it is a very minimal incursion into the large setbacks.

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

Mr. Lionel said that it is not contrary to the public interest, there was a message in support from a neighbor, and substantial justice to the owner will be served.

SECONDED by Mr. Boucher.

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

**2. 158 Amherst Street LLC (Owner) Hatch Plumbing and Heating LLC)
(Applicant) 158 Amherst Street (Sheet 51B Lot 113) requesting**

use variance to allow a plumbing office/shop. RA Zone, Ward 4.

Voting on this case:

Mariellen MacKay, Chair

Steve Lionel, Vice Chair

Jack Currier, Clerk

Rob Shaw

JP Boucher

Matthew Hatch, Hatch Plumbing and Heating, 204 Jennison Road, Milford NH. Mr. Hatch said that he is in the process of purchasing this property, and set up an office space for his plumbing business. He said he needs the office to maintain the workflow that he has in this area. He said that they will be putting on new siding on the building at some point, and a new sign.

Mr. Hatch said that there would be a couple vans there in the morning, and deliveries of materials throughout the week. He said that he won't be interfering with the neighborhood, or a negative impact to the neighborhood.

Mr. Currier said that years ago, there was a plumbing business across the street from where he lived, and it had a lot of noise with trucks and materials. He said he didn't think that there would be customers coming here.

Mr. Hatch said that he doesn't expect any customers coming by, other than occasional sales reps. He said he would have a couple employees and someone in the office. He said his hours would be 7:30 - 4:30.

Mr. Currier asked if there would be storage outside.

Mr. Hatch it would be inside, it would be internal. He said it wouldn't be a pipe yard; the property is just not set up that way. He said a lot of the materials are stored or delivered on-site, or it's housed in Milford.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Boucher asked about the crew, and hours of operation.

Mr. Hatch said that his crew will take their trucks home with them, and they begin at 8:00 am. He said he'd get there earlier by himself to open the office up, and begin the operations. He said that they concentrate on the service end.

Mr. Boucher asked about storage outdoors.

Mr. Hatch said it would be inside, he said that he still has to figure out pipe storage, it would not be a lot, as he specializes on the service end, and this property isn't set up for that. He said that they will need some sticks of copper, and these days tubing comes in rolls.

Mr. Boucher asked about the anticipated deliveries during the week for materials.

Mr. Hatch said it depends, but a couple or three times a week. He said that they would be from box trucks.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel said that this location has been before the Board multiple times in the past, and it is in an area where there are lots of small businesses are occupying what looks like residential buildings, so it seems as if it is in character with what the neighborhood has become, and is in support.

Mr. Shaw agreed, and said it would be a reasonable intensity of use, and not excessive, as far as storage and how trucks would be dispatched, and the limited number of deliveries. He said it is in keeping with many of the other small businesses on this stretch of Amherst Street.

Mr. Boucher said that he is in support. He said he was concerned that it would be like a pipe yard, but it sounds like that would be happening at his other facility. He said that

this use falls in line with other uses along Amherst Street, and there are no neighbors in opposition.

Mr. Kanakis said that he supports the application, it fits in well with the area and is a reasonable use, and their work would be wherever the job site is.

Mr. Minkarah said he concurs with the previous comments, and is in support.

Mr. Currier said he supports the application. He said that the last application at this property brought out a lot of opposition, but by the testimony of the applicant, it will be a low impact use, and it should be in concert with the neighborhood, and it has been said often that folks do not want a high-intensity use here, as homes are close to it.

Mrs. MacKay said that she is also in support for all of the reasons mentioned. She said it appears to be a low impact and a good use of the property.

MOTION by Mr. Lionel to approve the application on behalf of the applicant as advertised. Mr. Lionel stated that the use variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the Board said that it is located on Amherst Street, along with many other small businesses with similar low-intensity uses, 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 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.

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

SECONDED by Mr. Shaw.

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

MEMBERS.

MINUTES:

None.

REGIONAL IMPACT:

Mr. Falk said that there is an extra week in the schedule, and the next Agenda doesn't get advertised until June 30th. He said that there will be ten cases for the July 14th meeting.

Mr. Shaw asked if there will be the need to have the meeting over two nights.

Mr. Falk said that staff will reserve a WebEx meeting for the next night as well, which is normally how we do it.

Mr. Minkarah asked if there is a time cutoff, time-wise.

Mr. Falk said it's really up to the Board, in the past, we'll see how things are progressing about 11:00 pm, and if it looks as if there is a lot to go, it may be another night, but if it looks as if it's close to being done, we'll push through it.

Mr. Falk said that staff will mail the package out on the 6th of July.

ADJOURNMENT:

MOTION by Mr. Shaw to adjourn the meeting at 7:21 p.m.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing