

Town of Farmington
Zoning Board of Adjustment Meeting Minutes
Thursday, July 11, 2019

Board Members Present:

Elmer Barron, Chairman
John Aylard, Vice Chairman
Joe Pitre
Warren Morgan
Bill Fisher
John Scruton, Alternate member

Others Present:

Brian Vachon

BUSINESS BEFORE THE BOARD:

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Review Meeting Minutes:

January 3, 2019 -

Motion: (Fisher, second Pitre) to accept the minutes of June 18, 2019 as written passed 5-0 (Scruton abstained).

Any Other Business to come before the Board:

Town Planner - Chairman Barron asked what the Town is presently doing for a Planner. Mr. Fisher said the Town is using an Interim Planner from the Strafford Regional Planning Commission (SRPC) who is in the Planning Office for a full day on Tuesdays each week. Mr. Pitre said it would be nice if he was at their meeting. Mr. Fisher explained that the Planner is not required to attend meetings per the contract.

NEW CASES:

Application for Variance by Brian Vachon, Stone Pros Fab & Install LLC (Tax Map R 20, Lot 003): The applicant requests relief from the provisions of Section 2.00 (F) of the Farmington Zoning Ordinance which permits only one principle use per lot. The applicant proposes four uses for the site, including an existing HVAC contractor and proposed granite countertop fabrication, granite countertop sales, and U-Haul rental. The parcel is located on NH Route 11 and in the Commercial Business District (CB). The parcel is owned by Aranco Oil Company.

Chairman Barron asked if the members knew which parcel this application is for. Mr. Fisher said the application is for the former Mobile gas station lot which is located next to New England Furniture. He said that he saw the applicant's presentation as a Planning Board member but that he recused himself that night and sat in the audience so there wouldn't be a conflict of interest at this meeting because he knew it was also coming before the ZBA.

Chairman Barron said the board received a memo from Interim Planner Kyle Pimental which contained a summary of the applicant's applications for a Variance (to allow more than 1 principle use) and a Special Exception (to allow a commercial industrial use not specified in the commercial zone) and his notes on some items the board may wish to consider and read the memo aloud.

He then asked the board to begin with the Variance application.

Brian Vachon introduced himself to the board as the owner of Stone Pros Fabrication and asked the board what they needed from him to review his applications.

Mr. Barron said Mr. Vachon's application states he is seeking a Variance to allow 3 additional principle uses on the lot and asked if the lot size was .3 acres or 1.3 acres.

Mr. Vachon said it is a small lot and that he thought the size is about .3 acres.

Mr. Barron said the Variance is requested from Article 2, Section F of the Zoning Ordinance to permit a motor vehicle sales facility (U-Haul rental), retail store (stone sales and display) and a commercial industrial use not specified (stone fabrication).

The board then reviewed and discussed the facts supporting the request are as follows:

1). The Variance will not be contrary to the public interest:

Applicant response – The proposed uses will not have any major impact on public utilities or municipal services nor will they impose any threat to public health, safety or welfare.

Board Discussion – Mr. Scruton said he was concerned that the U-Haul rental will create a public safety issue on that small lot from the traffic going on and off of Route 11. He said Mr. Vachon is trying to do an awful lot on a very small lot and he didn't know if this is something the Planning Board should be addressing as part of the Site Plan Review.

Mr. Barron said he shared Mr. Scruton's concern especially if he starts parking the rental vehicles in the front of the lot.

Mr. Fisher said the Planning Board's main concern was the size of the lot and the amount of business that is going to be taken on there. Their determination was that it's going to be difficult but they left it up to Mr. Vachon to figure out how to make it happen he said.

He said Mr. Vachon plans to store the stone under the awning over where the gas pumps were formerly located and the U-Haul vehicles would be parked along the right side toward the back of the business. The bays in the garage are segregated enough to have one side for the stone fabrication and the other side for the HVAC business he said.

Mr. Barron said they should not be trying to do a site review which is the purview of the Planning Board but they can make some stipulations.

Mr. Vachon gave Mr. Fisher a copy of the drawings he submitted with his Site Plan Review application.

Mr. Fisher said the drawings were a pretty good breakdown of what is there and that he believed all of the members have seen the spot and know that it is kind of small. There is a fence that runs around $\frac{3}{4}$ of the lot and the furniture company is parking trailers along the right

side to keep people from using it as a short cut through to their property he said.

Mr. Vachon said the furniture company's customers were constantly pulling into his lot thinking they would access the furniture store from there.

Mr. Scruton said there is also the site review issue regarding snow storage/removal and if you are approving all of these (uses) then you are putting more pressure on the Planning Board to approve a site plan that may be contrary to the public interest. He said that as an alternate member he would not be voting on this matter and that he was raising the issue with regard to the U-Haul business.

Mr. Aylard said whether they approved or denied the use the Planning Board can set the number of vehicles allowed on site.

Mr. Barron agreed and said the Planning Board could stipulate how many units they could have there at one time.

Mr. Scruton said the public safety and the public interest is a valid concern for the ZBA.

Mr. Barron said the ZBA can attach stipulations such as he can't block the driver's vision pulling onto Route 11 from either side of the lot and that he can't park the vehicles on the island in front of the building as his predecessors have done.

Mr. Fisher said he did not think it would be contrary to the public interest as Mr. Vachon plans to bring in some good businesses and that having a U-Haul business in Farmington would be a good thing because the nearest one he is aware of is in downtown Rochester.

Mr. Morgan asked if the U-Haul contract would require Mr. Vachon to take in any U-Haul vehicle that is dropped off there.

Mr. Vachon said a local storage company had to stop renting U-Haul vehicles and gave his name to U-Haul knowing they were opening up and had a little bit of space. He said it would be more of a satellite location and not like the Rochester location with several hundred vehicles on the lot and people coming and going all of the time.

He said he does not have an actual contract with U-Haul yet and he will go back to them and tell them the number and sizes of the vehicles he is allowed to have there. They came to us with a proposal and it won't be a \$1 million operation with the average rental bringing in \$15, but it will help to keep the heat on during the winter if you do enough of them a month he said.

Mr. Aylard said he was inclined to agree that it would not be contrary to the public interest although he did have some safety concerns that he would like to address later in the meeting.

Mr. Pitre agreed there are some safety issues and that they could be addressed by the board.

2). The spirit of the ordinance is observed:

Applicant response – The spirit is observed by allowing 3 businesses to serve the community in an area that offers easy access and quality services.

Board Discussion – Chairman Barron corrected that there are 4 businesses planned for the site. Mr. Vachon said the Planner split his stone business into 2 separate businesses – retail sales and fabrication.

Mr. Pitre said it meets the spirit of the ordinance in that the town needs more businesses and it is a good use of the property. There are a lot of things that we do where the product is manufactured and sold on site such as the one in the (Sarah Greenfield) business park he said. Mr. Aylard said he was not sure that the spirit of the ordinance was to condense so much into one spot.

Mr. Morgan said you have to start small before you can get big.

Mr. Barron said the ordinance limits a property to 1 primary use.

Mr. Aylard asked if the ordinance states that 1 business per 1,000 sq. ft. would be allowed.

Mr. Barron said it does not say that and that it simply says 1 primary use per lot of any sort of use that is allowed in that zone.

Mr. Aylard said this request is not just seeking 2 uses but jumps up to 4 uses.

Mr. Pitre said the HVAC business services things off site so it would be an "in and out" use.

Mr. Aylard asked about the number of vans for the HVAC business.

Mr. Vachon said the business owner has three vans.

Mr. Aylard said each one of the employees has a car that remains there when the vans leave.

Mr. Vachon said the technicians take the vans home at night so they can respond to calls overnight if necessary and that there may be one extra vehicle on the lot.

Mr. Barron said one thing for the board to keep in mind is that you have to decide if you wanted a strict interpretation (of the ordinances) you would never grant a Variance or a Special Exception. He said they consider each request on an individual basis and don't use percentages in making decisions.

Mr. Fisher said the only place where they do use a percentage is for the amount of impervious surfaces. This is a pre-existing paved lot so it doesn't apply here he said.

Mr. Aylard questioned when adjusting the ordinance becomes too much.

Mr. Pitre said that is his decision.

Mr. Barron added that is what they struggle with at every meeting.

Mr. Aylard then asked if he was the only member who thought 4 uses is too much.

Mr. Barron said 4 businesses is very ambitious and that 4 businesses put up enough red flags to have him sitting before them asking permission to do so. It does not meet the ordinance as he presented it to the Code Enforcement Officer which is why he is here and that Mr. Aylard's concern is a valid concern.

Mr. Pitre said sometimes it might take 4 businesses to support the site.

Mr. Aylard asked under that theory why he couldn't have 100 businesses on a site.

Mr. Pitre said the town is in a "fix" and that it needs more businesses. He said the Economic Development Committee is looking for more business and we have somebody here who wants to venture that way. If he makes it, it will be great for the town. If he doesn't we will still have an empty building so you have that choice. If you want to keep going down that road go ahead he said.

Mr. Barron said the problem isn't necessarily the uses themselves but that there would be 4 uses where only 1 primary use is permitted. He said there is no one here objecting to any of the uses and asked the members to get that straight in their heads. The objection from Code Enforcement is for 4 uses under one roof when the ordinance only permits one he said.

Mr. Scruton said 4 uses are a long way from 1 use.

Mr. Morgan said not considering the size of the lot and that it was not like it would create a tremendous impact to the area.

Mr. Barron said considering the size of the lot it is a much bigger impact than a bigger site would be. If that was the New England Furniture building the discussion would be a lot different. But now you are taking probably the smallest spot in that entire strip and are trying to put 4 businesses under one roof he said.

Mr. Pitre asked what it would impact if Mr. Vachon did away with the proposed U-Haul business.

Mr. Vachon said that they were just looking for extra income and his primary business is the stone company and his brother's is the HVAC company where he runs his office and the tech's pick up their paperwork in the morning and come back in the evening to punch out. There are 2 women there answering phones and doing paperwork on a split shift with 1 person in the morning and 1 in the afternoon he said.

Mr. Pitre asked if the one office person would handle both businesses.

Mr. Vachon said they would not and that he and his brother are completely separate companies and that he handles the stone sales and the stone fabrication. He said he was surprised when they wanted him to split the business as it is about 85% wholesale, has very little retail sales and he has no intention of putting up a showroom. The clients come in occasionally to look at the materials and make approvals by looking through the remnants he said.

Mr. Pitre asked where he would store his stock.

Mr. Vachon said he intended to store the remnant stock under the canopy which would be his "showroom". He said he currently has 4 or 5 pole racks that can be flipped through like a book and he would put them on display there as a way to increase sales by drawing in the lakes and Wolfeboro traffic.

He said there is an unloading area in the back of the building that is the width of the building by approx. 40 ft. wide and the full slabs would be located out back so the customer can see it before we cut it as needed. I will probably only have about 6 clients a week that show up to the site because I do most of my business through kitchen centers and designers and more often than not the client can choose what they want from pictures on the Internet he said.

Mr. Morgan said he had no issues at all.

Mr. Pitre asked if Mr. Vachon would consider pulling the U-Haul business.

Mr. Vachon said if that is what the board felt is necessary then "sure". That was brought to us

and not something that we sought out from somebody else he said.

Mr. Aylard said his concern was not all of the time but the “freak time” when everybody shows up at once.

Mr. Vachon said he understood his concern and that it is a very busy area even with the third lane on Route 11.

Mr. Barron said that in looking at the plan, he would store the materials in the front of the building (under the canopy) so people aren’t going to be able to pull in and around so they are going to have to drive all the way around the building.

Mr. Vachon said their intent was to stop people from cutting through the lot altogether.

Mr. Barron asked if that meant they would have to pull in on one side or the other and then back up.

Mr. Vachon said they will probably have to leave some space open for people to turn around and that one of their issues is that New England Furniture has a couple of vans parked next to their sign and people heading north see the big sign on the fence and pull into his driveway to get to the New England Furniture lot. He said that once they get things settled he planned to ask the furniture store owner to pull the vans back a little bit so there is more clear vision there.

Mr. Barron said if the owner doesn’t agree to do that it still will not stop that traffic. He said that only exaggerates the issue he has been talking about where people are pulling in thinking you are New England Furniture and now you will have people backing up and trying to pull out of one driveway or the other because you’ve blocked access on both sides.

Mr. Vachon said there would still be room to drive through at one spot but you won’t have all of that real estate between the street and the front of the building as it will be much narrower. He said they are considering putting up some type of rope/chain between the building and where the gas tanks used to be to try to slow down the traffic.

Mr. Aylard noted that some customers are not cooperative.

3). Substantial justice is done:

Applicant Response – I feel this is established by bringing additional consumers from surrounding and outside communities that will not only support the proposed businesses but also the surrounding ones as well.

Board Discussion – Mr. Barron said he was not sure that is the answer they were looking for but that it is hard for people to understand what these things (criteria) are meant to do.

Mr. Scruton asked Mr. Vachon what the injustice would be if he was not allowed all 4 uses.

Mr. Vachon said the U-Haul business is just something they included because they were already going through this process and it was brought to them. It’s not a large scale large profit margin operation and if U-Haul didn’t happen for me it would not be the end of the world he said.

Mr. Vachon said the HVAC office is already there and if he can’t use one or the other of those uses (stone fabrication/retail sale) he is kind of stuck.

Mr. Barron said he was struggling with “substantial justice”

Mr. Pitre advised him to look at his tax bill.

Mr. Barron said the taxes would not change if he has 1 business or 4 businesses there.

Mr. Pitre said they wouldn't change for that lot but that you have to be able to survive and that some people start out very small. That is important and if you don't allow that then there is an injustice he said.

Mr. Barron said that the ordinance is not saying he can't do any one of those businesses and they are not disallowing any one of the businesses. It's the 4 of them at the same time that is the issue he said.

Mr. Pitre said the number of businesses may be down to 3 because 2 of them have work that is done off site.

Discussion then included the potential for an increase in fatal and other accidents because too much was allowed in one spot.

Mr. Scruton said Mr. Vachon failed to articulate any injustice to allow him to have 4 businesses. He said he has made a pretty good case for 3 but he didn't think he made a case for 4. He made a case for the injustice of running 2 businesses there, one of which has 2 paths to it as opposed to operating what is really a 4th business that is unrelated to the first three. I didn't hear a case for injustice (for the 4th business) he said.

Mr. Barron said he felt the U-Haul business would have the most impact on the site. He said he would be putting inexperienced people into big trucks and they would be going out into traffic and possibly running into his canopy.

Mr. Pitre again asked if Mr. Vachon would consider withdrawing the U-Haul business.

Mr. Vachon said "absolutely" if that would make the board feel better and repeated that it was not a primary use for them.

Mr. Pitre said in his opinion he thought it would make a big difference because there is a lot of concern about it.

Mr. Vachon said he understood where the board was coming from and their points being made. Chairman Barron asked if he was making it official that he would drop the U-Haul business from the proposed uses.

Mr. Vachon said yes.

Mr. Barron said he was divided on substantial justice and didn't know what to say to that.

4). The value of the surrounding properties are not diminished:

Applicant Response- There are no plans to alter the property in any major fashion that would cause any sort of drop in value for the existing property or any surrounding properties.

Board Discussion - Mr. Barron said that is not what generally causes a drop in value and it is usually due to the type of businesses and things like noise and odors. He said he didn't believe Mr. Vachon's businesses would affect anyone's property values.

Mr. Vachon said he uses a hand held saw with a 3 horsepower motor to cut the granite slabs.

Mr. Aylard asked if planned to run the saw at midnight.

Mr. Vachon said he didn't plan to run it then and that the business is not open then. He said with the doors closed they started up the saw and stood under the canopy and the noise from the traffic on Route 11 was louder than the saw.

All of the regular board members said they did not have any problem with this question.

5). Literal enforcement of the provisions of this ordinance would result in an unnecessary hardship:

Applicant Response- None (on the application). Mr. Vachon said the hardship is either they approve him or he has to close the doors.

Board Discussion - Mr. Scruton said he would define that the hardship is that it is a uniquely shaped parcel in a highly desirable commercial location and in order to be able to effectively use it having both the stone business and the HVAC business it's the nature of the land itself and the location and size of the land that creates the hardship.

Mr. Barron said the lot has difficulties.

Mr. Pitre said many other business attempts there have failed.

Mr. Aylard said he did not know if that was due to the size of the lot or the management.

Chairman Barron said that Mr. Vachon has taken the U-Haul business off the table and he is now looking at 2.5 businesses proposed for the site.

He then called for a roll call vote for each of the criteria.

Mr. Scruton abstained from the vote as he is an alternate member.

1). The Variance will not be contrary to the public interest:

Vote: Fisher, Aylard, Pitre, Morgan, Barron- yes.

2). The spirit of the ordinance is observed:

Vote: Fisher, Aylard, Pitre, Morgan, Barron- yes.

3). Substantial justice is done:

Vote: Fisher, Aylard, Pitre, Morgan, Barron- yes.

4).The values of surrounding properties are not diminished:

Vote: Fisher, Aylard, Pitre, Morgan, Barron- yes.

5). Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

Vote: Fisher, Aylard, Pitre, Morgan, Barron-yes.

Motion: (Pitre, second Fisher) to approve the Variance with the following stipulations:

- 1).That they can't block the vision to Route 11;
- 2). That no signs, vehicles or displays will be allowed on state property

Vote: The motion passed unanimously.

Application for Special Exception by Brian Vachon, Stone Pros Fab & Install LLC (Tax Map R20,

Lot 003): The applicant proposes to conduct granite countertop fabrication, which is a "commercial industrial use not specified", and is permitted in the Commercial Business District

by special exception. The parcel is located on NH Route 11 and in the Commercial Business District (CB). The parcel is owned by Aranco Oil Company.

Chairman Barron read from the application that Mr. Vachon is seeking a Special Exception from Zoning Ordinance 2.07, Section C1 to allow for commercial industrial uses not specified to operate a custom stone fabrication shop within the Commercial Business (CB) zone. He said this is a request to allow a business that is not in the Table of Permitted Uses.

Mr. Fisher said that Table of Permitted Uses, Section VI Commercial & Industrial begins on Page 37 of Town Zoning Ordinance and continues over to Page 38 and drew the board's attention to the last category, Commercial Industrial Uses Not Specified which is allowed in the CB zone by Special Exception (SE). That industrial use would be the fabrication of the stone he said.

He said he would have no problem allowing this and they have already discussed that it will not be a big noise or waste problem and he is not manufacturing millions of feet of countertop as it's a small business. It should not affect any business or homeowners around it and it goes hand-in-hand with the sales of the countertops because he has to cut them in order to sell them he said.

Chairman Barron asked if all of the cutting is wet cutting.

Mr. Vachon said the cutting is mainly wet cutting with a little dry cutting for shaving from time to time and they are trying to shift to 100% wet cutting.

Mr. Barron asked how they would control the dust.

Mr. Vachon said he intends to install a down draft system so the particulates drop down to the floor that is already wet and it evacuates air from there.

Mr. Barron asked if there would be a filter on the system so that the particulates wouldn't be blown over to New England Furniture or out into the road.

Mr. Vachon said that the system would have a filter on it.

Mr. Aylard asked if any dangerous chemicals would be used in the fabrication process.

Mr. Vachon said no dangerous chemicals will be used.

Mr. Aylard then asked if any glue is used in the process and if any of that is dangerous.

Mr. Vachon said that rarely there may be a laminate edge where there is an epoxy process where 2 pieces are glued together. A sheet of stone roughly 10' x 6' comes in and cut it to size and then wet polish the edges of it and then install it. If there is any chemicals used it is usually in the customer's house with a little bit of polyester glue.

He said they don't store any large quantities of any chemical on site and the only flammables in his shop would be a 5 gallon can of diesel fuel for the fork lift truck and 1-2 gallons of acetone for cleaning purposes.

Mr. Barron asked if they are doing any acid etching.

Mr. Vachon said they do not do any acid etching.

Mr. Aylard asked about the delivery of materials to the site.

Mr. Vachon said the materials will be delivered to the designated unloading zone at the back of

the building because they have to use a fork truck to unload the stone slabs from the delivery truck.

Chairman Barron then began the review of the Special Exception criteria.

Criteria 1(b): No hazard shall be created to the public or adjacent property on account of potential fire explosion or release of toxic materials.

Applicant Response – There are no hazards created to public or adjacent property for potential fire or toxic materials.

Criteria 1(c): No detriment to property values shall be created in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment or other materials.

Applicant Response – There are no major changes planned to the property. All materials stored outdoors will be done so in a professional manner. As well as levels of noise and dust will be kept to a minimum.

Criteria 1(d): No traffic hazard or substantial increase in the level of traffic congestion shall be created.

Applicant Response- There is not any major increase in traffic expected.

Criteria 1(e): No excessive demand on municipal services, including but not limited to water, sewer, waste disposal, police and fire protection and schools.

Applicant Response – No excessive demand on public utilities or municipal services

Criteria 1(f): No significant increase of storm water runoff onto adjacent property or streets shall be created.

Applicant Response – No significant increase of storm water runoff is expected.

Mr. Scruton asked what happens to the slurry of dust and other materials from the wet grinding.

Mr. Vachon said it is scooped up and thrown in the dumpster. He said it is pretty much a natural product as it is just ground up stone and that it could be used to fertilize your lawn.

Mr. Aylard asked if everything that is a waste can go in the dumpster.

Mr. Vachon said that is correct. Any scraps of a larger size are hauled away by a friend he said.

Chairman Barron said the application packet included a certified list of abutters and asked if everybody was notified. He said they used to give the board the envelopes and the return receipts and that he has requested they be included in the past. He said they will have to assume they were all notified.

Mr. Scruton asked if anyone submitted a letter objecting to any of this.

Chairman Barron said anyone objecting also has the right to attend the public hearing and that no one attended this hearing.

Mr. Pitre said the list says "Certified" list of abutters so that means the notices were sent.

Mr. Barron said that does not mean they were received by the intended property owners or that an abutter wasn't missed.

Mr. Scruton asked if anyone sent in any type of comment.

Mr. Barron said not that he knew of. He then called for a motion.

Motion: (Aylard, second Morgan) to grant the Special Exception as written passed unanimously.

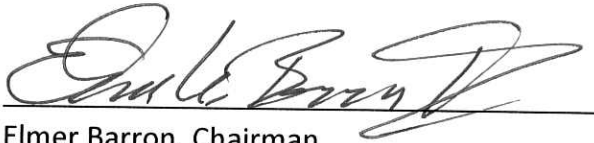
Adjournment:

Motion: (Aylard, second Fisher) to adjourn the meeting passed unanimously at 8:20 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary

A handwritten signature in cursive script, appearing to read "Elmer Barron", written over a horizontal line.

Elmer Barron, Chairman