

Town of Farmington  
Zoning Board of Adjustment Meeting Minutes  
Thursday, March 2, 2017

**Board Members Present:**

Elmer Barron, Chairman  
John Aylard, Vice Chairman  
Joe Pitre, Secretary  
Paul Parker

**Board Members Absent:**

Joanne Shomphe

**Others Present:**

Liz Durfee, Planner  
Att. Abigail Karoutas  
Duane White

**Call to Order:**

Chairman Barron called the meeting to order at 7:05 p.m.

**Review Meeting Minutes-**

December 1, 2016- No errors or omissions

Motion: (Pitre, second Parker) to approve the minutes as written passed 4-0.

**Any Other Business:** None

**New Cases-**

**Special Exception:** Application for Special Exception to permit a lot line adjustment between two abutting and dimensionally non-conforming lots by White Bros., LLC and Brew Bros., LLC. Parcels are located at 444 NH Route 11 (Map R20, Lot 26-Farmer's Kitchen Restaurant) and NH Route 11 (Map R20, Lot 23-1, Brew Bros.); Commercial Industrial Business District.

Mr. Barron questioned why there is no address number for Tax Map R20, Lot 23-1.

Ms. Durfee explained this is because the lot is undeveloped and does not yet have an address.

Mr. Barron told the board that he has "pushed back snow" for the Farmer's Kitchen lot and asked if anyone felt this is a conflict of interest that should prohibit his participation in the decision.

Neither the board members, Mr. White or Att. Karoutas expressed any concerns about Mr. Barron participating in the hearing.

Mr. Barron said the Special Exception is required under Zoning Ordinance Section 1.12(c) 3 a-c Non-Conforming Lot. He asked a representative to come forward to make a presentation to the board.

Attorney Abigail Karoutas of Wyskiel, Boc, Tillinghast & Bolduc came before the board representing joint applicants White Bros., LLC, 471 Route 11, LLC, and Brew Bros., LLC. She explained that the Planning Board conditionally approved the Site Plan for an Aroma Joe's in July 2016. As a condition of approval, the Planning Board required that the paved parking area on the northern side of the Brew Bros. lot be removed where it abuts the White Bros. lot. She provided the board with color coded maps showing the existing boundary lines for the pending Brew Bros. lot outlined in yellow, the Wagon Wheel lot in blue and the Farmer's Kitchen

lot in green. The second page of the handout depicts the proposed new lot line (pink line) with the strip of land between the Wagon Wheel and the Farmer's Kitchen becoming part of the Farmer's Kitchen property.

Att. Karoutas said that for many years the White Bros. have allowed their customers to park on that strip of land and they use it to drive around the building when there are no vehicles parked there. They do not want to lose their easement rights to the land but they also did not want to have to litigate the matter so they reached an agreement where White Bros. would buy the strip of land (12,904 sq. ft.) from the Brew Bros. and obtain ownership of the parking area. They now need a Special Exception from the ZBA for the lot line adjustment to gain Planning Board approval for the Amended Site Plan expected to be submitted this month she said.

Att. Karoutas said that last month, Brew Bros. filed an application for Amended Site Plan Review to amend the previous plan to address NH DOT's concerns about the proposed entrance to the coffee shop, the need for a Special Exception for the lot line adjustment and the changes in the percentage of impervious cover due to the reduction in their lot size. The Planning Board granted conditional approval to the amended site plan on Feb. 21, 2017. Mr. Barron asked for the location of the pavement that the Planning Board required to be removed and the reason for the removal.

Att. Karoutas said they required that the paved parking area between the Wagon Wheel and the Farmer's Kitchen closest to Route 11 be removed because of the amount of impervious surfaces on the Brew Bros. lot.

Mr. White noted that the original plan included construction of storage units behind the coffee shop which has since been removed from the plan.

Ms. Durfee clarified removal of the pavement was not a condition of approval but it was on the proposed plan and the applicant was comfortable creating a vegetative median between the lots to avoid crossing back and forth. The proposed change only impacts the Wagon Wheel and Farmer's Kitchen easement and the Planning Board conditional approval was granted regardless of whether the lot line adjustment occurs or not she said.

Mr. Barron asked if the boundary line adjustment occurs would the paved parking area still have to be torn out.

Att. Karoutas said the purpose of the lot line adjustment is to avoid tearing out the parking lot.

Mr. Barron then asked what happens to their conditional approval and impervious cover if the pavement is not removed.

Ms. Durfee said the applicant has increased the pervious cover around the proposed Aroma Joe's structure with different pavers and that part of removing the parking area was to establish a clear property line between the Brew Bros. and White Bros. properties.

Mr. Parker asked about the percentage of impervious cover allowed at the site.

Ms. Durfee said the applicant needs a storm water management plan in this area if the impervious cover is greater than 15% as it is in the Ground Water Protection Overlay District. She said they have submitted a management plan for review and approval by the Planning Board.

Mr. Parker then asked about the amount of space between the Wagon Wheel building and the proposed new lot line.

Mr. Barron said the Wagon Wheel lot is not changing as the additional footage is being taken from the Brew Bros. lot.

Special Exception Criteria:

Att. Karoutas said there are three criteria that need to be met for a Special Exception under Section 1.12 (C) (3) a-c as the lots are under the 2 acre minimum for lots in their district. She cited the following reasons that the request meets all of the criteria:

**Section 1.12 (C) (3) (a)** - Any boundary adjustment does not render a lot that is presently able to be built upon unbuildable, including but not limited to considerations such as septic design, separation between subsurface disposal system components and water sources, etc.

Att. Karoutas said there are 3 reasons why the request meets this criteria.

- 1). The lot line adjustment will not make either lot any more unbuildable as the White Bros.' lot will still have the Farmer's Kitchen Restaurant and the Brew Bros. lot will still be suitable for their construction plans. The grant of the Special Exception will also allow the well encroaching on Brew Bros. property to be contained on the Farmer's Kitchen property.
- 2). The part of the Brew Bros. lot which is to become part of the White Bros. lot is nearly orphaned due to how far away it is from the rest of the Brew Bros' lot and is unlikely to be used for future development or placement of septic or other utilities.
- 3). The line adjustment does not decrease the utility of the Brew Bros. lot and increases the utility of the Farmer's Kitchen lot. The Brew Bros. will retain access over the parking area to the northern end of their lot.

Mr. Parker asked if the parties have signed a right-of-way agreement and if the agreement will complicate snow removal.

Att. Karoutas said the issue will be part of the deed and the easement language. The agreements have yet to be signed she said.

**Section 1.12 (C) (3) (b)** – A boundary line adjustment does not have an adverse impact on the public health, safety or welfare.

Att. Karoutas said the lot line adjustment will not impact these issues either negatively or positively.

**Section 1.12 (C) (3) (c)** – Additional Planning Board review and approval is needed.

Att. Karoutas said the applicants acknowledge that additional Planning Board approval is needed. She said that Jones & Beach has a pending application for a Lot Line Adjustment before the Planning Board.

Ms. Durfee said she had not seen the application as of this meeting.

Mr. Barron said the ZBA can't grant lot line adjustments. It can only give permission to do it. He then asked if the board had any other questions or comments.

Mr. Parker asked Ms. Durfee to comment on the request.

Ms. Durfee said she had no other information to provide to the board. She said the boundary line adjustment application must be submitted to the Planning Dept. for review and suggested a copy of the new easement language be included with the application which will be forwarded to Town Counsel for legal review.

Att. Karoutas said she would see that the easement documents are included.

Mr. Parker asked if the easement documents should also be included in the ZBA records or just in the Planning Board records.

Ms. Durfee said the Planning Board will require it to be included in their records and she did not think it necessary to also include the information in the ZBA files.

Mr. Barron then asked if there was any more discussion or if the members were ready to make

a motion on the request.

Motion: (Pitre, second Aylard) to grant the Special Exception;

Discussion: Mr. Barron said he had no health and safety issues with the proposal. He noted that portion of Route 11 is a "tough piece of road" but the proposal is not changing anything there. He added it is surprising sometimes to see where some lot lines are.

Mr. Parker said the currently conflicting well belonging to the Farmer's Kitchen will be on their property. He added that he is sometimes "antsy" when adjusting non-conforming lots but said he felt this is one time where it is an actual advantage to do so.

Mr. Barron also discussed the well at the site and that he felt sure the state monitors it as it supplies water to a restaurant.

Mr. White said the well is tested quarterly and that he plans to bring Town water to lot within the next few years.

There was no additional discussion and Mr. Barron called for the vote on the motion.

Vote- The motion to grant the Special Exception passed 4-0.

Other Business: None.

**Adjournment:**

Motion: (Aylard, second Pitre) to adjourn the meeting passed unanimously at 7:35 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary

A handwritten signature in black ink, appearing to read 'Elmer Barron', written over a horizontal line.

Elmer Barron, Chairman