

Town of Farmington
Zoning Board of Adjustment Meeting Minutes
Thursday, May 4, 2017

Board Members Present:

Elmer Barron, Chairman
John Aylard, Vice Chairman
Joe Pitre
Elise Haig, Alternate

Board Members Absent:

Joanne Shomphe, Secretary

Others Present:

Arthur Capello, Town Administrator
Randy Tetreault, Norway Plains Associates
Charlie and Kathy King
Gail and Ronald Alyward

PUBLIC HEARING 7:00 P.M.

BUSINESS BEFORE THE BOARD:

Call to Order:

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

Review Meeting Minutes:

March 2, 2017- No errors or omissions.

Motion: (Pitre, second Aylard) to approve the minutes as written passed 3-0-1 (Haig abstained).
Chairman Barron welcomed new Alternate member Elise Haig to the board.

NEW CASES:

VARIANCE

Application for Variance from Article 2.0 Section (C) Prohibited Uses by Charles and Kathleen King (Tax Map R-4, Lot 1): To permit a light manufacturing use (machine shop) in the Commercial Business District. Parcel is located on Route 11.

Chairman Barron recused himself from the hearing due to having a real estate contract agreement with Mrs. King. He asked Ms. Haig to take a seat on the board as a full member in place of Mr. Parker and Vice Chairman Aylard to preside over the hearing. He then joined the audience.

Vice Chairman Aylard asked the agent/applicants to present their case.

Randy Tetreault of Norway Plains Associates, Inc. came forward as agent for the applicants.

Mr. Tetreault said the Variance application contained a "scrivener's error" stating the wrong Tax Map number. He said the correct Tax Map number is R3, Lot 16 for the lot under consideration. He added that all of the correct abutters were notified of the hearing.

Mr. Tetreault presented an aerial view and a sketch of the property showing the front portion of the 93 acre property is located in the Commercial Business zone abutting Route 11 and rear

portion of the property is located in the Agricultural zone. It is also adjacent to several current industrial uses he said.

Mr. Tetreault said the reason the applicant is before the board for a Variance is because the buildable portion of the property is located in the Commercial Business zone where light manufacturing is not permitted or allowed by Special Exception.

He said a private right-of-way known as Places Crossing is located on the south side of the property but the access to the proposed building site would be off of Route 11. There is additional information available such as delineation of wetland areas and the topography of the parcel if needed he said.

Mr. King then gave a brief history of his machine shop business which currently employs 12 workers located in 2 buildings on a 2 acre parcel in Somersworth. He said they purchased this parcel with the intent to move the business to Farmington.

The large parcel was previously owned by Thompson Center Arms and Smith and Western with the intent to move their facilities here. A site assessment was done and the property was found to be challenged by slope, wetlands and the railroad beds so the property was again put up for sale by Game Trail Partners, LLC. There are only about 6 or 7 buildable acres out of the 93 acre site he said.

Mr. King noted that they are abutters to one side of the property and that is why they became interested in locating the machine shop at this location and are willing to undertake the challenges there.

Mr. King said his business is a high volume CNC machine shop with similar uses as in the industrial park and the CBIO District in that area. He said they are looking for approval to allow light manufacturing on the parcel and to extend the time limit to 5 years to allow time to secure all permitting and approvals required.

He said that RSA 674:33 states the Variance shall be valid if exercised within 2 years of the date of the final approval or as extended by the local Zoning board. Previously the Variance ran with the land and had no time limit he said.

Mr. King said they are looking at possibly just breaking ground at the 2 year point as they plan to move forward "slow and steady" and wait until they have obtained all of the engineering, state and local permits and approvals necessary before seeking financing to have the building constructed. Two years may not be enough time to accomplish all of the steps he said.

Mr. Pitre asked if the property has a lot of ledge outcroppings which could be problem for development of the site.

Mr. Tetreault said the previous soil testing indicates that there is a high probability of ledge in this area.

Mr. King said there are Class 3 wetlands and a small area of uplands as part of the challenge of the land. The proposed building and the access sites are located to have the least impact to the wetlands areas he said.

Mr. Tetreault said because they Class 3 wetlands there are no setbacks for the building but there would be setbacks to a septic system. He said that given the character of the land, unless the

water, sewer and gas infrastructure is already in place it would be problematic to put a heavy water user on a septic system there.

Mr. King said the proposed building would be about 12,000 sq. ft. and a fire suppression system will be required. The town water line does not access the front of the lot and he contacted the Town to see what it would cost to bring water to the lot. Depending on how the water mains are installed it is estimated to cost from \$150,000 to \$300,000 to bring town water to the site.

He said they are looking for a use variance and their hardship argument is based on limited access to the site due to the snow mobile trail and too much impact to the wetlands on site.

Mr. Tetreault said the railroad bed takes up the road frontage that commercial businesses would look to use. The state took the land for highway purposes and has granted use of the land but they still own it. Any access rights would go through the state approval process and one entrance to one building is easier than several entrances to a commercial use such as a strip mall he said.

Mr. King said the elevation of the parcel from Route 11 to Ten Rod Road goes up 300 feet with about 250 feet of the increase in the wooded portion of the back section of the property.

Mr. Aylard said the applicants were here for a use variance and that most of this discussion should take place before the Planning Board.

Ms. Haig asked if installment of a septic system will be possible at the proposed site.

Mr. Tetreault said there is enough area to install a septic system and speculated it would probably be a raised system.

Mr. King added there is also a conservation easement along the boundary with Energy Resources due to the wetlands located there.

Mr. King said they will have to deal with several state agencies and this is one reason they are asking to extend the time limit due to the amount of time it takes to deal with the state.

Vice Chairman Aylard then opened the hearing to public comment/questions.

Abutter Gail Alyward asked Mr. King how long the construction at the site was expected to take, who would be responsible to keep the street clean during the construction and if he planned to hot top the driveway.

Mr. King said the construction of the proposed building should take no more than 6-9 months. He said he plans to keep as much natural screening as possible and the driveway would be approx. 22 ft. wide to accommodate power lines, truck access and parking. He said he would be held responsible for keeping the road clean during construction.

Mr. Tetreault said the purpose of this hearing to obtain a variance for the use and there will be hearings before the state and the Planning Board and abutters will be notified of those meetings.

Mr. King said it may be next year before they come before the Planning Board for a conceptual review of the proposal and then it will probably be the third year before construction begins.

There were no further questions/comments from the public.

Vice Chairman Aylard closed the public comment portion of the hearing. He asked the board to begin the review the criteria for approval of a Variance from the terms of the Zoning Ordinance.

Mr. Capello asked the board to first accept the application as substantially complete.

Motion: (Pitre, second Aylard) to accept the application as submitted noting the corrected Tax

Map number as R3, Lot 16 passed 3-0.

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

Applicant: because the use is consistent with other existing uses in the immediate area and has a viable building area with highway access.

Mr. Pitre said the proposed use fits in with existing businesses in the area and it would be difficult to use it for another purpose due to the amount of wetlands there.

Consensus of the board was there was no issue with meeting this criterion.

2). The spirit of the ordinance is observed.

Applicant: because the proposed use and subsequent development of the site would allow for a non-residential business oriented use as desired along the Route 11 corridor.

Mr. Pitre said residents have been looking to bring business to Town since the 1960's. It will be difficult to find another commercial use for the site and the proposal offers the least amount of impact to the site so it is within the spirit of the ordinance he said.

Mr. Aylard asked why this proposal is different than the lot it sits next to.

Mr. Capello said that zoning is often a matter of where they draw the lines.

Ms. Haig said the proposal leaves most of the land unaffected and that a strip mall there would cause more harm to the land. She added that as long as the septic system and any chemical use meet regulations it will be a "win-win" for everyone.

Mr. Pitre asked if the chemicals to be used at the site are biodegradable.

Mr. King said the chemicals used are water based cutting fluids and the waste stream is disposed of by waste removal company out of Portsmouth.

Consensus of board was that the proposal meets criteria two.

3). Substantial Justice is done.

Applicant: by granting of the Variance because it would allow for a proper site development use for the landowner and the Town.

Mr. Aylard said Mr. King purchased the land with the intent to move his existing business there while knowing that the use is not permitted in that zone.

Mr. King said that he assumed the use was allowed based upon the parcel's proximity to the industrial park until he received a letter from the Code Enforcement Officer informing him that light manufacturing was not allowed in the Commercial Business District. He added that if the Variance is not granted he probably would not sell the land as they are abutters to the lot.

Mr. Pitre said he felt substantial justice would be done as the proposed business is like other businesses in that area and it is a tough piece of land to find a use for. It will benefit the Town with jobs and a nice piece of property he said.

Mr. Aylard asked if the portion of the property where the building may be located has a substantial amount of ledge outcroppings.

Mr. King said that during the initial walk of the property he did not see any large cliffs but the site assessment has yet to be done and they will work with what they have. He said he hopes a lot of blasting will not be needed but some additional fill may need to be brought in. He added they will need to do some tree cutting so the soil borings and other site assessment work can be

completed.

Consensus of the board was that substantial justice would be done by granting the variance.

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

Applicant: because the proposed use will be consistent with the existing development in the surrounding area. Mr. & Mrs. King are also the rear abutting land owners.

Mr. Aylard asked what having the King's as abutting landowners has to do with this criterion.

Mr. Pitre said it would be foolish for them to propose something that would diminish the value of their own land. He said it would increase the value of the properties as small businesses attract other small businesses.

Mr. King said that at his current location one of the buildings is a business condo unit and they plan to sell the property so some of the other businesses may come with him to Farmington. He added they plan to use a small development area maybe 4 to 5 acres including the driveway and the site will be screened from the road and the abutting properties.

Consensus of the board was value of the surrounding properties would not be diminished.

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

Applicant: The general uses in the Commercial Business zone would tend to require the availability of utility infrastructure to fully develop the area. This parcel has general site features that would greatly restrict permitting for that type of user.

Mr. King said that many types of large commercial uses couldn't be conducted there due to the lack of visibility/exposure because of the railroad bed and the wetlands areas at the front of the lot.

Mr. Pitre said he could see by looking at the sketch that the lot is a high wetlands area and probably a high ledge outcroppings area. That whole side of Route 11 is difficult to build on and there is an inherent hardship to this property he said.

Mr. King added if they were not abutters to this lot they would not choose to buy this property.

Consensus of the board was that a hardship exists due to the conditions of the property.

Motion: (Pitre, second Haig) to grant the Variance to allow light manufacturing on Tax Map R3, Lot 16 in the Commercial Business zone and to extend the time limit for development to 5 years;

Discussion: Mr. Aylard asked if there was a purpose for the 2 year time limit set by the state.

Mr. Capello said that the Variance used to run with the property to succeeding owners and it was an attempt to stop continuous misuses of the land.

Mr. King then clarified that they are only seeking the Variance for the front portion of the property to allow light manufacturing in the Commercial Business zone and to extend the time limit to 5 years. The back portion of the parcel is located in an Agricultural zone with even more challenges to land and they have no plans to develop the lot beyond the portion that is zoned for Commercial Business he said.

Mr. Aylard then asked if an amendment to the motion should be added restricting allowing the Variance to as long as the King's own the property.

Mr. King asked what would happen to the Variance if he transferred the property to a Limited

Liability Company (LLC) which he owns. He would still have ownership through that company he said.

Mr. Aylard suggested if Mr. King sold the property the time limit for the Variance would revert to 2 years.

Mr. Barron said the issue did not need to be addressed at all because of Mr. King loses ownership of the property then the Variance "goes away".

Vice Chairman Aylard then called for a vote on the motion.

Vote: The motion passed 3-0.

Chairman Barron re-joined the meeting.

Election of Officers:

The board noted that Paul Parker's term has expired and he is expected to retire his membership on the board. Mr. Pitre's and Ms. Shomphe's terms expire this year and they will need to be re-appointed if they wish to continue as members of the ZBA.

Chairman Barron asked for nominations for the following board officers:

Chairman-

Motion: (Aylard, second Pitre) to nominate Mr. Barron for Chairman passed unanimously. Mr. Barron accepted the nomination.

Vice Chairman-

Motion: (Barron, second Pitre) to nominate Mr. Aylard for Vice Chairman passed unanimously. Mr. Aylard accepted the nomination.

Secretary-

Motion: (Barron, second Aylard) to nominate Ms. Shomphe for Secretary passed unanimously. Ms. Shomphe was unable to accept the nomination as she was absent from the meeting.

Any Other Business to come before the Board: None.


Adjournment:

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

Respectively submitted

Kathleen Magoon

Recording Secretary



Elmer Barron, Chairman