Town of Milford
Zoning Board of Adjustment Minutes
Oct. 6, 2011

Case #16-11
CRJ Properties, Inc.
Special Exception

Present: Kevin Johnson, Chairman
Laura Horning
Fletch Seagroves
Steve Winder
Zach Tripp - Alternate

Absent: Steve Bonczar
Michael Unsworth - Alternate

Secretary: Peg Ouellette

Case #16-11, CRJ Properties, Inc., owner of 64 Oak St., Map 43, Lot 18, in the Commercial District, for a special exception from Article V, Sec. 5.05.2:A.4 to continue the existing use (fabrication of natural and engineered stone) by making said legal, non-conforming (grandfathered) use a legal and conforming use by special exception.

Case #16-11 minutes were approved and signed on November 17, 2011.

Kevin Johnson, Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the applicable New Hampshire Statutes. He continued by informing all of the procedures of the Board; he then introduced the Board. K. Johnson read into the record the notice of hearing. Present were: Josh Tannariello, CRJ Properties, Inc, Marc and Pamela Comeau, 58 Oak Street, Milford and Becky and Patrick Flynn, 62 Oak Street, Milford.
K. Johnson asked the applicant to present his case.
J. Tannariello, representing CRJ Properties, said they are requesting permission to continue to do what they have been doing for the past hundred plus years.
K. Johnson explained that the applicant currently has two application before the ZBA. This one is dealing only with the granting of a special exception to make this a legal conforming use by special exception. The special exception for manufacturing was added to the commercial zone in 2011.
K. Johnson asked for questions from the Board.
K. Johnson inquired where the material used for fabrication came from?
J. Tannariello responded that it comes from various parts of the world – Brazil, China, India, and some locally from Vermont and New Hampshire.
K. Johnson asked if it was mined on the site.
J. Tannariello said it is not.
K. Johnson said there is a quarry listed as an abutter and were the applicants actually quarrying stone they would fall out of manufacturing and into harvesting of natural resources. He asked if they truck the materials in to process on the property and then send them out to customers, whether they be wholesale or retail, from that location.
J. Tannariello responded yes.
K. Johnson asked if there were additional questions from the Board. There were none.
K. Johnson opened the meeting for public comment and stated this is specifically regarding the special exception to make this a legal conforming use; there were no comments and the public portion of the meeting was closed.
K. Johnson read correspondence dated March 30, 2011 regarding the case from the Town of Milford Community Development Office.
"This letter is in response to your request to determine zoning compliance of the above referenced property located at 64 Oak Street, Milford, New Hampshire. A review of Town records indicates the property has been utilized for granite-related commercial and industrial/manufacturing uses since prior to the site being zoned 'C-Commercial' in 1970. The existing operation is thus considered a legal non-conforming use relative to the current Zoning Ordinance (March 2011) which allows 'manufacturing' in the Commercial District as an acceptable use by special exception (Article V.5.05.2.A.4). If I can be of further assistance please do not hesitate to contact me. Sincerely, Bill Parker, Community Development Director/Zoning Administrator.
K. Johnson asked the applicant to read the application into the record.
Description of proposed use: Existing use (fabrication of natural and engineered stone) will continue. Intent of special exception is to make this legal non-conforming (grandfathered) use as legal conforming use by special exception.

1. **The proposed use shall be similar to those permitted in the district:**
   Manufacturing in the 'C' zone is now allowed by special exception (2011 Town vote)
   This use is compatible with other uses I the 'C' district.
2. **The specific site is an appropriate location for the proposed use because**:
   The operation has been in existence at this location since the late 1800's and is well-established and operational. Redevelopment of this site to another use is unlikely.
3. **The use as developed will not adversely affect the adjacent area because:**
   The use has evolved at the current location for over a century. The surrounding residential neighborhood established itself in full proximity with no adverse impacts. Wetlands and

vegetative buffers exist on the easterly side of the property.

4. **There will be no nuisance or serious hazard to vehicles or pedestrians:**
   The use generates little traffic that would cause nuisance or serious hazards to pedestrians. Business-related traffic is aware that travel must go through an established neighborhood as there is no other access..
5. **Adequate appropriate facilities will be provided for the proper operation of the proposed use because:**
   The site and facilities have developed for over a century to be specific for the existing use.

K. Johnson asked if there were any questions from the Board.
There were none.
K. Johnson referenced the Milford Zoning Ordinance Section 10.02.1 and noted that there are five criteria to be met before the Board can grant a special exception. The five criteria are generic in nature and can therefore be applied to all sorts of different cases. In this case they are asking for a use that is called out by special exception in the ordinance.

1. The proposed use shall be similar to those permitted in the district.

Z. Tripp said yes, if you look at the uses for the Commercial C District, manufacturing of this nature falls in line with those.
L. Horning agreed. As outlined in Mr. Parker's letter to the Board, acceptable uses and yard requirements in Zoning Ordinance 5.05.2 it is allowed by special exception and it is similar to those in the district.
F. Seagroves said yes. It is allowed as of the vote in 2011.
S. Winder agreed.
K. Johnson agreed .

2. The specific site is an appropriate location for the propose use.

F. Seagroves said yes, it's been there since the 1800's.
S. Winder agreed. It has been there for awhile.
L. Horning said it is an appropriate location for the site as outlined by the Milford Zoning Ordinance.
Z. Tripp agreed with the fellow Board members.
K. Johnson agreed, not just on the fact that it has been there for a considerable length of time, but based on the physical location of the property within that commercial district, if the company were coming in with plans to purchase this property for use of manufacturing it would be a suitable location for that within this commercial district.

3. The use as developed will not adversely affect the adjacent area.

S. Winder said it will not adversely affect the adjacent area; it is an appropriate location for this business.
Z. Tripp said, being pre-existing, he doesn't believe it has impacted the adjacent area for the last 200 years.
L. Horning said this is the appropriate location for this facility and will not adversely affect the adjacent area as outlined by the availability of the special exception in the zoning ordinance.
F. Seagroves said it is a commercial district so he doesn't see where it would affect anything.
K. Johnson said he would fall back on the grandfather clause because this been in existence so that any adverse affect this business may have had on the area has already been mitigated by the length of time it has been there. Any other businesses, residence coming into that area would have known of its existence prior to coming into that area.

4. There will be no nuisance or serious hazard to vehicles or pedestrians.

S. Winder said it's been there for awhile and it appears nothing has happened, so nothing else is going to happen.
F. Seagroves said he doesn't think there is a problem. It's been there for awhile and people know it's there.
L. Horning reiterated what the Chair stated about it being a grandfathered situation. It's been an established business for a significant amount of time. Anyone entering the area knows exactly what it is. There is

advertisement facing the street telling you what it is. There should be no nuisance or serious hazard to any vehicle or pedestrian within range of this property.
Z. Tripp agreed with L. Horning.
K. Johnson agreed saying since it is a business there will be some degree of traffic but this is a commercial area and has the right to a certain level of traffic. This particular business generates a certain amount of heavy truck traffic but arrangements can be made to minimize impact to surrounding neighborhoods. From a vehicle or pedestrian standpoint the business is set back , there are gates to the property, there is sufficient parking, and all of the aspects one would consider normal operation are there with this business.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use.

Z. Tripp said yes.
L. Horning said yes.
S. Winder said yes. They are already there.
F. Seagroves agreed with S. Winder.
K. Johnson said yes. We can assume that if this business has been in operation since at least 1970 when the district was placed they have to be doing something right, so apparently their facilities are adequate and again, as stated, it is a fenced gated property with clear entrance and exit capabilities that are clearly visible to traffic for deliveries both coming and going. So facilities are adequate.
K. Johnson said after reviewing the evidence, etc. the Board has determined the following findings of fact:

Is the exception allowed by the ordinance?

F. Seagroves – yes; Z. Tripp – yes; L. Horning – yes; S. Winder – yes; K. Johnson - yes

Are the specific conditions present under which the exception may be granted.

L. Horning – yes; Z. Tripp – yes; F. Seagroves – yes; S. Winder – yes; K. Johnson – yes
K. Johnson asked for a motion to approve Case 16-11
F. Seagroves made a motion to approve.
S. Winder seconded.

Final Vote:

Z Tripp – yes; L. Horning – yes; S. Winder – yes; F. Seagroves – yes; K. Johnson – yes.
The Special Exception was unanimously approved for Case 16-11
K. Johnson reminded the applicant of the thirty day appeal period.