

**Town of Milford
Zoning Board of Adjustment Minutes
May 7, 2015
Case #2015-06
Brian Beaupre with Granite Town Motel, LLC
Special Exception**

Present: Zach Tripp, Chairman
Fletcher Seagroves, Vice-Chair
Michael Thornton
Joan Dargie
Len Harten
Kathy Bauer, Board of Selectmen Representative

Secretary: Peg Ouellette

The applicant, Brian Beaupre with Granite Town Motel, LLC, owner of Map 16, Lot 1, 371 Elm St, in the integrated Commercial-Industrial district, is requesting a special exception from Article V, Section 5.08.2.A:8 to allow for reduced front, side and rear setbacks, upon subdivision approval.

Minutes Approved on July 2, 2015

Zach Tripp, 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; then introduced the Board. He read the notice of hearing into the record. The list of abutters was read. Brian Beaupre, owner of Map 16, Lot 1, 371 Elm St. in the Integrated Commercial- Industrial district, was present. Michael Plough of Fieldstone Land Consultants, was present representing the applicant.

M. Plough presented the applicant's case. He said the subject property is next to Hayward's Moccasin Shop and on the westerly side is the Hayward's Ice Cream stand. Total are of the lot is 1.1 acres with 300 ft of frontage. It is presently existing 12-unit motel with an existing residence which was previously damaged by fire. It is located within the ICI District. Minimum lot size is 20,000 SF with sewer and water services. Setbacks are 30 ft front and 15 ft side and rear. They are requesting a Special Exception to allow for reduced side setbacks on subdivision approval.

The proposed subdivision will separate the motel onto a .6 acre and existing residence onto a .46 acre lot.

Z. Tripp said, if approved for setback, they would go back for subdivision approval. If that is approved they would have two lots of correct size but structures would be inside the setbacks.

M. Plough stated the area in blue on the plan is the existing lot. Orange line would separate the motel from the residence. Brown line is edge of the pavement. Existing drive for the residence and existing entrance for the motel.

Z Tripp asked for questions from the board.

J. Dargie asked if the lot line is angled to get enough acreage for the 20,000 SF.

M. Plough said that was correct.

J. Dargie asked if the line is going to cut into the drive are they going to remain what they are as the residence and motel. She asked if they could be sold off. She expressed concern that the lot line appears to interfere with the entrance to the motel

M. Plough said yes, and they could be sold off. He said there is going to be access on each side so each will have access.

L. Harten asked for clarification.

M. Plough said if they go forward with subdivision they will propose access easement and utility easement to cover area from the new lot line to the existing pavement. It will be a reciprocal easement that will benefit both owners.

J. Dargie asked about the extent of fire damage to the residence and if that was the reason it was going to be built back.

M. Plough said he believes the intent is to put in on the same foundation.

F. Seagroves said they would have to move the office for the motel.

M. Plough said the plan is to take three units from the wing that has four for the office and leaving nine units, the eight unit wing and one unit left over.

J. Dargie said it stated rear. It looks like all setbacks needed to be.

M. Plough said it is just one side setback between the two units. He read it in as Section 5.2.8:8 which said reduced front, rear and side. Technically it is just the side setback.

F. Seagroves had a problem with 7.8 ft. A person couldn't put a ladder in there to fix a roof, etc. without being on the other property.

M. Plough said they will put the easement area for access and utility.

Z. Tripp asked, if it is approved, and the lot with the lot was bought by someone else they would not be able to use that triangle portion because of the easement.

M. Plough said yes, the way it is existing now.

J. Dargie asked about the shrubbery in front being in the triangle. and Z. Tripp said it looks like the triangle goes more toward the motel. J. Dargie asked between which points.

M. Plough said it isn't finalized. They are trying to encompass the area of the pavement. It goes to the face of the existing residence and have it in back in line with the back edge of the existing motel. He pointed it out on the plan.

J. Dargie said it would open up both sides of the building.

M. Plough said that was correct.

Z. Tripp asked why separate them. Why not keep it as is.

M. Plough it gives more options. He would defer to his client.

Z. Tripp asked for further questions.

L. Harten said the existing property is grandfathered only reason they are there is because of the subdivision.

Z. Tripp said it is grandfathered for use in the ICI? There is a conforming lot.

L. Harten was referring to more to the setbacks.

Z. Tripp said before the subdivision the structure met the setbacks. Only thing nonconforming would be the residential in the ICI District which is not an acceptable use. There was discussion that that wasn't the reason for this case, which is the setbacks, and whether they could come back to allow for residential use.

Z. Tripp said it could be argued they are rebuilding an existing structure.

J. Dargie said it is an existing nonconforming structure but once it is changed it is no longer an existing nonconforming.

J. Dargie asked if they should be voting on both. Planning would go to the subdivision. But, as with ADA accessible, once you alter a building you have to make it ADA accessible even though previously it was nonconforming and was okay.

Z. Tripp said tonight they have to deal with the setbacks. If they approve setbacks it goes to Planning for the subdivision, which may not approve the subdivision.

J. Dargie said then they would have to go back?

Z. Tripp said if the same owner rebuilt the existing house, he didn't think they would.

J. Dargie feels they are authorizing a nonconforming lot understanding it is already nonconforming.

Z. Tripp said they should look at it as authorizing a pre-existing structure to continue.

Z. Tripp asked the Board if there were any further questions; there were none. He opened the meeting for public comment. There were none. He closed the public comment portion of the meeting.

The representative read the application into the record. [added comments in brackets]

Description of proposed use:

Article V: Section 5.08.2:A8 of the Zoning Ordinance allows for reduced setbacks in the Integrated Commercial-Industrial District (ICI) with a special exception. The purpose of this special exception application is to allow the existing site structures on Tax Map Parcel 16-1 to be within the side setback of a proposed lot line. The proposed subdivision of the property will separate the existing residence and motel by proposing a new lot line between the two structures. A distance of 7.8 feet and 10.1 feet is proposed from the new side boundary to the existing house and motel respectively. Since the existing structures will be within the 15 foot side setback a special exception is required.

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

The commercial use is permitted in the underlying zoning and the pre-existing residential use will also be consistent with the surroundings. The site contains structures that have existed in their current locations since the nineteen thirties. The proposed reduction in the side setback line is similar to other uses in this district as other structures appear to be within close proximity from their respective lot lines.

2. The specific site is an appropriate location for the proposed use because:

Granting a special exception for reduced side setbacks would allow for the productive use of the existing property. The redevelopment of the parcel will consist of restoring and rehabilitating the existing motel and the residential structure which was damaged by fire. The redevelopment of this property will provide additional housing for the community while providing for a local business. This project will substantially improve the aesthetics of the subject parcel and the surroundings. Since this proposal will provide the above while resulting in no negative impacts to the public we believe this is an appropriate location for the proposed use. [The site is looking remarkably better. Applicant has spent time and effort improving it.]

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

The structures are pre-existing and have been for many years, proposing a lot line between them will result in no negative impacts to the surrounding area. In fact we believe this development will substantially improve the aesthetics of the subject parcel and the adjacent area. It has also been our experience that restoration and rehabilitation will actually increase the value of surrounding properties. As a result we would expect this project to have positive impacts on surrounding property values as it will rejuvenate the site and the surroundings.

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

The site buildings have existed in their current locations since the nineteen thirties. There is an existing driveway to each of the structures off Elm Street which will not create any nuisance or serious hazard to vehicles or pedestrians.

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

This project consists of rehabilitating existing structures which will substantially improve the aesthetics of the site and the surroundings. The exhibit plan demonstrates that there has been and will continue to be adequate separation distance between the existing structures to support the uses. The property is also serviced by municipal services. This proposal therefore provides adequate and appropriate facilities for the proposed use.

Z. Tripp asked if there were any additional questions.

J. Dargie asked if there was any reason to go in a straight line and angle down back. As a motel this is prime property. Why not give the residence more land in the back and do opposite angle.

M. Plough said the easement is just that.

J. Dargie said not the easement, but the property line. Property line adding that to the house and adding value to the property because it is compartmentalized. Why not angle it back?

M. Plough said taking advantage of the frontage. Have to start there.

J. Dargie said that answered her question.

The Board proceeded to discussion of the criteria.

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

M. Thornton – proposed use is consistent with what applicant is trying to do. Property in past fell into disrepair. Anything to bring it back to a good standard for the area is very good. Yes.

J. Dargie – exception is allowed by the ordinance. That is what it is now. There is no change.

F. Seagroves – yes. Proposed use is similar to those permitted in the district. They are just talking about setbacks.

L. Harten - agrees. It is in the ICI District. Businesses on both sides. Believes proposed use is similar to those permitted in the district.

Z. Tripp – agrees. Proposed use in this case is for setback allowed by 5.0.8.2A, reduced setbacks.

B. The specific site is an appropriate location for the proposed use:

J. Dargie – it is an appropriate location. Not changing from what it was. Use is not changing.

M. Thornton – use is not changing.

L. Harten agreed. It is an appropriate location.

F. Seagroves agreed.

Z. Tripp agreed. The two structures are pre-existing and already that close. Only difference is they will be on different lots as opposed to two new structures close to each other.

C. The use developed will not adversely affect the adjacent area:

L. Harten doesn't believe application for relief would adversely affect adjacent area primarily because there are other businesses in the area, it is a existing business. Doesn't believe any adverse effect.

F. Seagroves doesn't believe any effect. Doesn't see it will change. Everybody will be able to have access to the other's property. This is drawing a line but it will be basically the same as before.

J. Dargie- use as developed allowing the reduced side setback will not affect the area.

M. Thornton agrees. It is an insular use because the moccasin shop on one side, the ice cream shop on the other and apartments across the street, do not impose on the subject property nor are imposed upon by this property. Anything that can improve the property would be appreciated.

Z. Tripp agreed. The surrounding area will not be adversely impacted. Worst case outcome, if Planning Board approves the subdivision, will come with setback if the house was sold and might want to become a residence. It is already there and will be no difference. Cannot see it would be any adverse effect to have a residence there.

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

M. Thornton - only hazard would be a large business at specific times of the day. New use of that facility would obviate the old uses of the building.

J. Dargie – no nuisance. The driveways are not changing. Use is the same.

L. Harten agrees. No nuisance or serious hazard to vehicles or pedestrians because it is virtually not being changed. It has been there for years.

F. Seagroves doesn't see problem. It was stated the house is basically staying the same. Actually they are going to lose three units, so it may cut traffic a bit.

Z. Tripp agreed. Struggled with this because, J. Dargie stated, the new property line cuts across the property of the motel so that new lot would be in front of the motel but the easement was explained. Assumes they must give more detail to the Planning Board how the lots actually lie. But encroaching on the setbacks between the two buildings would not be a nuisance or serious hazard.

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

L. Harten – yes. It is serviced by municipal water and sewer. He is under impression that everything that was there, although not in best condition, will be upgraded and appropriate facilities will be provided for the proper operation of the use.

F. Seagroves – yes. Doesn't see anything will change.

J. Dargie – yes. Referring to the Planning Board because it says adequate appropriate facilities when those lots are separated and how the motel will run by itself. Assuming Planning Board will look at easement. Agreed they don't need to special condition on that?

Z. Tripp agreed that is under the Planning Board.

J. Dargie voted yes.

M. Thornton – vast amount of additional traffic would be handled easily by the Planning Board and water and sewage. It is not that big of a project enhancement.
Z. Tripp – agreed. Pre-existing facilities and pre-existing operations, so doesn't see how this would change that.

L. Harten noted an error in the voting sheet, which is dated May 21.

Z. Tripp agreed it should be changed to May 7.

Vote on criteria:

Is a special exception allowed by the ordinance?

F. Seagroves – yes; M. Thornton – yes; J. Dargie – yes; L. Harten – yes; Z. Tripp - yes

Are the specific conditions present under which a special exception may be granted?

M. Thornton – yes; J. Dargie – yes; L. Harten – yes; F. Seagroves – yes; Z. Tripp - yes

Z. Tripp asked if there was a motion to approve the application.

J. Dargie moved to approve Case # 2015-06.

M. Thornton seconded.

Final Vote:

J. Dargie – yes

M. Thornton – yes

F. Seagroves – yes

L. Harten – yes

Z. Tripp – yes

Case #2015-06 was approved by unanimous vote.

Zack Tripp informed the applicant he was approved and reminded the applicant of the 30 day appeal period.