

**Zoning Board of Adjustment
March 23, 2017 6:30 PM
Board of Selectmen's Room/Municipal Building
15 Sunapee Street/Newport, NH**

PRESENT: Ben Nelson, Chairman; Melissa Saccento, Vice Chairman; Jeffrey Kessler, BOS Representative; Beth Cassorla, "Button" Cassorla (Zoning Board member in-training); David Lain

ABSENT MEMBERS: Tim Beard, Alternate; Virginia Irwin, Alternate; Scott McCoy, Alternate

VIDEOGRAPHER: Louis Cassorla, NCTV

STAFF PRESENT: Julie M. Magnuson, Planning & Zoning Administrator

COMMUNITY MEMBERS PRESENT: Jessica Blaney, Jacob Kezar, Lucille Rissala (abutter), Jackie Cote (abutter), Kevin Henderson, Frank Wiggins (abutter), Gail Wilde (abutter)

CALL TO ORDER: Vice Chairman Saccento called the meeting of the ZBA to order at 6:33 p.m. She then turned the meeting over to Chairman Ben Nelson. Chairman Nelson introduced himself and the sitting Board members.

AGENDA REVIEW: ADD: Minutes of January 26, 2017 (Magnuson)

MINUTES: January 26, 2017; February 23, 2017

January 26, 2017

On a motion by Ms. Saccento seconded by Mr. Lain; *the Board voted to approve the minutes of the January 26, 2017 meeting as presented. The motion passed 5-0-0.*

February 23, 2017

On a motion by Mrs. Cassorla seconded by Mr. Kessler; *the Board voted to approve the minutes of the February 23, 2017 meeting as presented. The motion passed 4-0-1(Nelson abstained).*

NEW BUSINESS

Case #1043: Flewelling Rev '15 Trust (Owner) and Jacob Kezar and Jessica Blaney DBA Blaney Real Estate Management, LLC/Jake & Jess's Rusty Nut Enterprises, LLC (Agents) request a Special Exception as provided for in Article II, Section 211.3 of the Zoning Ordinance to permit the repair of automotive, heavy equipment and auto body repair. The property is identified as Map 240 Lot 024 and located at 248 John Stark Highway in the Industrial (I) and Rural (R) Zoning Districts.

Chairman Nelson opened Case #1043 and then acknowledged Ms. Magnuson. Ms. Magnuson read the Administrative Review into the record.

Chairman Nelson addressed the applicant and asked that he read or explain his application. Mr. Jacob Kezar explained the reason he was applying for a special exception was to expand his business's work area into the building on an adjacent lot. He stated that water and septic were not necessary in the proposed building at this time. He explained that currently they were renting the property, if they purchased the property in the future, he did not want to find out (at that time) he could not use the second building to expand his business.

Chairman Nelson addressed the Board and asked if they had any questions.

Ms. Saccento addressed Mr. Kezar and asked if his proposal was to provide extra bays to work in. She was told yes.

Ms. Saccento asked, for clarification, if the employees working in the expanded work area would use the facilities in the main building. She was told yes.

Continuing, Ms. Saccento asked if waste would be treated the same way as in the main building. She was told yes; proper disposal of all hazardous waste would be done using the same procedures as in the main building. Nothing would be different.

Mr. Kezar stated that in the future things might develop so they needed water and septic, right now everything would remain the same, they would just like to use the building to expand their business.

Chairman Nelson acknowledged Ms. Magnuson. She reminded the Board that the permission they gave to the applicant (Mr. Kezar) would stay with the property, not the owner.

Chairman Nelson asked Ms. Magnuson if Mr. Kezar could put a porta potty at the site. Ms. Magnuson stated Mr. Kezar would need the Newport Health Officer's permission.

There was a short discussion on the placement of a porta potty on the property.

The Chair asked if there were questions from the public. There were no abutters in attendance.

Chairman Nelson asked if there were follow-up questions from the Board.

Mrs. Cassorla addressed Ms. Magnuson and asked if the applicant was requesting a Special Exception because the expansion is not allowed in the Industrial Zone. She was told yes. Mr. Kessler explained further.

There being no further questions from the public or Board, on a motion by Mrs. Cassorla, seconded by Ms. Saccento; *the Board voted to go into deliberations. The motion passed 5-0-0.*

Zoning Board of Adjustment Special Exception

Chairman Nelson addressed the Zoning Board and asked for discussion.

Mr. Kessler stated it was a good use of the property. Mrs. Cassorla agreed, but stated her concern was that the ZBA decision stayed with the life of the property. The Board members discussed her concerns with not having a well and septic system put in at this time.

Ms. Magnuson addressed the Board and stated they could make one condition of approval be meeting the State requirements regarding the septic system.

Mr. Kezar addressed Ms. Magnuson and asked if he would have to put a well and septic in if he was to use the property as they proposed. Ms. Magnuson told him he would have to check the building code and NHDES for definitive answers.

Board members held a lengthy discussion on the necessity of having additional (restroom) facilities on the site. Mrs. Cassorla stated one condition needed to be that it met all state and local requirements for septic. Ms. Magnuson said there was also the Building Code. Mrs. Cassorla repeated that she was

looking past Mr. Kezar as owner and into the future. The ZBA members discussed the necessary well and septic provisions further.

Chairman Nelson called for a motion and vote. On a motion by Mr. Kessler, seconded by Ms. Saccento; ***the Board voted to approve the Special Exception for Case #1043 with the provision that all state and local codes and labor laws are adhered to. The motion passed 5-0-0.***

Case #1044: 169 Sunapee Street, LLC (Owner) and Ronald K. DeCola (Agent) request a Variance to the terms of Article II, Section 211.3 of the Zoning Ordinance to permit the redevelopment of the existing Newport Mills building into 70 (+/-) multi-family market rate apartments. The property is identified as Map 112 Lot 032 and is located at 169 Sunapee Street in the Single Family (R-1), General Residential (R-2) and Industrial (I) Zoning Districts.

Chairman Nelson opened the public hearing.

Ms. Magnuson was acknowledged. She read aloud the Administrative Review into the record; informing the ZBA members that the land was located in three Zoning Districts: Single Family (R-1), General Residential (R-2) and Industrial (I) Zoning Districts.

Chairman Nelson read aloud the ZBA format to the abutters and applicant. He then asked Mr. DeCola to proceed.

Mr. Ronald K. DeCola, agent, introduced himself to the Board. He gave a short explanation of his LLC that had purchased and would be renovating the Newport Mill site. He then gave a PowerPoint presentation to the Board members and public in attendance while he read his application into the record. To view the complete PowerPoint presentation, go to: vimeo.com/channels/newportzoningboard.

Mr. DeCola informed the ZBA members of the steps the LLC had already completed:

1. They had gone through the paperwork to get the mill placed on the National Register of Historic Places.
2. State permitting
3. Ongoing oversight by State Historic Preservation Office (SHPO)

Chairman Nelson addressed the Board and asked if there were any questions.

Chairman Nelson asked Mr. DeCola if the main entrance would be the one going up to Sunapee Street. He was told yes.

There was a discussion on potential increased traffic on Sunapee Street by Chairman Nelson and Mr. DeCola.

There was a general discussion by ZBA members as to when the mill had last been used as a shoe shop or had businesses in the structure.

Mr. Kessler stated that the Planning Board would be looking at ingress and egress. He stated that the Master Plan was looking for businesses and housing in Newport such as was being proposed.

There was a short discussion between Mr. Kessler and Mr. DeCola concerning the potential impact on the school system. There was further discussion on the target market in a renovated building such as the one his company was proposing.

Chairman Nelson opened the hearing to the public.

Mrs. Jackie Cote, abutter representing the Newport Historical Society, asked Mr. DeCola what the “market rate” and size of the apartments would be. Mr. DeCola stated that a one-bedroom apartment (750 sq. ft.) would be approximately \$1,100; a two-bedroom apartment (1300+ sq. ft.) would be approximately \$1,500.

Mr. Kessler addressed Mr. DeCola and asked about additional reasons behind his getting the mill on the National Historic Register. Mr. DeCola stated that they would get tax credits in return for any compromises in building. He explained the reason tax credits were so important to developments such as theirs.

Ms. Magnuson addressed the Board members and gave an example of a local elderly couple that would have loved to be able to rent in a building such as the proposed renovated mill. They were currently at the local Summercrest nursing home.

Chairman Nelson acknowledged Mrs. Lucille Rissala (abutter). Addressing Mr. DeCola, she stated she wanted to hear him discuss the potential additional traffic. Mrs. Rissala stated that Sunapee Street was the busiest street in Town. She stated that 60 families would be a big increase in traffic. Chairman Nelson addressed Mrs. Rissala and stated it was his concern as well. The Planning Board would discuss it at their meeting on April 11, 2017. There was a discussion among the ZBA members concerning traffic on Sunapee and adjacent streets.

Mr. Frank Wiggins addressed the Chair and stated there was another entrance off Sunapee Street to the mill lot. Mr. DeCola addressed Mr. Wiggins and stated that would only be used for deliveries to the proposed apartment building and maintenance of the hydro generator building. It will be a gated entrance.

Ms. Gail Wilde addressed the Chair and asked if because it was on the National Historic Register it made it available for federal tax credits. She asked if the company would therefore be getting a discount on property taxes. Ms. Magnuson said that there was a state statute NH RSA 79-E that allows for such a discount request. The Town needed to adopt it to make it available in Newport. She explained state statute 79-E further and said it had been discussed at a BOS meeting this year and the decision to have a Town Meeting vote on it would be postponed until possibly Town Meeting 2018. There was further discussion on 79-E by ZBA members, Ms. Magnuson, Ms. Wilde and Mr. DeCola.

Chairman Nelson addressed the public and asked if there were any further questions. There were none. Chairman Nelson addressed the Board and asked for further questions. There were none. Chairman Nelson addressed the public and asked if there were further questions. There were none. Chairman Nelson addressed the applicant and asked if he had anything further to add. He was told no.

Chairman Nelson closed the meeting to the public. On a motion by Mrs. Cassorla, seconded by Ms. Saccento; ***the Board voted to go into Deliberations. The motion passed 5-0-0.***

Variance Statement of Reasons and Discussion

Chairman Nelson asked for motions on questions one through five.

On a motion by Mr. Kessler, seconded by Mrs. Cassorla; that:

Granting the variance would not be contrary to the public interest because: it would meet a housing need in Town and the current Zoning is no longer suitable for the location. Chairman Nelson asked for discussion. Ms. Saccento commented that she did not see how the current zoning was practical going

forward she did not see an industrial use coming into the facility. Its proposed use makes sense because the surrounding use is residential. There was a general discussion on the future use of the mill as residential property. Chairman Nelson called for a vote. ***The motion passed 5-0-0.***

On a motion by Mrs. Cassorla, seconded by Ms. Saccento; that:

The spirit of the ordinance would be observed because it is in line with the Master Plan. Chairman Nelson asked for discussion. Chairman Nelson called for a vote. ***The motion passed 5-0-0.***

On a motion by Mr. Kessler, seconded by Mrs. Cassorla; that:

Granting the variance would do substantial justice because it would repurpose a historic property for productive use. The Chair asked for discussion. There was none. Chairman Nelson called for a vote. ***The motion passed 5-0-0.***

On a motion by Mrs. Cassorla, seconded by Ms. Saccento; that:

The values of the surrounding properties would not be diminished because:

1. ***Making a building next to the property a useable space and***
2. ***The plan that they have would increase the surrounding properties***
3. ***It would make it more in line with what was in the neighborhood already***

There was no discussion. Chairman Nelson called for a vote. ***The motion passed 5-0-0.***

Unnecessary hardship:

Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

On a motion from Ms. Saccento, seconded by Mrs. Cassorla; ***there is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is currently zoned three different ways. The Industrial Zone (building lot) is not a viable alternative for the current owner and that a multi-family residential use which is part of the zoning for another part of the parcel is a more reasonable use at this point.***

Chairman Nelson asked for discussion. The Chair then called for a vote. ***The motion passed 5-0-0.***

AND:

On a motion by Mrs. Cassorla, seconded by Ms. Saccento; ***that the proposed use is a reasonable one because it would be in line with the use of the surrounding area as well as the Newport Master Plan.*** Chairman Nelson asked for discussion. The Chair then called for a vote. ***The motion passed 5-0-0.***

Chairman Nelson called for a motion to memorialize the decision of the ZBA to grant the variance. Mr. Kessler made a motion to ***grant the variance for Case #1044 with a timeframe of 24 months.***

Mr. DeCola addressed the Chair and asked for an explanation of the timeframe from the ZBA. He was told the timeframe would begin as of March 23, 2017. Mr. DeCola continued his questioning as to whether the company needed to begin or finish their project in two years. The ZBA members listened to Mr. DeCola's request for a longer timeframe. Mr. Kessler stated he would agree to change the timeframe to 36 months. Mr. DeCola thanked Mr. Kessler. Chairman Nelson addressed Mr. DeCola and stated he had never heard of the ZBA denying an extension to an applicant.

There was further discussion on the extended timeframe between Ms. Magnuson and the ZBA members.

Mr. Kessler restated his motion *to grant the Variance for Case #1044 with a timeframe of 36 months*. It was seconded by Mrs. Cassorla. Chairman Nelson called for a vote.

Ms. Magnuson addressed Mr. Kessler and requested that he amend his motion to start within 36 months.

Mr. Kessler restated his motion *to grant the Variance for Case #1044 with a timeframe to start construction within 36 months*. It was seconded by Mrs. Cassorla. Chairman Nelson called for a vote. *The motion passed 5-0-0.*

Case #1045: 169 Sunapee Street, LLC (Owner) and Ronald K. DeCola (Agent) request a Special Exception as provided for in Article II, Section 211.3 of the Zoning Ordinance to permit self-storage use in an Industrial Zone. The property is identified as Map 114 Lot 032 and is located 21 Cross Street in the Light Commercial (B-1) and Industrial (I) Zoning Districts.

Chairman Nelson opened the public hearing.

Ms. Magnuson was acknowledged. She read aloud the Administrative Review into the record.

Mr. Ronald K. DeCola, agent, addressed the Board and gave a PowerPoint presentation explaining his application for a special exception to the Board members and public in attendance. To view the complete PowerPoint presentation, go to: vimeo.com/channels/newportzoningboard .

Chairman Nelson addressed the Board and asked if they had any questions.

Mr. Kessler asked about light pollution from storage area lighting. He said that the Planning Board would be asking about it as well. Mr. DeCola explained they were having lighting plans drawn up for both the storage area and the mill.

Mr. Kessler and Mr. DeCola discussed the aesthetics of the proposed storage buildings.

Mrs. Cassorla asked Mr. DeCola about what would happen to the modular buildings if they decided to stop having them for storage or sold the property. Would the buildings be taken and the lot just has a cement pad. Mr. DeCola did not know.

Chairman Nelson asked if there would be 24/7 access. He was told yes.
Chairman Nelson asked for the number of units. He was told 64.

The Chair acknowledged abutter, Frank Wiggins.

Mr. Wiggins asked for the location of the proposed storage buildings. He asked if it was in wetlands. Mr. DeCola stated that they had filed Shoreline Permits.

Mrs. Jackie Cote, Newport Historical Society, stated the society had been sent a letter as an abutter. There was a short discussion on the property lot lines and the possibility of a historical walking trail into downtown Newport. It would be a discussion for the Planning Board.

The Chair asked if there were additional questions from the Board.

Mr. Kessler asked what the timeframe for the project was. Mr. DeCola stated it would be the same as Case #1044.

Mr. Kessler addressed Ms. Magnuson and asked if there was a time limitation for Special Exceptions.

The Chair asked if there were questions from the public. There were none.

The Chair asked if there was further information from the applicant. There was none.

On a motion by Mrs. Cassorla, seconded by Ms. Saccento; *the Board voted to go into deliberations. The motion passed 5-0-0.*

Zoning Board of Adjustment Special Exception

On a motion by Mr. Kessler, seconded by Ms. Saccento; *the Board voted to approve the Special Exception on Case #1045 with the condition that they start construction within 36 months.* Chairman Nelson asked for discussion. Ms. Saccento stated it made complete sense to provide storage space for the apartments. The Chair called for a vote. *The motion passed 5-0-0.*

The Board congratulated Mr. DeCola.

Case #1046: Zahari Realty, LLC (Owners) and James Clifford (Agent) request a Variance to the terms of Article II, Section 211.2 of the Zoning Ordinance to permit the construction of twelve apartment units on the second floor of an existing building. The property is identified as Map 114 Lot 011 and located at 20 South Main Street in the Industrial (I) Zoning District.

Chairman Nelson opened the public hearing.

Ms. Magnuson was acknowledged. She read aloud the Administrative Review into the record. She stressed the applicant would not need to go to the Planning Board.

Mr. George Delegas, applicant, introduced himself to the Board and explained they would like to build 12 apartments in the second floor of the building located at 20 South Main Street. Mr. Delegas said they had tried to lease the area out for office space and had not had luck. They would like to therefore create quality housing in the downtown area. Ten one-bedroom apartments and two two-bedroom apartments were being proposed. It would be primarily an interior renovation.

Continuing, Mr. Delegas stated that the Newport Master Plan encouraged mixed use and this would be keeping with that philosophy. Mr. Delegas stated that they were not required to provide off-street parking; however they would be able to meet any parking needs for both residential and commercial uses on the property. They were considering assigning parking spaces for tenants in the existing parking lot.

Ms. Magnuson explained there were no parking requirements for existing buildings on Main Street to the Board members.

Mr. Delegas reviewed the number and size of the proposed apartments for the ZBA.

Chairman Nelson addressed Mr. Delegas and as a resident, thanked him for undertaking the project on the building. It was a real asset to what was previously there.

The Chair asked if there were any questions from the Board.

Mr. Kessler asked for their plans for snow removal (with the addition of tenants) during winter months. Mr. Delegas stated that they were currently very aggressive with their snow removal. They had areas where they could store snow. They held a short discussion on the proposed snow removal process.

Ms. Saccento addressed Mr. Delegas and asked for clarification if residential would be on the second floor and commercial on the first. He agreed.

Chairman Nelson opened the hearing to the public.

Dale Wilde addressed Mr. Delegas and said she did not have any questions; she wanted to thank him for the beautiful job he did on the building. She was very grateful.

Chairman Nelson addressed the Board and asked for further questions. There were none.

There being no further questions or comments from the public or Board members, Chairman Nelson closed the meeting to the public. On a motion by Mr. Kessler, seconded by Mrs. Cassorla; ***the Board voted to go into Deliberations. The motion passed 5-0-0.***

Variance Statement of Reasons and Discussion

Chairman Nelson asked for motions on questions one through five.

On a motion by Mr. Kessler, seconded by Ms. Saccento; that:

Granting the variance would not be contrary to the public interest because: the surrounding businesses on Main Street have apartments upstairs. It would be in keeping with the nature of the rest of the downtown. Chairman Nelson asked for discussion and then called for a vote. ***The motion passed 5-0-0.***

Chairman Nelson addressed the applicant and asked what the price of a single bedroom apartment would be. He was told approximately \$850-\$950 per month.

On a motion by Mr. Kessler, seconded by Ms. Saccento; that:

The spirit of the ordinance would be observed because the change would fit with the surrounding properties. Chairman Nelson called for a vote. ***The motion passed 5-0-0.***

On a motion by Mrs. Cassorla, seconded by Mr. Kessler; that:

Granting the variance would do substantial justice because it would allow mixed use where other mixed use is already being observed. The Chair asked for discussion. There was none. Chairman Nelson called for a vote. ***The motion passed 5-0-0.***

On a motion by Mr. Kessler, seconded by Mrs. Cassorla; that:

The values of the surrounding properties would not be diminished because it would increase the population of the downtown area. The Chair asked for discussion. There was none. Chairman Nelson called for a vote. ***The motion passed 5-0-0.***

Unnecessary hardship

Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

On a motion by Mrs. Cassorla, seconded by Ms. Saccento;

there is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because there are already mixed use properties surrounding the proposed property

AND:

That the proposed use is a reasonable one because it makes use of a building that is already existing.

The Chair asked for discussion. There was none. The Chair then called for a vote. ***The motion passed 5-0-0.***

Chairman Nelson called for a motion to memorialize the decision of the ZBA to grant the variance. On a motion by Mr. Kessler, seconded by Mr. Lain; ***the Board voted to grant a Variance for Case #1046.***

Chairman Nelson asked for discussion. He then called for a vote. ***The motion passed 5-0-0.***

Chairman Nelson congratulated Mr. Delegas and Mr. Clifford on their granted Variance.

On a motion by Ms. Saccento, seconded by Mrs. Cassorla; ***the Board voted to adjourn at 8:23 p.m. The motion passed 5-0-0.***

Respectfully submitted,

Maura Stetson
Scribe

Approved April 27, 2017