ASHLAND PLANNING BOARD
ASHLAND ZONING BOARD OF ADJUSTMENT
JOINT HEARING
DECEMBER 4, 2013

Call to Order

PB Chairman opened the joint meeting at 6:30 PM.

Roll Call – Planning Board –

Susan MacLeod, Cheryl Cox [Alt], Philip Preston, Gordon McCormack Jr, Frances Newton, Normand DeWolfe [BOS-Alt], Anthony Randall [Alt]
Absent with notice – Elisabeth Cody

Chairman MacLeod appointed Cheryl Cox as full voting member for this meeting in place of Elisabeth Cody.

Case 2013-03 – Donald Lester – Site Plan – 83 Depot Street –
Tax Map 018-002-002 – Agent Tony Guyotte

Motion to accept Site Plan Application as complete – Newton; second- Preston – vote 5-0 in favor

Agent Guyotte spoke regarding the Site Plan Application:

- Adding an addition to the existing building
- Meets all setbacks except the front setback of 35' in RR Zone
- Before the Planning Board because all changes to commercial buildings must go for site plan
- Currently there is a cease and desist order stopping the construction granted by a building permit issued

Discussion –

- The facility had in the past been used for boarding dogs; this is no longer the case; the hospital is not a boarding facility [Don Lester]
- The existing facility has reached its density [Don Lester]
- Special exception is needed to expand business in the rural residential zone [Susan MacLeod]
- In 1993 there were conditions placed when the special exception was granted – no apartments, owner occupied, nothing outside existent footprints [Ellison Badger]

Abutters

- Abutters Donald Bell and Frank McBournie were represented by Atty. Paolo Weiser of Melendy, Lee and Santuccio expressing the following concerns – conditions of 1993 have not been met; nuisance is an issue; adding on kennel space; overnight patient facility; want to know how noise issue is being addressed; stated that the building permit was incorrectly issued; his clients [Bell and McBournie] appealed the issuance of the building permit and the appeal was granted and would like a reimbursement of those fees
- [Eli Badger] – past permits or litigations are not relevant in the case at hand
- Bell and McBournie want to know how the noise issue is being addressed with this expansion; they have no problem with the expansion itself.
- [Don Lester and Tony Guyotte] stated that insulation and windows will be addressing the noise issue; the dogs will be going outside to use the bathroom

Motion to deny the site plan application citing that the applicant does not meet the front setbacks and a special exception is needed for expansion of a business in the rural residential zone – Newton; second – G. McCormack; vote 5-0 in favor

Planning Board recessed their meeting at 7:08 PM.

Zoning Board Chairman Badger opened the Zoning Board hearing at 7:09 PM.

Roll Call – Present – Don Latulippe, Michelle Fistek, Elaine Allard, Susan MacLeod, Ellison Badger

Case 2013-06 Donald Lester – 82 Depot Street – Tax 018-002-002
Agent Tony Guyotte –

A. Special Exception – Expansion of business in Rural Residential Zone
B. Variance – Section 2.3c – Setback Frontage

A. Agent Tony Guyotte spoke on the following criteria for granting the special exception to expand the business at 82 Depot Street by constructing an addition to the existing building:

Criteria 1 [The specific site is an appropriate location for the intended use or structure]
The building is already an existing veterinary hospital.
Criteria 2 [The use will be compatible with neighboring land uses]
Expanding will be an improvement
Criteria 3 [The property values in the zone and in the surrounding areas will not be reduced by such a use]
No reduction in values will be realized; adding value to area
Criteria 4 [There will be no nuisance or serious hazard to vehicles or pedestrians]
No entrance or exit changes are being made
Criteria 5 [Adequate and appropriate facilities will be provided for the proper operation of the proposed use]
Adequate and appropriate facilities already exist
Criteria 6 [The proposed use will comply with the minimum lots sizes, frontage and setback requirements set forth in 2.3]
All setbacks are met with the exception of front setback
Criteria 7 [Existing road and highways are capable of carrying the additional traffic]
No additional traffic is expected

Abutters

- [Donald Bell] stated that the dogs barked all day and asked what is being done to address this issue
- [Tony Guyotte] plan is to be stick built, windows, r21 insulation, cement enclosed; moving chain link fence area 20'

General Discussion

- [Don Latulippe] emphasized that this was a special exception for expanding the building
- Outdoor kennels are not on 1993 site plan
- [E. Badger] expressed concern about the nuisance issue
- General discussion as to what constitutes "noise" nuisance
- RSA 466:31b was quoted

Chairman Badger closed the public hearing portion of the meeting at 7:45 PM.

Motion to grant special exception with the condition that the there be a noise abatement plan – Allard; second – Fistek; vote – Latulippe – yes; Fistek – yes; Allard – yes; MacLeod – yes; Badger - yes

B. Agent Tony Guyotte spoke on the requirements for a variance of setbacks regarding the request for relaxation of front setbacks from 35' to 15'

1. Granting the variance would not be contrary to the public **interest** because:
The existing building is closer to the street than the addition
2. If the variance were granted, the **spirit** of the ordinance would be observed because:
Continuation of existing structure
3. Granting the variance would do substantial **justice** because:
Expansion necessary for business expansion

4. If the variance were granted, the **values** of the surrounding properties would not be diminished because:

The values of surrounding properties would not be diminished

5. Unnecessary Hardship

A. 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:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because: And

ii. The proposed use is a reasonable one because:

New addition good for town; supports tax base; profitable business; assists police department with lost dogs

B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owning to special conditions of the property that distinguish if from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Abutters

- [Bell and McBournie] have no issues with the expansion

Chairman Badger closed the public hearing at 8:03 PM

The Board voted as follows on the criteria for granting the variance as requested:

1. Granting the variance would not be contrary to the public **interest** because:

Latulippe – True; Fistek – True; Allard – True; MacLeod – True; Badger - True

2. If the variance were granted, the **spirit** of the ordinance would be observed because:

Latulippe – True; Fistek – True; Allard – True; MacLeod – True; Badger - True

3. Granting the variance would do substantial **justice** because:

Latulippe – True; Fistek – True; Allard – True; MacLeod – True; Badger - True

4. If the variance were granted, the **values** of the surrounding properties would not be diminished because:

Latulippe – True; Fistek – True; Allard – True; MacLeod – True; Badger - True

5. Unnecessary Hardship

Latulippe – True; Fistek – True; Allard – False; MacLeod – False; Badger - True

A. 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:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because: And

ii. The proposed use is a reasonable one because:

B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owning to special conditions of the property that distinguish if from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

By vote on the criteria the variance for relaxation of front setbacks from 35' to 15' as depicted on site plan by Anthony Randall revised date November 4, 2013 is granted.

Motion to adjourn Zoning Board meeting at 8:10 PM – Allard; second – Fistek; vote 5-0 in favor

Planning Board Chairman MacLeod declared the Planning Board meeting reconvened at 8:10 PM.

Motion to accept site plan application [Donald Lester – 83 Depot Street – tax map 018-002-002] with special exception and variance as approved by the Zoning Board – Newton; second – G. McCormack; vote 5-0 in favor

Discussion - noise abatement plan was discussed

Motion to grant approval of site plan for Donald Lester – 83 Depot Street – Tax map 018-002-002 with special exception and variance as approved by the Zoning Board of Adjustment [December 4, 2013] with the following conditions:

1. ***Show location of the outside kennel on the site plan***
2. ***A noise abatement plan be submitted to the Planning Board***

Made by Newton; second – Cox; vote – Newton – yes; Preston – yes; Cox – yes; G. McCormack Jr. – yes; Macleod - yes

Note: Construction could move forward and the plan will be submitted to the Planning Board on December 18, 2013

Taken by Patricia Tucker