

**CITY OF CONCORD, NH
ZONING BOARD OF ADJUSTMENT
JANUARY 6, 2021 MEETING
MINUTES**

Attendees: Chair Christopher Carley, Nicholas Wallner, Andrew Winters, Laura Scott and Laura Spector-Morgan.
Absent: Robert Harrison Jr., James Monahan
Staff: Craig Walker, Zoning Administrator, Rose Fife, Clerk of the Board, and David Hall Code Administrator.

Meeting commenced at 7:00 pm.

Chair Carley explained that due to the Covid-19/Corona Virus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Board was authorized to meet electronically. The City of Concord utilized the Zoom platform for this electronic meeting.

50-20 Bubbles Enterprises, LLC.: (Request for Rehearing) Applicant wishes to develop and existing structure for use as a 3 unit multi-family dwelling and requests the following:

- 1) Variance to Article 28-2-4(j), Table of Principal Uses, to permit the conversion of an existing residential structure to accommodate 3 residential dwelling units on a lot with no frontage when such conversion requires lot frontage of 80 feet on an accepted City street,
- 2) Variance to Article 28-8-3, Non-conforming Lots, Section (c)(2), Conditions for Development of a Non-conforming Lot, Item a., to permit development of a non-conforming lot, in legal existence at the effective date of the current Ordinance, and which does not have frontage on an accepted City Street when a minimum of 22 feet of frontage is required,

For property located at 85 Pleasant Street in a RN Residential Neighborhood District.

Carley asked the Board members if they had had a chance to review the information. They all had.

Carley explained that no additional testimony is taken at rehearing requests. The Board needs to find that new material information has been presented or that it has made an error of law or in procedure that might have influenced its decision in order to grant a rehearing.

Wallner did not find anything in the material to grant a rehearing. This was a request for an unusual lot. The 5 criteria were applied. There was a lot of information presented that was not for this Board to consider. He feels they did not err in law or procedures.

Morgan agrees with Wallner.

Scott was not present at the original hearing. She has read the minutes and the material from that meeting though. The Board only has purview on the 2 variances requested. She did not see anything that the Board erred on or any new information submitted.

Winters agrees. The motion was well presented. He agrees that it is not the forum for a lot of the information they presented.

Carley agrees with all.

A motion to deny the rehearing request was made by Spector-Morgan and seconded by Winters. Roll call vote: AYE: Wallner, Morgan, Scott, Winters, Carley. NAY: none. Motion to deny the rehearing request passes.

03-21 Tucker Jadczyk for Automotive Supply Association, LLC.: Applicant wishes to convert existing space into a Microbrewery to include a tasting room, merchandise area and production area and requests variances to:

- 1) Article 28-2-4(J) Section L6, to allow for the Canning, Bottling and Packaging of beverages;
- 2) Article 28-7-3, Location of Required Parking, to provide 3 dedicated spaces vs. 11 spaces on the same lot as the use and an agreement to have 16 spaces assigned in the parking lot across from the use.

These requests are for 231 South Main Street in a CU Urban Commercial District.

Testified: Tucker Jadcak. He thanked the Board and David Hall for the help putting the application together. He has worked in corporate marketing until moving into the craft beer industry a few years ago. He would like to carry on the family tradition of making beer. Relief from Article 28-2-4(j) Section L6 would allow them to operate a micro-brewery. The landlord has dedicated 16 parking spaces to them across the street from this building. The proposed use would require 11 parking spots but they have 16 spaces available to them. In 2015 Concord Craft Brewing submitted a nearly identical application in the CBP zone. They are asking for the same appeal but they are in the CU zone vs. a CBP zone. Their scale of the brewery is between that of the two breweries operating in Concord now. The current zoning would allow them to operate if they were identified as a restaurant and a brew pub. They want to be a brewery with upscale tasting. They would be open until 9 pm at the latest. Operations would be confined to the leased space. They have a private loading dock. There would not be any outside noise pollution. All activities will be indoor.

Spector-Morgan: One of the criteria is that there has to be something special about the property that makes it unique from other properties. It's not explained in the application. She asked him to explain what is different about the property. Mr. Jadcak explained he did not fully understand the question but, there is no defined use for a brewery. It is not a current use of the building. Winters attempted to explain the question asked by Spector-Morgan is, what is unique about this parcel, this lot, that differentiates it from nearby lots that makes your request appropriate based on the difference in this lot vs. others. Mr. Jadcak thought that this building and lot is unique as it comes with off-street parking which is unique to the downtown area. The other reason is that the impact to the area would be minimal as they have a private driveway and private loading dock. This place is the most logical place to put a brewery.

Winters asked if they have 3 parking spaces on the lot and are leasing 11 from across the street. Mr. Jadcak explained that they have 3 parking spaces in the rear for staff only and they have 16 spaces across the street for their customers. Winters asked if the lot across the street was owned by the same owner of his building or is it being leased from others. Mr. Jadcak explained that it was owned by the Automotive Parts Associates which used to be Sanel. It is the same owner. It is built into their lease that they have those 16 dedicated parking spaces in that lot. Sanel will allow them unlimited use of the parking lot after 4 pm. Winters was concerned that the road is fairly heavily traveled. He asked if he had any concerns about patrons crossing the street to get to the vehicles in the dark. Mr. Jadcak explained that part of his plan is to put signage on both sides of the street. There is a lot of lighting in that area. There is a cross walk. Any suggestions to make that better, he'd be happy to hear them.

Wallner asked if there were on street parking allowed on the same side of the street as his property? Mr. Jadcak said there was. He measured the footage of on street parking on both sides. There will be about 12.5 spaces within 100 feet of the building. Wallner asked if other businesses use them after hours? Mr. Jadcak rarely ever sees them used and he lives 2 blocks away.

Scott asked about his hours of operation. Mr. Jadcak explained that he will operate Tuesday through Friday 4 pm to 8 or 9 pm. Probably 8 pm. Saturday would be noon to 8 or 9 pm. Sundays would be noon to 5 pm. Scott asked if he were not trying to be a restaurant. It's really just come in buy, taste and leave. Mr. Jadcak agreed. The NH Liquor Commission regulates that. People stay about 15 or 20 minutes normally. Eighty percent of their sales would be retail to take home with them vs. tastings. Their size brewery would be 7 barrels.

Spector-Morgan asked if they were brewing at the site? Mr. Jadcak said that was correct.

Winters asked Walker if the difference is that a restaurant or bar would be allowed but because this is manufacturing it's not allowed. Walker said that's correct. This falls under manufacturing, bottling of beverages; an industrial classified use. Micro-brews need to be looked at and included in the Ordinance. This is new and up and coming. If they were running a restaurant, they fall into the restaurant category as that restaurant would be principal and brewery secondary. But because they want to do brewing and manufacturing they fall under the other category. Mr. Jadcak wants to package and sell in a retail setting vs. a sit down, eat and drink setting.

Carley asked Walker if a neighborhood market is allowed in this zone or convenience store. Walker explained that both of those uses (<= 5,000SF) would be permitted by right.

In favor: none.

In opposition: none.

ZBA FM 1.6.21

Code: Walker explained that this this whole property, with the exclusion of residences, goes back to the industrial railroad days. So many of these buildings were designed as industrial type buildings. For other types of uses permitted in the district, the buildings aren't as suitable.

DECISION:

Winters: He thinks it's a good use in this location. This is a very small zone. It almost seems that it's a mixed use area. It doesn't have great function right now. It has various uses in it. This was Taylor Rental's building and it's been vacant for a while and doesn't have much demand for any particular use. Coupled with the fact that it falls under food processing/bottling but it's not a heavy use. Every parcel in this strip is unique due to the age of the buildings and how they are laid out. He is inclined to grant the variances.

L. Scott: Feels the same as Winters. She doesn't know if the property is unique, but the use is unique. It'll be a great use for this property. It's not intensive. It won't disrupt the neighbors. She has some concern about the location of the parking. The property is a hold over and the zoning should be looked at. She is inclined to grant the variances.

Spector-Morgan: Doesn't disagree with others that it is a good location for the proposed use but, the property is not unique. The smell that comes from brewing beer is unique and could be offensive to surrounding property occupants. There is a reason that things like this are put in an industrial zone; i.e. smell, noise. She will vote to deny the use variance but has no issue with the parking variance.

Wallner is inclined to support it. The whole block has multi uses. He is not concerned with parking as most of the time they are open and the spaces in front would be available.

Carley asked if there were any complaints about the existing micro-brews smells. Walker hasn't received any for either Litherman's on Hall Street or Concord Brewing off of Storrs Street.

Carley agrees with his colleagues about supporting the variances. These buildings are all odd as they are all left over from industrial uses. He also thinks this is a little different from other variance requests as the use they are asking for doesn't have a home in the zoning ordinance per se. Its retail side is no different than the convenience store down the street that sells beer by the six pack.

A motion to approve variance #1 was made by Wallner and seconded by L. Scott. Roll call vote: AYE: Wallner, Scott, Winters, Carley. NAY: Spector-Morgan. Motion to approve passes by a 4-1 vote.

A motion to approve variance #2 was made by Wallner, seconded by L. Scott. Roll call vote: AYE: Wallner, Scott, Winters, Spector-Morgan, Carley. NAY: none. Motion passes by a 5-0 vote.

04-21 Concord Hospital, Inc. & Capital Region Health Care Corporation: Applicant wishes to subdivide the newly constructed Concord Hospital Memorial Building (formerly referenced as Ambulatory Health Care Building) and parking lot as a separate lot (approximately 2.95 acres) within the Concord Hospital Campus (approximately 55.8 acres) and requests variances to Article 28-4-1(h) Table of Dimensional Regulations, to provide zero frontage where 150 feet is required and to provide no front, rear or side setbacks where a 30 foot front, 30 foot rear and 25 foot side setbacks are required. Applicant also requests a variance to Article 28-7-7(g) Parking Area Design Standards; Setbacks and Restrictions, to allow off-street parking within 2 feet of the property where a 5 foot minimum is required, all at the newly created lot known as 116 Langley Parkway on the campus of 250 Pleasant Street and situated in an IS Institutional District.

Withdrawn.

Minutes: A motion to approve the Minutes from the November 4, 2020 meeting was made by Spector-Morgan and seconded by Wallner. Motion passed by a 4-0 vote with L. Scott abstaining.

A motion to adjourn the meeting at 7:45 pm was made by L. Scott, seconded by Spector-Morgan and passed by a 5-0 vote.

Rose M. Fife _____, Clerk

