



Town of Enfield

Zoning Board of Adjustment Meeting Minutes

December 11, 2018

19:02 called to order

Attending board members: Susan Brown, Chair Mike Diehn, Ed McLaughlin, Tom Blodget, Tim Lenihan, Kurt Gotthardt, Scott Osgood

Members of the Public Attending: Dr. David Beaufait, MD, Paula Kimball, Paul Page, Bruce Bergeron of BMB Real Estate.

First hearing, public notice read as an introduction by Administrator Osgood
BMB Real Estate, LLC

Presentation

Fuel dispenser pad layout has been changed to allow enough space in the lot for Eastbound traffic to get back to the May street driveway. Original layout was a line of four dispensers, new layout is two by two and it's wider and would encroach on the 20 foot side setback between the house lot and the store lot.

BMB would prefer not to merge the two lots so they can retain the possibility of using the house lot as a rental in future. IF variance can't be granted, however, they will ask to the PB to merge the lots.

Finding of Facts

1. 295 is the house lot, 33/31
2. 297 is the store lot, 33/32
3. 297 (33/32) and 299 (33/33) were joined last year into 297 (33/32)
4. NH DOT has prohibited left turns into and out of the Route 4 driveway
5. Eastbound traffic on Route 4 will enter and exit the Maple Street entrance
6. BMB owns both 33/31 and 33/32
7. The side lot line they want the variance for is between 295 and 297
8. The new pump dispenser pad will encroach 13 feet into the 20 foot setback
9. The current use of lot 31 (295) is residential
10. Changing the use of lot 31 would require a site plan review at the PB
11. The house on lot 31 is presently unoccupied.

12. The lots are in the CB zone.
13. The area BMB wants to use in the setback was covered with impervious material by the previous owners
14. The canopy over the fuel dispensers will encroach by 13 feet into the setback

Discussion

Paul Page, Kurt Gotthardt, and Bruce Bergeron discussed the merging of the two lots and the effects that would have the future use of the house lot. Without merging, it could be rented out as residential. If merged, the owners and town would lose the opportunity of that residential use.

Dr. Beaufait asked about precedent. He referred the recent request we denied for [Look up case] and asked if we're bound by precedent. Chairman Diehn pointed out that while the ZBA may permit itself to be guided by previous board decisions, it isn't required to do so. In fact, the board is required to consider each case individually. Dr. Beaufait pointed out that there may be an appearance-of-unfairness problem here.

Dr. Beaufait asked if reducing from four to two dispensers would make the canopy narrower. Bergeron says his business wouldn't survive on just two dispensers. Diehn asked about putting the dispensers in a single line; Bergeron said the traffic flow would be impractical.

Gotthardt pointed out that a boundary line adjustment is possible such that the house lot is kept at ½ acre and the lot line be moved a bit away from the pumps. That would solve the problem without pushing the owner towards joining the lots. We'd keep the separate lots and there'd be no need for a variance at all.

Recess 7:50 PM

Re-convened at 7:59 PM

Chairman Diehn read out the Findings of Fact and asked for, received, and made revisions as appropriate.

Chairman Diehn read out of the variance criteria for review and discussion. Results noted below.

The board see alternatives to the variance: one is to merge the two lots and another would be a boundary line adjustment but after discussion the board think this variance is a better solution because the town is better served by having the lots remain separate and by not causing another PB hearing for a boundary line adjustment.

Tim Lenihan related past practice to substantial justice. The board has been cautious about granting such variances in this area of town and has denied similar requests recently. Ed McLaughlin pointed out that the request is not to build a house or structure, but just a pad and canopy. Tim says his concern is allayed somewhat by Ed's point.

Paul Page expressed a concern that demolition of the house might reduce their property values. He supposes that if we don't grant this variance and BMB decides to merge the lots, they're unlikely to keep the house, if only because the property wouldn't be residential after that. Others pointed out that nothing prevents BMB removing the house anyway.

Ed pointed out that the town is a partner in this project. The state put requirements on the project that have required this re-design; our literal enforcement of this ordinance provision would make this more difficult for the business for no good reason. Tom and Tim agree.

Motion:

Tom moved we grant the variance requested by BMB Real Estate to put fuel dispensary pad and canopy in the 20 foot side-line setback as shown on the site layout plan dated Nov 26th, 2018, included in the application.

Aye 5
Nay 0

The variance is granted.

Review of Minutes

from November 13th, 2018

Ed moved we approve the minutes with corrections below

P1 L30: strike "and Mike noted the had"

P1 L31: strike "trouble finding." Unstrike "were unable to find"

P1 L34,35: "Strike There will be... are present."

Passed 5 in favor, 0 opposed.

Adjourned 2052.

Respectfully Submitted,
Mike Diehn