

**SWANZEY ZONING BOARD OF ADJUSTMENT MEETING  
JULY 19, 2010**

*Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.*

**ATTENDANCE**

William Hutwelker, Chair; Charles Beauregard, Sr., Jerry Walker, Bob Mitchell (arrived at 8:07). Alternates John Arnone and Jim Vitous. Town Planner Carbonneau and Code Enforcement Officer Jim Weston also were present.

Chairman Hutwelker called the meeting to order at 7:00 p.m. The Board addressed the following items.

**MINUTES**

**Motion** by Beauregard, Sr. to approve the minutes of the June 21, 2010 meeting. Second by Walker. All in favor.

**1. (Public Hearing, continued) Special Exception:** *withdrawn at the request of the applicant. See minutes from site visit conducted on July 19, 2010.*

Applicant: Mohammed W. Ali

Property owner: Mohammed W. Ali & Alyia Din

Property location: 115/117 Monadnock Highway Tax Map 18, Lot 87

Zoning District(s): Business District

Request: Special exception from Section V.B.2.e. to permit a portion of the existing structure to be utilized as a one-family dwelling.

**2. (Public Hearing) Variance and Special Exception**

Applicant: Deborah Sprague

Property owner: Deborah & Ward Sprague

Property location: 42 Base Hill Rd Tax Map 52, Lot 4

Zoning District(s): Commercial/Industrial District

Request: Variance (because the structure currently is non-conforming) from Sections XI.B.1. and a special exception (because the existing use is non-conforming) pursuant to Section XI.A.2. to permit the construction of an addition (screened porch) to the existing structure.

Members seated: Hutwelker, Beauregard, Walker. Arnone was seated for Thibault, and Vitous was seated for Mitchell.

Representing the application: Joseph Blount, BLM Contracting

Abutters present: none

Hutwelker called the public hearing to order at 7:07.

## DISCUSSION

Members received a July 16, 2010 application summary from Town Planner Carbonneau. Reviewing the summary with the Board, Carbonneau stated that the 1,073 s.f. house was constructed in 1955, before the location was zoned Commercial/Industrial. Carbonneau said that the property is served by private well and septic system, and is abutted by single family residences on the south and across the street, and vacant land on the north and west.

Blount stated that the 160 sf porch, which is proposed for the rear of the house, would not encroach on neighbors' property or wetlands. Weston said that he has no issues of concern with the proposal. Board members acknowledged receipt of three abutters' letters in support of the proposal, and expressed appreciation for the completeness of the application.

Hearing no further comments or questions, Hutwelker closed the public hearing at 7:11. Board members noted that the house was constructed prior to Commercial/Industrial zoning district designation; other single family homes are in the vicinity.

Board members reviewed the criteria for granting the requested variance.

1. Could the variance be granted without the proposed use being contrary to the public interest?

Members agreed in the affirmative.

2. Would the spirit of the ordinance be observed if the variance is granted?

Members agreed in the affirmative.

3. Would granting the variance do substantial justice?

Members agreed in the affirmative.

4. Could the variance be granted without diminishing surrounding property values?

Members agreed in the affirmative, noting testimony that surrounding property values would not be diminished.

5. Do special conditions of the property distinguish it from other properties in the area?

Members agreed, citing the existence of the house prior to Commercial/Industrial district designation.

a.i. Owing to the property's distinguishing special conditions, is there a fair a substantial relationship between the general purposes of the ordinance and the specific application of that provision to the property?

Members agreed in the affirmative.

- a.ii. Is the proposed use is a reasonable one?

Members agreed in the affirmative.

**Motion** by Walker to approve the variance from Section XI.B.1. to permit the construction of an addition (screened porch) to the existing structure. Second by Vitous. All in favor.

At 7:15, Hutwelker opened the public hearing to consider the request for a special exception. Blount referenced his prior testimony, adding that the proposal would improve a residence situated in a residential neighborhood.

Hearing no further comments or questions, Hutwelker closed the public hearing at 7:16.

Members reviewed the criteria for granting the requested special exception.

1. Is the exception allowed by the ordinance?

Members agreed in the affirmative.

2. Are specified conditions present under which the exception may be granted?

a. Is the proposed use similar to one or more of the uses already authorized in that District and is it an appropriate location for such use?

Members agreed in the affirmative.

b. Will such approval reduce the value of any property within the district, or otherwise be injurious, obnoxious, or offensive to the neighborhood?

Members agreed that the approval would not be injurious, obnoxious or offensive to the neighborhood.

c. Will there be a nuisance or serious hazard to vehicles or pedestrians?

Members agreed that granting the special exception would pose no hazard.

d. Will adequate and appropriate facilities be provided for the operation of the proposed use?

Members agreed in the affirmative.

**Motion** by Beauregard, Sr. to grant the requested special exception pursuant to Section XI.A.2. to permit the construction of an addition (screened porch) to the existing structure. Second by Walker. All in favor.

### **3. (Public Hearings) 4 Variance Requests**

Applicant: Homestead Woolen Mills, Inc.

Property owner: Homestead Woolen Mills, Inc.

Property location: 5, 7 & 9 South Winchester St Tax Map 72, Lot 31

Zoning District(s): Village Business District

Request: Variances from Section V.A.1. to permit the following uses:

1. Indoor auction
2. Business office
3. caged storage
4. warehousing

Members seated: Hutwelker, Beauregard, Walker. Arnone was seated for Thibault, and Vitous was seated for Mitchell.

Representing the application: Bruce Treat, Doug Brown. Sally Brown also was present.

Abutters present: none

At 7:18 Hutwelker called the public hearing to order to consider the request for a variance to conduct an indoor auction.

### DISCUSSION

Members received a July 16, 2010 application summary from Town Planner Carbonneau. Reviewing the summary with the Board, Carbonneau stated that

the property is served by public sewer and by the West Swanzey Water Company. Most recent parking estimates of 150 to 160 spaces were provided by Treat in October 2006, Carbonneau stated; however, the Town lacks a site plan to show the parking area and its capacity. Carbonneau reported that she had received no feedback regarding the variance requests from any Town department heads.

Those present discussed the current Planning Board review for update of the Village Business district portion of the Ordinance, now in process. The group discussed the pros and cons of granting variances for uses that might soon (with voter support in March) become permitted. Treat said that the Planning Board had invited Mill owners to make recommendations for a potential sub-district to encompass the Mill complex.

Hutwelker, questioning the need for variances, said that recently the Planning Board received testimony that the office, caged storage and warehousing uses already exist at the Mill. Carbonneau stated that the applicant had not received ZBA approvals for those uses. Treat said that formerly, Mill tenants had simply received Planning Board review, without being granted variances from the ZBA. Treat and Brown expressed their desire to be on solid legal ground for managing the Mill operation.

Carbonneau advised the Board that it is beyond the ZBA's prevue to grant a variance for a use or business not specifically before the Board.

#### 1. Indoor auction

Treat said that the indoor auction would generate high volumes of traffic infrequently and for a limited time; 100 paved spaces are available for attendees of the auctions, which would take place in the evening and on weekends. Weston said that, in his opinion, the proposed location in the Mill, with its access for loading, convenient bathroom facilities and multiple entrances, is the most appropriate part of the building in which to conduct indoor auctions. Hearing no further comments or questions, Hutwelker closed the public hearing at 7:48.

Board members reviewed the criteria for granting the requested variance.

1. Could the variance be granted without the proposed use being contrary to the public interest?

Members agreed in the affirmative.

2. Would the spirit of the ordinance be observed if the variance is granted?

Members agreed in the affirmative.

3. Would granting the variance do substantial justice?

Members agreed in the affirmative, agreeing that granting the variance would give the opportunity to conduct an activity that had taken place before.

4. Could the variance be granted without diminishing surrounding property values?

Members agreed in the affirmative.

5. Do special conditions of the property distinguish it from other properties in the area?

Members agreed in the affirmative.

a.i. Owing to the property's distinguishing special conditions, is there a fair a substantial relationship

between the general purposes of the ordinance and the specific application of that provision to the property?

Members agreed in the affirmative.

a.ii. Is the proposed use is a reasonable one?

Members agreed in the affirmative.

**Motion** by Walker to grant a variance from Section V.A.1. to permit use of a portion of the premises for an indoor auction. Second by Beaugard, Sr. All in favor.

For the next three variances, Hutwelker offered the applicants the option of continuing the hearings until the next meeting, to give the applicants time to consult with the Planning Board regarding likely intentions for the March warrant. Alternatively, Hutwelker advised, the applicants could go forward with the understanding that they would be required to be specific about the location of the use, so that any expansion would require a return visit to the ZBA. After a three-minute recess, Treat reported the preference of Homestead Woolen Mill, Inc. to proceed with the applications (as well as to contribute to developing zoning amendments that work for all). Brown expressed his hope to find an opportunity to bring people into the Mill, as part of the discussion of zoning changes.

Weston said that he has been impressed, during inspections in recent years, with the level of cleanliness and safety compliance he has observed at the Mill.

Carbonneau advised ZBA members that the three variances could be discussed simultaneously, so long as votes were separate. Treat said that he had no objection to addressing the three variances concurrently. Hutwelker opened the public hearing at 7:55.

Treat said that warehouse space would be accessed from a loading dock on the river side of the Mill complex (the historical access for tractor trailers), near the Thompson covered bridge. This area is not accessible to pedestrians, Treat said. The portion of the Mill proposed for warehouse space is sub-grade, Treat said, and not appropriate for many other uses. The proposed use is seasonal, with daily use of approximately one pickup or box truck trip and several trips per day as the season ends.

Caged storage is proposed for the former Swanzey Bazaar area, Treat said. According to Treat, this location is served by a door for pedestrians, and has a separate emergency fire exit.

Treat and Brown assured Board members that no flammable or volatile materials would be stored or warehoused.

Those present discussed definitions of “professional” and “business office.” Hutwelker observed the absence of a definition of “professional” in the Ordinance and argued that, lacking such a definition, any business office could be considered professional.

Hearing no further comments or questions, Hutwelker closed the public hearing at 8:25.

## 2. Business office

**Motion** by Vitous that, based on definitions present in and absent from the Ordinance, a variance to operate a business office is not required. Second by Beauregard. All in favor.

## 3. Caged storage

Board members reviewed the criteria for granting the requested variance.

1. Could the variance be granted without the proposed use being contrary to the public interest?

Members agreed in the affirmative.

2. Would the spirit of the ordinance be observed if the variance is granted?

Members agreed in the affirmative.

3. Would granting the variance do substantial justice?

Members agreed in the affirmative, agreeing that granting the variance would permit the applicants to continue an existing activity.

4. Could the variance be granted without diminishing surrounding property values?

Members agreed in the affirmative.

5. Do special conditions of the property distinguish it from other properties in the area?

Members agreed that the property is distinguished by special conditions.

a.i. Owing to the property's distinguishing special conditions, is there a fair a substantial relationship between the general purposes of the ordinance and the specific application of that provision to the property?

Members agreed in the affirmative.

- a.ii. Is the proposed use is a reasonable one?

Members agreed in the affirmative.

**Motion** by Beauregard, Sr. to grant a variance from Section V.A.1. to permit use of a portion of the premises for caged storage. Second by Walker. All in favor.

## 4. Warehousing

Board members reviewed the criteria for granting the requested variance.

1. Could the variance be granted without the proposed use being contrary to the public interest?

Members agreed in the affirmative.

2. Would the spirit of the ordinance be observed if the variance is granted?

Members agreed in the affirmative.

3. Would granting the variance do substantial justice?

Members agreed in the affirmative, agreeing that the requested use pre-exists.

4. Could the variance be granted without diminishing surrounding property values?

Members agreed in the affirmative.

5. Do special conditions of the property distinguish it from other properties in the area?

Members agreed that the property is distinguished by special conditions.

a.i. Owing to the property's distinguishing special conditions, is there a fair a substantial relationship

between the general purposes of the ordinance and the specific application of that provision to the property?

Members agreed in the affirmative.

a.ii. Is the proposed use is a reasonable one?

Members agreed in the affirmative.

**Motion** by Vitous to approve a variance from Section V.A.1. to permit use of a portion of the premises for warehousing. Second by Arnone. All in favor.

**ADJOURNMENT**

Motion by Beauregard to adjourn. Second by Walker. All in favor. The meeting adjourned at 8:40 p.m.

Respectfully submitted,

Victoria Reck Barlow,  
Recording Secretary