

Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment
Meeting Minutes – December 21, 2015

Note: Draft Minutes are subject to review, correction and approval by the Board. Review and approval of Minutes generally takes place at the next regularly scheduled meeting of the Board.

The regular meeting of the Swanzey Zoning Board of Adjustment (ZBA) was called to order at 7:00 p.m. by Chair Bill Hutwelker. Present were Bill Hutwelker, Keith Thibault, Bryan Rudgers, and Sarah Tatro. Carbonneau called the roll and read the Agenda for the meeting.

Absent: Bob Mitchell and alternates Shane Bryant, Marty Geheran and Charles Beauregard, Sr.

Others Present: Director of Planning and Community Development Sara Carbonneau, who served as recording secretary for the evening. Michael Petrovick, architect and representative for AbTech Mfg, and Kenneth Abbott from AbTech.

Minutes:

- Meeting Minutes for November 16, 2015 were considered. **Motion** was made by Thibault to approve the meeting minutes of November 16, 2015. There was a second to the motion by Rudgers. No further discussion was held and all were in favor. The ***motion passed.***

PUBLIC HEARINGS

Public Hearing (Request for an equitable waiver of dimensional requirements and an application for variance)

AbTech Mfg. Inc. seeks relief to ratify and confirm the commercial (manufacturing) use on the portion of the property situated in the Residence District and to expand the use. The property is located at 129 Monadnock Highway and is situated in the Business and Residence Districts. The property is shown at Tax Map 18, Lot 67.

Seated were Hutwelker, Thibault, Rudgers and Tatro. Hutwelker informed the applicant that 3 votes in favor of the application were required to prevail. Petrovick stated that he was aware of the requirement and wished to proceed with the public hearing this evening. Hutwelker stated that the request for a variance would be addressed first.

Public Hearing opened at 7:01 p.m. Carbonneau reviewed the ZBA Application Summary, noting that the subject premises is divided by a zoning boundary. The access to the property is located primarily in the Business District; however, the building is located entirely within the Residence District. Carbonneau stated that her research went back to 1973 and the zoning in that area remains unchanged. She noted that site plan review applications submitted to the Planning Board in 1981 and 1998 both indicate that the property was in the business or commercial district. AbTech obtained a special

exception for manufacturing use in the business district in 1998; however, it appears that it was assumed that the entire property was located in the business district, at that time.

Earlier this year, Carbonneau was approached by Petrovick about the procedure for expanding the building. At that time, Carbonneau noted that a variance had never been obtained for the manufacturing use in the residence district. The pending applications seek to ratify and confirm the manufacturing use on the property.

Petrovick stated that the proposed expansion, in part, allows for the construction of a woodshop to build shipping crates. It would also allow for space to add engineering and office staff, as well as reconfiguring the receiving, shipping and production areas. The second exterior addition would allow for the construction of a more welcoming main entrance to the facility. Petrovick noted that neither of the proposed additions would encroach on setback areas.

Public Hearing closed at 7:10 p.m.

Chair Hutwelker considered the request of AbTech Mfg. Inc. for relief to ratify and confirm the commercial (manufacturing) use on the portion of the property situated in the Residence District by granting a variance from Section IV.B.1. to expand the use on property located at 129 Monadnock Highway situated in the Business and Residence District show at Tax Map 18, Lot 67.

He reviewed the Checklist for Granting a Variance with the members of the Board:

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

Members said: that it would not be contrary to the public interest. The use has existed for since 1998 and has not negatively impacted the abutting property owners.

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

Members said: the spirit of the ordinance would be observed if the variance request was granted.

3. *Would the granting the variance do substantial justice?*

Members said: granting the variance would do substantial justice. It was noted that since 1981, the Planning Board and the Zoning Board have considered applications regarding this property and considered it to be in the business or commercial district.

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

Members said: that there was no evidence that granting the variance would diminish surrounding property values.

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

Members said: that there were special conditions. They noted that the property is divided by a zoning district boundary. In addition, they noted that building has been considered to be in the business or commercial district since 1998 by both the Planning Board and Zoning Board of Adjustment.

a. *Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?* **Members said:** that they agreed that there was not a fair and substantial relationship.

b. *Are the proposed uses a reasonable one?* **Members said:** that they agreed, as evidenced by the fact that AbTech has been located on the site since 1998 without any negative impact.

6. *If the criteria in subparagraph a. and b. are not met, an unnecessary hardship will be deemed to exist if, and only if: Owing to the special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance is necessary to enable a reasonable use of the property.* This criteria did not need to be addressed as the remaining criteria were met.

The Chair reported that the applicant prevailed on the criteria and he entertained a motion to grant the request for Variance from Section IV.B.1.

Motion was made by Tatro to grant the request of AbTech Mfg. Inc. for variance from Section IV.B.1. to ratify and confirm the existing use on the premises and to expand use on the portion of the property situated in the Residence District on property located at 129 Monadnock Highway situated in the Business and Residence District show at Tax Map 18, Lot 67. There was a second by Rudgers and no further discussion. All were in favor. Motion passed.

As the request for a variance was granted, there was no need address the Equitable Waiver Request.

DISCUSSION/OTHER MATTERS

Proposed zoning amendments were reviewed. Dates for upcoming meetings were discussed.

Motion to adjourn was made by Tatro, seconded by Rudgers and all were in favor. ***Motion passed.*** Adjournment occurred at 7:30 p.m.

Respectfully Submitted,

Sara Carbonneau, Recording Secretary Pro Tem