

SOMERSWORTH ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
DECEMBER 5, 2012

MEMBERS PRESENT: Harry Irwin, Chair, Bo Beaudet, Vice Chair, Frank Menez, Paul Maskwa and Roland Dumont.

MEMBERS ABSENT: None.

STAFF PRESENT: Dave Sharples, Director of Planning and Community Development and Tracy Gora, Planning Secretary.

The meeting was called to order at 7:00 pm.

1) APPROVAL OF THE MINUTES OF THE MEETING OF NOVEMBER 7, 2012.

Motion: Dumont moved to approve the minutes of the meeting of November 7, 2012.

Seconded by Maskwa. Motion carried with 5-0 vote.

2) OLD BUSINESS

- A) Salmon Falls Holdings, LLC is filing an appeal from an administrative decision regarding denial of a building permit application on property located at 395 Route 108, in the Commercial Industrial (CI) District, Assessor's Map 56, Lot 15, ZBA #17-2012.

Motion: Dumont moved that the item for Salmon Falls Holdings, LLC be removed from the table.

Seconded by Menez. Motion carried with a 5-0 vote.

Irwin stated that there was a request to reopen the public hearing but that he feels that there is no need to reopen it. Stated that the Board can continue with their deliberations.

Dumont stated since the application was tabled, he was able to review the proposal again. Stated that this property applied for a variance to change the footprint of the building and to have a basement. Stated that the request made sense and that the Board granted it. Stated that since then, they have gotten a permit to build a garage, which is allowed because it is considered an accessory. Stated that he feels that the ramp is excessive and an expansion of the use. Wondered why the original variance request didn't include the whole thing the first time. Stated that he understands that they want a ramp and that it is nicer than the typical handicap ramp. Stated that it is nice but is a gross expansion of land use. Stated that he feels that the Board should stand by the Code Enforcement Officer.

Maskwa agreed with Dumont and stated that he feels that this proposal goes beyond the scope of relief that was granted with the original variance. Stated that he feels that the Code Enforcement Officer made the correct decision. Suggested that the applicant request to amend the terms of the first agreement. Stated that this is an increase of the use of the land. Stated that he supports the Code Enforcement Officer's decision.

Menez asked what the difference would be if the proposed structure wasn't attached.

Sharples stated that it would be up to the Code Enforcement Officer.

Beaudet agreed with the rest of the Board and stated that the request should be denied.

Irwin stated that this ramp is expansive and an expansion of the structure. Stated that the need for a handicap ramp isn't there now and that when the times comes, there are temporary ramps that exist.

Motion: Dumont moved that the request of Salmon Falls Holdings, LLC for an appeal from an administrative decision be **DENIED**.

Seconded by Beaudet. Motion carried with a 5-0 vote.

B) Any other old business that may come before the Board.

None.

3) NEW BUSINESS

A) Allen Grinnell, on behalf of MDHF, LLC is seeking a variance from Table 5.A.1 of the Zoning Ordinance for a new commercial building within setbacks on property located at 472 High Street, in the Residential Commercial (RC) District, Assessor's Map 40, Lot 04, ZBA #18-2012.

Public hearing opened 7:07 pm.

Sharples reviewed his memo (see attached) and stated that the applicant is requesting a variance for a new commercial building within side setbacks. Stated that the property is in the Residential Commercial (RC) District and reviewed the features of the lot. Stated that the lot has frontage on Tri City Road and on High Street so it has two front setback requirements and two side setback requirements. Stated that a 30 foot setback is required. Stated that the building would only violate one side setback and it would be from two feet to 15 feet from the property line. The neighborhood is commercial strip development with some residential uses. Stated that there is a residential complex abutting the property but that it is several hundred feet away. Reviewed all files for the property and found that it was subdivided in 2004 and got a variance with a condition that there is no further expansion of the self-storage units. Stated that he found that the property doesn't have the required frontage on both streets and that it doesn't have the required area. Stated that it is just a point of discussion for the Board. Stated that there is a commercial use already on the lot and that this would be adding one more commercial use.

Mike Hill, part owner of the property addressed the Board and stated that he thought that the area and frontage requirements were settled during the subdivision process.

Dave Francoeur, part owner of the property addressed the Board. Reviewed some of the history of the site, which included court cases. Stated that our company stepped in and bought it to build the existing real estate company but that this was still one property with the storage units. Stated that he has always thought that it would be nice to have another building on the lot. Stated that there is someone who has come forward who

wants to put a retail business there. Stated that the busy hours for the new use would be in the afternoon and evening. Stated that they have been planning on doing this expansion for ten years. Stated that it is really a unique property with 440 feet of road frontage and tons of visibility. Stated that they will be taking down the existing garage buildings, which will enhance property values and look professional. Stated that there have been complaints from people wanting them to take the existing buildings down. Stated that it will look good and enhance surrounding property values. Stated that it will increase tax revenue and be an asset to the City. Stated that the proposed building will not encroach on setbacks any more than the existing garages do now. Stated that it will be less-invasive. Stated that green spaces will be added. Stated that the property is well-landscaped and maintained now. Stated that the property on the south is owned by the City and stated that they have been feeding and maintaining that every year. Stated that there is a sea of pavement on the adjacent lot and that they will fit into the neighborhood. Stated that they are willing to work with the Planning Board to get a new business in.

Sharples asked what the use will be.

Francoeur stated that it will be a retail use and that there is adequate parking for both buildings.

Sharples stated that he is still unclear about the variances/subdivision from before and that there isn't a lot of information in the files. Stated that the plans show the intent of the proposal.

Dumont asked if the storage units are being removed.

Francoeur replied no and stated that they don't own them.

Menez asked why the building has to be placed there and not move it farther from the setbacks.

Francoeur stated that they need to accommodate parking. Stated that they have looked at several different plans and that this was the best one.

Doug LaRosa of Trittech Engineering Corporation addressed the Board and stated that they looked at different scenarios and that it had to be close to the property line.

Francoeur stated that they wanted to pull the parking away from the street to be less intrusive to other properties.

Maskwa asked about lighting.

Francoeur stated that they will work with the Planning Board for upgrades for parking, paving, etc.

Maskwa stated that at first he wasn't in favor of the building be two feet from the property line but since there are already buildings there he is more in favor.

Menez asked if the owners of the storage units to the east have any objections to this proposal.

Sharples stated that the proposal meets the setbacks on that side.

Beaudet wanted confirmation that the existing garages will be taken down.

Francoeur confirmed.

Beaudet asked what will be going into the new building.

Francoeur stated that they have a user that doesn't want to be identified. Stated that it will be great for the City and that he likes the idea of being next to a grocery store.

Beaudet stated that he thinks this is a great project and that it is an eyesore now.

Maskwa stated that one side of the building is 44 feet from the property line so it is just a portion of the building that will be in setbacks.

Public hearing closed 7:31 pm.

Maskwa stated that it seems that most of the criteria are met. Stated that since there are already dilapidated buildings in the area of the variance indicates that there will be no decrease in values. Stated that the enhancement of the area is in the public interest. Stated that he doesn't feel that it is contrary to the spirit of the ordinance.

Irwin stated that it is about time for the property to get upgraded. Stated that this will enhance and be an asset to the City and Sunnyside Apartment. Stated that it will bring more traffic to the mall and that he is in favor of the proposal.

Motion: Maskwa moved that the request of Allen Grinnell, on behalf of MDHF, LLC for a variance from Table 5.A.1 of the Zoning Ordinance for a new commercial building within setbacks be **GRANTED**.

Seconded by Beaudet. Motion carried with a 5-0 vote.

B) Any other new business that may come before the Board.

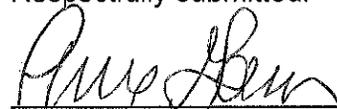
None.

Motion: Beaudet moved to adjourn the meeting.

Seconded by Menez. Motion carried with a 5-0 vote.

Meeting adjourned at 7:35 pm.

Respectfully submitted:



Tracy Gora, Planning Secretary
Somersworth Zoning Board of Adjustment