

ATKINSON ZONING BOARD OF ADJUSTMENT

21 Academy Avenue

Atkinson, New Hampshire 03811

Public Hearing Meeting Town Hall

Wednesday, July 8, 2020

Members Present

Glenn Saba, Chair

Kevin Wade

Dave Farris

Bob Connors

Others Present

George Kenney, Brengco Realty Trust, LLC

Jeffrey Brem, Meisner Brem Corp.

Workshop 7:00 PM

Call to Order: Chair Glenn Saba called the meeting to order at 7:00 PM. Chair Saba explained that four Board members were present and that the applicant and his representative were attending by Zoom.

Chair Saba read a statement into the minutes regarding electronic meetings. This meeting will be conducted via Zoom with four members of the Atkinson Board of Adjustment present at Atkinson Town Hall.

Roll Call Attendance: Chair Saba, Member Connors, Member Farris and Member Wade of The Atkinson Zoning Board of Adjustment stated that they were present.

Other Business: none

Correspondence: none

Approval of Minutes: June 10, 2020

Chair Saba, Vice Chair Zannini, Member Connors, and Member Leondires of The Atkinson Zoning Board of Adjustment were present at the June 10, 2020 meeting. Chair Saba, Member Connors, Member Wade and Member Farris are present at the July 8, 2020 meeting, reviewed the May 13, 2020 minutes, and made corrections and amendments.

Member Connors made a motion to approve the minutes of the June 10, 2020 meeting as amended. The motion was seconded by Chair Saba. Roll Call: Member Connors and Chair Saba, the members of the Atkinson Zoning Board of Adjustment present and who were at the June 10, 2020 meeting voted in favor. Vote: 2/0/0. The vote is unanimous.

Public Hearing – 7:30 P.M.

Chair Saba opened the public hearing at 7:30 PM, July 8, 2020.

Application for Variance from Article V 530(d; footnote 3) submitted by Meisner Brem Corp for Brengco Realty Trust, George Kenney, Trustee to permit the construction of a 2 story Commercial Building with parking in the front, 59.8' from the front property line where 75' is required (15.2' variance) on property located at 25 Hall Farm Rd, Map 16 Lot 11 in the CI Zone.

Abutters: Stacey Realty, LLC, Brengco Realty Trust, George Kenney, Jr. Trustee (George Kenney, present), Ruby Holdings LLC, 2 Industrial Way, Gary and Karla Russell, Christopher Thompson, 23 Hall Farm Road Realty, LLC, Meisner Brem Corp. (Jeffrey Brem, present)

Jeffrey Brem, Meisner Brem Corp., came before the Board via Zoom to represent the applicant.

A two page plan was submitted with the application. The applicant is requesting a variance from Article 530(d; footnote 3). The requirement is for 75 feet of frontage and the plan is for 59.8", therefore a variance relief of 15.2 feet is required. Mr. Brem stated that the applicant is proposing parking in the front and Steve Keach, the town engineer, indicated a variance would be required when he reviewed the application for the Planning Board.

The proposed building is for 10,160 square feet with 8,960 square feet on the first floor and a small second floor office for the applicant's company. Four units are proposed, the primary unit is intended as a show room for Mr. Kenney; then three smaller units, two units will be 20 feet by 50 feet and one will be 20 feet by 68 feet. All proposed units will be accessible with a loading area and an overhead door in the back. Simple parking is proposed in the front. The proposed site is industrial so wide radii into the lot at Hall Farm Road and exiting on to Industrial Way are proposed. It is a corner lot, approximately one acre in size. The proposed building meets all code requirements except for this variance request.

Mr. Brem stated that the variance request is for a 15.2 foot relief. The setback on Hall Farm Road also provides another 20 feet of shoulder. There is a 66 foot right of way to Hall Farm Road, which is quite wide. There is already 20 feet of pavement to the property line. The proposed building would be 80 feet from the pavement. There is presently a small house on the property.

Chair Saba informed the Board that he took a ride past the proposed industrial building and the current structure is an older home that looks like it has been abandoned. Mr. Brem informed the Board that the current house is about 20 feet at the closest point from the road, which is much closer than the proposed structure.

Chair Saba asked Mr. Brem what the primary use of the building would be. Mr. Brem informed the Board that the applicant installs kitchens and does remodeling so he cuts granite and builds cabinetry, so he will be doing that in the back. A small showroom in the front is proposed as well as a second floor office, which will be more than half of the building.

Chair Saba asked the applicant if there would be unusual operating hours for the proposed business. George Kenney, Brengco Realty Trust appeared before the Board and replied to Mr. Saba that there would be no unusual operating hours.

Chair Saba asked if there were more questions.

Member Farris asked if the equipment could be heard outside the proposed building during operation hours. Mr. Kenney replied that some noise might be heard during the summer if the doors were open.

Chair Saba asked if the applicant would appear before the Planning Board again. Mr. Brem replied that the applicant would appear next week. The Planning Board is waiting for final review from the Town Engineer and some minor updates that the applicant would need to do.

The applicant informed Chair Saba that there are no wetlands.

Chair Saba opened the meeting to the public. There were no questions.

Chair Saba asked about traffic flow; the plan shows one way traffic flow. Mr. Brem informed him that simple angle parking is proposed with one way traffic flow. The Fire Chief is requesting 20 feet of through way width. The applicant is providing the width as requested with angle parking. The applicant received the letter of approval from the Fire Department as of today, July 8, 2020.

Mr. Brem informed the Board that the second sheet of the proposed plan, which is the drainage plan, is enclosed in order to show the Board the stormwater management system and the contours to the south. A very simple drainage system is proposed, the roof runoff and all the pavement in the back will be discharged to the constructed stormwater management facility and discharged out so there will be no increase in runoff. It has been reviewed by the Town Engineer and he has no issues. This is why the applicant proposes the building where it is and not pushed back, because of the grades in the rear. The applicant is also proposing a small wall to hold the stormwater management system in the right location.

Chair Saba requested the applicant go through the criteria.

The Applicant went through the criteria:

1) Granting the variance would not be contrary to the public interest because:

The proposed property is in an industrial zone with permitted use intending to accommodate potential customers without overly expanding the site development and is still setback from the edge of the pavement by approximately 80 feet which is greater than the 75 feet required use.

Discussion: Chair Saba stated that the use is in the industrial zone and it is an industrial use. A setback of 75 feet is required with parking in the front; but it appears that the abutting property on the opposite side of Industrial Way does not meet that requirement and the structure currently located on the site does not meet the requirement. The applicant is proposing a business in an industrial lot.

Member Farris asked if the current 20 foot easement in the front is what gives it 80 feet. Chair Saba explained that it is not an easement, it is the Town's right of way and requested the applicant to address the Board.

Mr. Brem explained that rights of way are usually set at 50 feet, but industrial rights of way are often set wider in order to ensure adequate room for expansion or left turn lanes. Hall Farm Road is 66 feet wide.

Chair Saba asked if there was more discussion. There was none.

Roll Call: Member Connors, Member Wade, Member Farris and Chair Saba agreed. All members of the Atkinson Zoning Board of Adjustments present agreed that the conditions of Article V Section 530:d(1) are met based on the application and the discussion as present. Vote: 4/0/0. The vote is unanimous.

2) The spirit of the ordinance is observed because:

The building will be sited 80 feet from the edge of the pavement which exceeds the requirement of 75 feet. This situation is unusual due to the large right of way width of Hall Farm Road and the 21 foot shoulders. It will be set back more than the existing structure.

Discussion: Chair Saba agreed that in light of what is currently located at the site and what is proposed, the spirit of the ordinance is observed.

Chair Saba asked if there were more discussion. There was none.

Roll Call: Member Connors, Member Wade, Member Farris and Chair Saba agreed. All members of the Atkinson Zoning Board of Adjustment present agreed that the conditions of Article V Section 530:d(2) are met based on the application and the discussion as present. Vote: 4/0/0. The vote is unanimous.

3) Granting the variance would do substantial justice because:

Moving the building back by 16 feet would impinge on the proposed stormwater management facility (drainage) which is well sited for this site and which would require moving the drainage system closer to the developed area of the abutter to the east. Also, it would impact the steeper slope to the rear (topography).

Discussion: Chair Saba informed the Board that substantial justice is determined by the State as any loss to the applicant which is not outweighed by a gain to the general public is an injustice. He stated he did not believe there would be a gain to the general public to deny the application. The applicant is proposing an industrial site which is overgrown and not being used to its potential.

Chair Saba asked if there were more discussion. There was none.

Roll Call: Member Connors, Member Wade, Member Farris and Chair Saba agreed. All members of the Atkinson Zoning Board of Adjustments present agreed that the conditions of Article V Section 530:d(3) are met based on the application and the discussion as present. Vote: 4/0/0. The vote is unanimous.

4) For the following reasons, the values of the surrounding properties will not be diminished:

The building will still be over 75 feet from the pavement edge, the site improvements are efficient as designed with any revisions intruding closer to abutters. The building scale fits the neighborhood as a mostly one story building.

Discussion: Member Connors stated that the one abutter may have an issue but there are no abutters present. Chair Saba agreed that to prove diminution is not the job of the Board. The applicant is improving a site, which always increases value. There is no one speaking or stating any argument to the contrary.

Chair Saba requested a vote.

Roll Call: Member Connors, Member Wade, Member Farris and Chair Saba agreed. All members of the Atkinson Zoning Board of Adjustment present agreed that the conditions of Article V Section 530:d(4) are met based on the application and the discussion as present. Vote: 4/0/0. The vote is unanimous.

5) Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because (answer a & b)

(a) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because;

The overall scale of the project is in harmony with the neighborhood and the spirit of the ordinance.

Discussion: Chair Saba asked the applicant if pushing the building back would affect the contours. Mr. Brem agreed, pushing it back would change the entire drainage system and more greatly affect the abutter.

There was no more discussion.

Roll Call: Member Connors, Member Wade, Member Farris and Chair Saba agreed. All members of the Atkinson Zoning Board of Adjustment present agreed that the conditions of Article V Section 530:d(5a) are met based on the application and the discussion as present. Vote: 4/0/0. The vote is unanimous.

(b) The proposed use is a reasonable one because;

The use is permitted in the zone, and is not maximized by lot coverage or gross floor ratios. The site was designed for the intent that the applicant had in proposing the property. He did not try to maximize the property, the design does not hit the ratios and stop, it just shows what the applicant wanted. The proposed plan and the proposed building meet all the requirements.

Discussion: Chair Saba agreed that the proposed building fits in and is what the Board wants in the industrial zone. It replaces an old residential building. The ZBA agreed that the proposed project is an upgrade to what is currently there.

Roll Call: Member Connors, Member Wade, Member Farris and Chair Saba agreed. All members of the Atkinson Zoning Board of Adjustment present agreed that the

conditions of Article V Section 530:d (5b) are met based on the application and the discussion as present. **Vote: 4/0/0. The vote is unanimous.**

Member Connors made a motion to approve Application for Variance from Article V 530(d; footnote 3) submitted by Meisner Brem Corp for Brengco Realty Trust, George Kenney, Trustee to permit the construction of a 2 story Commercial Building with parking in the front, 59.8' from the front property line where 75' is required (15.2' variance) on property located at 25 Hall Farm Rd, Map 16 Lot 11 in the CI Zone.

Discussion: Chair Saba stated that obviously the building would be built according to current codes.

Member Farris seconded the motion. Roll Call: Member Connors, Member Farris, Member Wade and Chair Saba voted in favor. Vote: 4/0/0. The vote is unanimous.

Chair Saba informed the applicant that he had 30 days to appeal, so anything done prior to that is done at his own risk.

Mr. Brem thanked the Board and the Planning Office staff.

Member Connors made a motion to close the public hearing. Member Wade seconded the motion. Roll Call: Member Connors, Member Wade, Member Farris and Chair Saba voted in favor. Vote: 4/0/0. The vote is unanimous.

Chair Saba requested a motion to adjourn.

Member Farris made a motion to adjourn the July 8, 2020 meeting of the Atkinson Zoning Board of Adjustment. Member Wade seconded the motion. Roll Call: Member Connors, Member Wade, Member Farris and Chair Saba all voted in favor. Vote: 4/0/0. The vote is unanimous.

Chair Saba adjourned the meeting at 7:51 pm.