

ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, June 4, 2018 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire

Board Present: Loretta Laurenitis, Peggy Leedberg, Sharon Monahan, Peter LaRoche, Dario Carrara and Seth Chatfield

Staff Present: Tim Herlihy, Code Officer, Peter Throop, Director and Laura Norton, Administrative Assistant, Office of Community Development

Acting Vice Chair Chatfield called the meeting to order at 7:00 p.m. “Good evening” he said, “this is the regularly scheduled June meeting of the ZBA.” He went on to introduce the Members and Staff.

Election of Officers:

Acting Vice Chair Chatfield (Mr. Chatfield) noted the first thing on their agenda was the election of Officers.

Chair: A motion was made/seconded (LaRoche/Chatfield) to elect Mr. Carrara Chairman of the Board. “Dario has years of experience and knows the book better than anyone” said Mr. LaRoche. Ms. Monahan interjected “I don’t think we should” (elect Mr. Carrara) adding “he has not been on the Board and this is the first time we have had someone on both Boards” (Mr. Carrara was elected to both the Zoning Board of Adjustment and the Planning Board in May 2018) “and I would rather he act as a full member and not the chair.” Ms. Laurenitis interjected “I agree.” Ms. Monahan went to say, “I would like to see Peter (LaRoche) be the chair.” Mr. LaRoche replied, “I have way too much on my plate.” Mr. Chatfield said, “I would love to have Dario as the Chair, he has more experience than any of us” adding, “he is an asset, especially since he is serving on both Boards.” Ms. Laurenitis interjected “but he is *just* on this Board and has not been on either the Planning Board or ZBA before. I feel he should start as a regular member rather than start as chair.”

Mr. Chatfield cited their last training session with Town Attorney John Ratigan and his praise of Mr. Carrara’s experience and knowledge. “I did not hear that” interjected Ms. Monahan. Mr. Chatfield replied, “that message was clearly delivered at our last meeting.”

Ms. Leedberg expressed her concern for Mr. Carrara as well. “I have reservations on dual membership” she said adding “he is new to the Board and needs to know how we work together.” Mr. Chatfield immediately replied, “he is *not* new, he has been sitting with this Board longer than some of our members.” Mr. Chatfield then asked, “then who else?”

At this time Mr. Carrara asked “who is voting? What are our regulations? Is it all members, with the alternates?” Ms. Monahan replied, “in the past it has been all members.” Ms. Laurenitis agreed.

A motion was made/seconded (LaRoche/Chatfield) to elect Mr. Carrara Chair of the Zoning Board of Adjustment with Mr. LaRoche, Mr. Chatfield and Mr. Carrara in favor and Ms. Monahan, Ms. Leedberg and Ms. Laurenitis opposed.

Ms. Laurenitis noted “the motion does not pass with a tie vote.” She went on to say, “I have been Chair in the past and I am willing to do it again.” Ms. Leedberg interjected “I nominate Loretta.” “There are some issues with that as well” replied Mr. Chatfield as he noted his concern that Ms. Laurenitis has introduced herself at public hearings as a member of the Zoning Board but had not defined her statements as being personal ones and not of the Zoning Board. Ms. Laurenitis responded that when she speaks at public hearings she makes it clear she does not speak on behalf of the Board. Noting he had been at several meetings where he did not feel that was conveyed Mr. Chatfield replied, “we have a difference of opinion” with Ms. Laurenitis noting “yes we do.”

Citing a vast amount of experience Ms. Monahan interjected that she supported Ms. Laurenitis and her 15 plus years on the Board. “She is reliable and the most experienced member of our Board.” Mr. Chatfield agreed Ms. Laurenitis had consistent attendance at meetings and was an active participant.

Ms. Monahan also questioned the basics of training for Mr. Carrara as a new Board member. “That comes from Concord” she said adding “training on the roles and responsibilities of the Board is a requirement and he has not done that, especially since he is doing a dual role. He needs a refresher on the differences of the two Boards.”

A motion was made/seconded (Leedberg/Monahan) to elect Ms. Laurenitis Chairman of the Zoning Board of Adjustment with all in favor.

Chair Laurenitis then took over the meeting and noted the next item on the agenda was election of a Vice Chair.

Vice Chairman: “I would like to see Seth be the Vice Chair” interjected Ms. Monahan. Mr. Chatfield noted that with the exception of some availability issues he would accept the nomination. “I am in” he said.

A motion was/seconded (Monahan/Leedberg) to elect Mr. Chatfield as Vice Chair of the Zoning Board of Adjustment with all in favor.

At the conclusion of elections Ms. Monahan recused herself from the case and left the table, joining the audience. Chair Laurenitis reviewed the Rules of Procedure which included the request that anyone wishing to speak (questions or concerns, for or against) please identify themselves for the record, and read the first case:

Case No. 1244 1810 Realty Group requests an Appeal of an Administrative Decision pursuant to RSA 676:5 of the decision of Tim Herlihy, Code Officer and Zoning Administrator dated May 10, 2018. The administrative decision being appealed is the classification of a 64-bed, residential substance abuse treatment facility proposed for 25 and 30 Bridge Street was found not to be a permitted commercial use in the Village Commercial District (VCD)

Jim Callahan stood and introduced himself as an attorney in town who was representing applicant Stephen Bryan, 1810 Realty Group, Inc., Dorchester, MA. He reviewed the preliminary discussion with the Planning Board for the development, construction and operation of a secure, independent, residential substance abuse treatment facility that had been completed in February. He then introduced John Christian, CEO, Modern Assistance Programs, Quincy, MA; and Damien Turini, VP & Clinician, Modern Assistance Program, The Gavin Foundation, Boston, MA.

Mr. Callahan distributed a graphic of the Bridge Street property and pointed out a tract of land located behind the Rite Aid Pharmacy. “It is a strangely configured piece of land that is located entirely in the Village Commercial District” he said adding “it is not visible from the road, you wouldn’t even know it was there.” He told the members the property is owned by Peterborough Shopping Center, LLC and has provided authorization for Mr. Bryan to proceed with site plan review and associated approvals.” Mr. Callahan mentioned having prepared the application at a time when Peterborough was proposing a full zoning regulation change to Form Base Code and had that amendment passed his client’s proposal would have been permitted as a matter of right.

Mr. Callahan then asked Mr. Christian to give a brief review the Modern Assistance Program and what is being offered. Mr. Christian began with “we have 100,000 covered lives, 10,000 in New Hampshire. We place people in treatment, we offer treatment.” He also noted many New Hampshire residents were exported out of state due to the lack of services. Mr. Christian told the members they’d had conversations with both the Fire and Police Chiefs, Executive Team at Monadnock Community Hospital and the Governor’s Policy Advisor on Prevention, Treatment and Recovery “and have endorsement on all fronts”. He reviewed the self-contained, short-term (less than 30 days) residential program for medical detoxification and clinical stabilization facility. “This is an acute clinical treatment program with stepdown services” he said adding “64 beds, 32 for detox and 32 for stepdown with an average length of stay of 5-7 days for detox and 10-14 days in stepdown. We will have about 70 full and part-time employees including medical staff (Medical Director and Nurses) for acute care, clinicians, counselors, case management services for next level care and support staff including housekeeping, maintenance and administration.” He told the Members all treatment sessions would be within and restricted to the facility. Emphasizing the lack of local or even regional treatment facilities he told the members “we are recovery specialists and we hope to fill a need in the community.”

Mr. Callahan reiterated the need for treatment of the opioid epidemic, specifically in New Hampshire. He told the Members the Hospital had reported one patient waited 18 days in the Emergency Room for a treatment bed out of state. “We would be a facility and resource for the hospital” he said, Mr. Christian interjected “483 people died of overdoses last year in New Hampshire. We are the second highest rate of overdoses in the country and are ranked 49th in treatment beds. If ISIS came in and took 483 lives it would get people’s attention.”

Mr. Carrara suggested they get back to the appeal of the administrative decision and whether or not the use is a permitted commercial use in the Village Commercial District.

The members reviewed the Administrative Decision with Peterborough Code Officer Tim Herlihy. Mr. Herlihy specified the permitted uses allowed by right in the Village Commercial District as residential and commercial. He acknowledged the terms *Health Care Facility* (establishments providing medical treatment and/or care such as doctor’s offices, clinics and assisted care facilities) and *Nursing Home* (facility or institution primarily engaged in providing 24-hour care for residents). “In short I did not find the definition for commercial use fit within the closed narrative of what a commercial use was” he said.

In response Mr. Callahan quoted 245-4 (*Definitions*) as “an occupation, employment, or enterprise that is carried on for profit by the owner, lessee or license. Examples of such uses include but are not limited to retail sales and service, grocery stores, vehicle sales and service, personal services and professional offices.” He reiterated while a part of the treatment protocol involved medically supervised detoxification, “a significant aspect of the program is the provision of therapeutic treatment modalities.” A brief discussion about medical staff on premises, medical detoxification and stabilization and what the *primary* care of the facility was followed. “Medical treatment is a supportive and ancillary use to the program” adding “there will be a 10-hour a week Medical Director and nursing staff to assess vitals and administer medication. This is a commercial use based on the information in front of you” concluded Mr. Callahan.

Ms. Laurenitis asked about licensure and Mr. Chatfield noted “addiction is a medical condition, it is a disease and saying this is not a medical use is stretching it.” He also questioned the proximity of the facility to a state liquor store. Mr. Carrara asked about the funding of the program with Mr. Christian replying, “health insurance.”

At this time Chair Laurenitis opened the hearing to the public. Ms. Monahan introduced herself and described what she saw as ka mixture between lodging and a healthcare facility.

Heather Peterson introduced herself and spoke briefly about trying to diversify our economy and attract and retain merchants and businesses. She noted the two local Plazas in particular. “We have been creative” she said. Citing the Maker Space in the Monadnock Plaza she asked “how is that defined? There was no controversy over that” adding “it is difficult to fill that area with business uses.”

With no other input from the public a motion was made/seconded (Chatfield/Carrara) to move to deliberation with all in favor.

Deliberation:

Mr. Chatfield began by noting some research he’d done on the success (or lack of) on for-profit facilities like what is being proposed. Mr. Carrara gave a brief explanation of how he agreed with the Code Officer’s decision (but) in a different way. “This is for clinical detox not for an apartment complex. Clearly this falls under the definition of a Health Care Facility and there is no argument over the definition of commercial. It is a healthcare facility and does not belong in this

district.” Ms. Leedberg interjected she was not viewing it as medical facility as they would provide a modulation of services for substance abuse recovery.

Mr. Chatfield asked for an example with Ms. Leedberg noting “massage therapy.” Mr. Chatfield replied, “massage therapy? (intentional pause) urinalysis?” Ms. Leedberg replied, “professional services.” Mr. Chatfield countered “so if anybody charges anyone for anything it is a commercial use?” Mr. Carrara reminded the Members that they have full authority to determine what the use is “in part or fully.”

Mr. LaRoche reminded his co-members the VCD is meant to be flexible and that this is a business with a commercial use for profit. Mr. Chatfield replied, “so everything is commercial because money is changing hands, everything goes.”

A motion was made/seconded (Leedberg/LaRoche) that the proposed use is an allowed commercial use in the Village Commercial District and to approve the appeal of an Administrative Decision pursuant to RSA 676:5 of the decision of Tim Herlihy, Code Officer and Zoning Administrator dated May 10, 2018. Mr. LaRoche and Ms. Leedberg were in favor. Mr. Carrara. Mr. Chatfield and Chair Laurenitis were opposed. The motion failed, and the appeal was denied 3-2.

Mr. Carrara clarified his “no” vote by noting the proposed use falls within the definition of Healthcare Facility which is not an approved use in the Village Commercial District and to uphold the Administrative Decision by Mr. Herlihy.

Chair Laurenitis suggested they move to the Variance request. “I will read the request and then we can get straight to the Criteria” she said.

Case No. 1245 1810 Realty Group requests a Variance to build and operate a 64- bed, residential substance abuse treatment facility as regulated by the zoning ordinance in Article II, Section 245-9 B (1). The property is located at 25 and 30 Bridge Street, Parcel No. U021-001-000 and U021-002-000, in the Village Commercial District.

Regarding Mr. Carrara’s motion Mr. Callahan noted he did not believe the Board could go beyond the authority of 245-33 and hence could not enhance a decision. “This is not a Health Care Facility, I truly believe it is not” he said. He then reviewed the variance criteria:

Mr. Christian noted one-third of the beds would be dedicated to the Medicaid clients adding “the majority of facilities do not take people on Medicaid.”

Chair Laurenitis opened the hearing to the public and Jo Ellen D'Ambrosio stood and introduced herself as a retired psychotherapist living at Rivermead. She submitted her concerns in writing to the Board for the record and spoke briefly about her concerns regarding the facility. "I think it is wonderful to help addicted people, but the placement is wrong" adding "and I don't get this acute business, and it is not secure, people can walk out, signed commitments do not trump constitutional rights and that worries me." Ms. D'Ambrosio noted her concern for the safety of the residents of the Rivermead Campuses. "People are often out and about and may be easy targets for criminal activity. I wish it were somewhere safer" she said.

Ms. D'Ambrosio told the members there are three parts to the detox process – physical, mental and emotional. "The easiest is the physical (taking about a week), then the mental and finally the emotional (where an addict has to learn and repeatedly practice coping mechanisms to anxiety, fear, anger, loneliness and depression)." She told the Members "it takes a good 6 months of hard physical, mental and emotional work with a success rate of only about 40%."

Ms. D'Ambrosio went on to say "I support good programs to help addicts but a 64-bed facility on a few acres next door to a pharmacy and a liquor store? I cannot imagine a worse site. That is just asking for trouble." She concluded by noting "there is a difference between alcoholics and drug addicts, drug addicts are typically younger, less mature and are already criminally compromised. Alcoholics can go into a store and buy alcohol; drug addicts use pushers."

Ms. Peterson spoke briefly about the property value concerns and a letter of professional opinion from Andy Peterson of The Peterson's Inc. who wrote "the construction of this facility will not decrease and in fact is much more likely to increase area property values." Ms. Peterson briefly reviewed similar facilities (now defunct) such as Beech Hill Hospital in Dublin, NH which was surrounded by some of the highest priced real estate around. "It also offered a youth program and there was still no change in value" she said. She added that facility was indeed somewhat hidden away "but was accessible for staff to reach it as well."

Attorney Callahan then reviewed the Variance Criteria.

1. Granting the variance will not be contrary to the public interest. The

Applicant proposes to construct and operate a substance abuse treatment Facility on the Property. The Peterborough Master Plan encourages positive

growth and opportunities to strengthen the town's vitality. Commercial uses are permitted as a matter of right. The Ordinance defines "Commercial Use" (245-4) as "An occupation, employment, or enterprise that is carried on for profit by the owner, lessee's, or licensee. Examples of such uses include but are not limited to: retail sales and service, grocery stores, vehicle sales and service, personal services and professional offices." There will be ancillary medically supervised detoxification at the outset of treatment. But, the proposed use will primarily be focused on providing therapeutic modalities to people in the early stages of substance abuse recovery. The proposed use, if the variance is granted, will not be contrary to the public interest. In addition, granting the variance will not have an adverse effect on the health or welfare of Peterborough's residents. The proposed use will not necessitate public expenditure for transportation, water, sewer, or life safety. The proposed use at the Facility will be in the public interest as there is a dire need for substance abuse treatment facilities in not only the Monadnock Region, but also throughout the State of New Hampshire.

2. If the variance were granted, the spirit of the ordinance would be observed.

Article I, 245-1 of the Ordinance outlines its purpose. In part, this Section provides, in part, that the zoning ordinance is designed to:

- Promote and conserve the health, safety, convenience, and general welfare of the inhabitants of the Town of Peterborough
- Lessen congestion of streets
- Prevent overcrowding of land
- To improve and beautify the town by encouraging appropriate uses of land within the town

The Applicant's proposed construction of the Facility, will prevent overcrowding of the land, will promote and conserve the health, safety, convenience and general welfare of the inhabitants of the Town of Peterborough, as well as beautify the town. The Applicant has spoken with town emergency personnel as well as representatives of Monadnock Community Hospital. The Facility will ease pressure on emergency services resulting from substance abuse overdoses and other crises.

3. Granting the variance would do substantial justice. "The concept of substantial justice is nebulous" said Mr. Callahan as he continued with "It is not possible to set up rules that can measure or determine justice. Each case must be individually determined by Board members. Perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. The injustice must be capable of relief by

the granting of a variance that meets the other qualifications. A Board of Adjustment cannot alleviate an injustice by granting an illegal variance." *The Board of Adjustment in New Hampshire* (2005). In this case there is no public benefit that would outweigh the hardship to the Applicant.

Mr. Chatfield interjected "so you are skipping it?" Mr. Callahan again noted "it is a nebulous thing that can't be addressed in this case, I cannot think of a public benefit that it would outweigh." Mr. Chatfield replied, "so you are saying it is not really a thing according to our own book?" adding "this needs to be addressed if they want to be approved." Mr. Callahan replied, "it would do substantial justice by providing a service for a crisis in the state."

4. If the variance were granted, the values of surrounding properties would not be diminished. The Applicant has consulted with real estate professionals and valuation experts and will provide at public hearing evidence that the value of surrounding properties will not be diminished if the variance is granted.

Again Mr. Peterson's letter was mentioned as stating the area was currently occupied by two run-down houses and a dilapidated shed. Mr. Chatfield asked about the occupancy of the houses noting "we don't want to displace people of a place to live." It was noted the buildings are vacant.

5. Unnecessary Hardship

A. 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:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the Property. The purposes and intent of the Village Commercial District is *"to implement the Vision Section of the Peterborough Master Plan, which includes the support of compact settlement patterns, mixed use land development and walkable communities that increase accessibility for people of all ages. Specifically, the goals of the section are to:*

- 1. Concentrate development;*
- 2. Allow and encourage a vibrant mix of land uses;*
- 3. Encourage infill development and higher densities; and*
- 4. Provide a pedestrian-friendly environment."*

The proposed Facility supports each of these goals. The site is unusual in Peterborough. The property is behind the shopping plaza and is not visible from

any public way. The Facility will employ up to 60 people, mostly credentialed personnel (both full and part-time). The development will be concentrated in an out of the way location but will have close proximity to services. Employees will be able to walk to the plaza and do banking and other errands. The Property currently houses several rental houses that have fallen into various states of disrepair.

ii. The proposed use is a reasonable one. The Applicant is proposing to convert/construct a use that in most regards is "commercial" in nature. The Facility will be operated on a for-profit basis (although the Applicant has support from many non-profit organizations). As you know, the Peterborough Planning Board recently proposed zoning changes. The proposed use would be allowed as a matter of right had the zoning changes been enacted. Minimal traffic will be generated at the Facility. Clients, once admitted, will not leave the Facility. Families won't visit clients while treatment is being provided. No abutters have objected to the proposed use. Once the Facility is up and running, most people will be unaware of its operations.

B. Explain how, if the criteria in subparagraph (A) are not established, 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 therefore necessary to enable a reasonable use of it. The Property is long and narrow. The Property has been marketed for "commercial" use off and on for many, many years. While zoned to permit commercial uses, the Property's lack of visibility has ruled out retail uses. And, given the proximity to the back of the plaza, housing and personal services uses have been ruled out by potential users. The site is perfect for the Facility, which will be secure.

Mr. Chatfield asked about employment advancement with Mr. Christian replying, "it is not easy." He went on to note the stringent requirements of becoming licensed as a certified counselor for a facility like the one being proposed. "It takes three years to complete and candidates must pass a national test."

As Mr. Chatfield then asked where the data reflecting no impact or diminishment of surrounding property values came from Mr. Carrara asked who had the property listing Ms. Peterson replied, "The Petersons" with Mr. Carrara replying, "thank you."

Mr. Callahan described the short time frame between the Town Meeting where the Zoning Amendment failed and the June ZBA Meeting. “We would have hired a commercial appraiser, but we were in a hurry. Ocean State Job Lot has been very supportive and enthusiastic about this project, there are no other residents in the area, in fact the closest residential abutter is your former Chairman.”

After a brief discussion on how to proceed the members agreed they would like to have additional information from both the Police and Fire Chiefs. It was noted it was good for the Board to show the public that they were not taking the case too fast and at this particular point were not prepared to make a decision.” It is not the ZBAs fault” said Mr. Carrara adding “it just *is* what it *is*.”

A motion was made/seconded (Carrara/Leedberg) to continue Case No. 1246 to a date and time certain of Monday, June 11, 2018 at 5:30 p.m. with all in favor.

Chair Laurenitis read the last case:

Case No. 1246 Charles and Dudley Cobb requests a Variance to reduce front building setbacks to replace parking lot space with a garage, as regulated by the zoning ordinance in Article II, Section 245-10.1 D (3). The property is located at 50 Jaffrey Road, Parcel No. U020-024-000, in the Commercial District.

Chair Laurenitis then asked, “are there any changes or corrections to this notice?” With none she asked the applicant to proceed.

Charlie Cobb stood and introduced himself noting “I have been to the Planning Board twice for the condominiums” he said adding “and like the other case we waited to see if the proposed zoning amendment passed. It did not so I am here for a variance. This is important to us.”

Mr. Cobb went on to explain “with the condos approved we are ready to sell them and the reality is that most people buying a condominium want to own a garage.” He pointed out the location of the proposed garage (at the southern end of the building) on a projected graphic. He told them “we couldn’t put it along the river because it would block the tenants’ view and it would be *way* too close to the river, so logically we placed it along the road.” He went on to say, “originally we were going to have an open structure (car port) but our realtor said that was *not* a good idea.” Mr. Cobb briefly reviewed the graphic pointing out the ten spaces (with the two end units being doubles or two car-garages). He noted the structure would cover or take the place of 17 of the 19 open air spaces currently located in that area.

“so actually, some parking spaces have been eliminated” he said with a smile. Mr. Cobb concluded by pointing out the faux windows on the street side of the structure to add character as well as an individual light for each unit.

A brief discussion about the current setback of the current open-air parking lot with Chair Laurenitis interjecting “so it is the same as the parking there now.” “Yes” replied Mr. Cobb. Mr. Throop clarified that this request in this case was for a building setback. “We have to be careful, the parking he has now is legal, it would just have a building on top of it” he said. Mr. Cobb showed other potential locations considered for the garage, each having its own limitations and said, “this is the least obstructive way to do it.” He also briefly described his plans for the future of the mill. “This is Phase I” he said adding “Phase II is the north end where my business is located but eventually the entire building will be offices or condos.” When asked about the restaurant and Café space Mr. Cobb replied, “they will still be there, they will be sold as condo units.” Mr. Throop reminded the Members that a condominium was a form of ownership. “You buy a condo you get ownership to a garage as well, that is it” he said. Mr. Cobb concluded “and it gives a sense of privacy, it would not be as public as it is now.”

Mr. Cobb reviewed the variance criteria and a motion was made/seconded (Laurenitis/LaRoche) to move the case to deliberation with all in favor.

Deliberation:

Starting with a straw poll Mr. Chatfield stated he saw no reason not to grant the request. Mr. LaRoche’s only concern was the potential of the garage lights inadvertently being left on all night (Mr. Cobb noted the lights would be on timers). When asked Ms. Leedberg replied “makes sense to put it where they are putting it. There is no other option.” Mr. Carrara replied, “I have no problem with it.” Chair Laurenitis was also in agreement.

A motion was made/seconded (Chatfield/LaRoche) to approve a Variance to reduce front building setbacks to replace parking lot space with a garage, as regulated by the zoning ordinance in Article II, Section 245-10.1 D (3) and that the garage maintain adherence to the plan submitted with all in favor.

Minutes: Deferred

Next Meeting: June 11, 2018 at 5:30 p.m. (Note time change)

The meeting adjourned at 9:40 p.m.

Respectfully submitted,
Laura Norton, Administrative Assistant

ZONING BOARD OF ADJUSTMENT

NOTICE OF DECISION

Case Number 1246

June 4, 2018

You are hereby notified that the request of Dudley Cobbs for a **Variance** to Article II, Section 245-10.1 D (3) of the Zoning Ordinance, to reduce front building setbacks to replace parking lot space with a garage, on property located at 50 Jaffrey Road, parcel number U020-024-000, in the Commercial District, is hereby **GRANTED**.

In reaching the variance decision, the Board finds that:

1. The variance will not be contrary to the public interest because the addition of covered parking replaces existing parking and would reduce the visible activity in the surrounding area complimenting the residential condominiums at the mill.
2. The spirit of the ordinance is observed because the 30 foot existing setback from the state road would not be altered since an existing concrete wall divides the parking lot from the roadside.
3. Substantial justice is done because there is no harm to the general public.
4. Granting the variance will not diminish the value of the surrounding properties.
5. Unnecessary hardship:

5 Ai There will be no change to the footprint of the property; the parking structure will replace existing open paved parking and prevent the intrusion of car lights at night on the highway and the properties across the street. Due to the special conditions of the property this is the only practical location for the covered parking.

5 Aii This proposal is reasonable since it replaces one type of existing parking with another. It is reasonable to have secure parking spaces for the dwelling units.

5 Bi The following special conditions of the property make a variance necessary in order to enable reasonable use of the property. On the eastern side of this 60-space parking area is the main mill pond surrounded by a concrete wall which is considered a part of the dam and may not be obstructed.

In granting this variance, the Board imposes the following conditions:

1. Substantial compliance to plans submitted.

Signed,

Loretta Laurenitis, Chair