

ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, October 3, 2016 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire

Board Present: Jim Stewart, Sharon Monahan, Loretta Laurenitis, Peter LaRoche, Seth Chatfield and Peter Leishman

Staff Present: Laura Norton, Office of Community Development and Dario Carrara, Code Enforcement Officer

Chair Stewart called the meeting to order at 7:00 p.m. “Good evening” he said “this is the October stated meeting of the Zoning Board of Adjustment.” I am Jim Stewart and I am the Chair.” Chair Stewart went on to introduce the members and staff before recusing himself.

Vice Chair Laurenitis (Ms. Laurenitis) reviewed the Rules of Procedure and appointed Ms. Monahan to sit before reading the application:

Case No. 1228 GFA Federal Credit Union: is requesting a Variance to allow the use of an amplified PA or drive-thru type intercom, as regulated by Chapter 245, Article II, Section 9, Paragraph D, 11 of the zoning ordinance. The property is located at 99 Grove Street, Parcel No. U018-069-000, in the Village Commercial District.

When done she looked up and asked “are there any corrections or changes to this notice?” With none she invited the applicant to proceed.

Chad Branon stood and introduced himself as an Engineer with Fieldstone Land Consultants, PLLC located in Milford, New Hampshire. He also introduced Tina Sbrega, President and CEO of GFA Federal Credit Union. He noted he was representing the Credit Union in their effort to redevelop this site into a GFA Federal Credit Union Branch.

Mr. Branon gave a brief overview of the lot and the redevelopment project, located at 99 Grove Street, on the west side of the NH Route 101 and State Route 202 intersection. “It is 0.8 acre of land and the former location of the Magic Flute (children’s toy and clothing store).” He told the members the lot was located in the Village Commercial District and the Groundwater Protection Overlay Zone and

that the existing conditions were in poor repair. He went on to note the plan would be to raze the building and site improvements that exist (including walkways, pavement and a children's playground area in the back) and redevelop the lot to have new pavement and walkways, adequate parking, drainage, lighting, drive-through and utility connections. Referring to a graphic he'd placed on an easel he pointed out "the layout is a one-direction for traffic entering off Route 101 and exiting onto Route 202 just south of the intersection."

Mr. Branon pointed out the Village Commercial Districts' Performance Standard requiring a minimum of a 30-foot buffer (vegetative screening and/or fencing) when a commercial use abuts an existing residential use. He told the members they had met with Jim Stewart, the abutter to the west and south of the lot and that they had made modifications to the plan (moving the drive-up window from the south to the west side of the building and offering additional buffering in the form of two vinyl fences, one 8 feet in height, the other 6 feet in height), all to Mr. Stewart's satisfaction.

Mr. Branon informed the members of the status of the state permit needed from NH DOT. "We have submitted plans to them" he said. Noting his company had submitted the site plan for the Magic Flute a few years ago he added "we have an open dialogue. They agree the site is very restricted on its use given the proximity to the intersection. We do not have our permit yet but we have not received any negative feedback from them."

Mr. Branon concluded by reiterating "this will be a significant improvement to the town and the neighborhood. The site is in need of a major overhaul and upgrade. I would be happy to take this time to answer any questions."

Mr. Leishman noted the problem the Mobile station just up the street was having with a turning lane mandated by DOT and asked "have you been asked anything about a turning lane?" Mr. Branon replied "they (NH DOT) have not," reiterating, "and we have worked together in the past, we have a very open dialogue."

Mr. Chatfield asked for clarification of the address of the site (99 Grove Street).

Mr. Leishman asked "why vinyl? Why not wood for the fences?" Mr. Branon replied, "the homeowner recommended it" adding but the main consideration is its ease of maintenance, "especially for the long term."

Mr. LaRoche asked if there would be any landscaping with Mr. Branon noting a preliminary project review they'd had with the Planning Board on September 12th.

He told the members their intent was to submit a site plan review (which has a detailed landscaping plan) to the Panning Board (if successful here) for November.

Mr. Chatfield asked if the intercom system would be functional 24 hours a day or just for teller interface with customers during day (it is the latter). “The intercom is purely for the drive-up, the ATM has no audio attached” said Ms. Sbrega.

Ms. Laurenitis asked about the hours of operation. Ms. Sbrega replied “the hours are not set and are subject to change but typical business hours are from 8:30 or 9:00 in the morning to 5:00 or 6:00 in the evening, Monday through Friday.” She went on to say, “typically we will stay open one night a week to 7:00 p.m.” Citing customer confidentiality she concluded “the system is not very loud and is sensitive to how sound travels.”

Ms. Monahan asked “is GFA leasing the space?” Ms. Sbrega replied “we are purchasing it.” “You currently have another location in town?” interjected Mr. Chatfield. Ms. Sbrega replied “yes, we have been a neighbor for a few years. We moved into the Monadnock Plaza in 2012 but that location is not conducive for our ability to have a drive-up (their number one complaint). We are committed here for the long term and we want to provide the services customers expect from our fine institution.”

For clarification Mr. Branon gave the members several examples of the magnitude of decibels by noting normal quiet conversations at a bank window is about 60 decibels, a truck going down the highway or a motorcycle “pushes 100 to 105 decibels.” Then noting “it is important for us to share the information” Mr. Branon then read the criteria for approval of a Variance to the members for the record.

When finished he reviewed the Special Conditions and how the property is distinguished from others in the neighborhood (small footprint, site restrictions, close proximity to the Route 101/202 intersection limiting development opportunities) and that a Variance is necessary to enable a reasonable use of the lot. In closing he distributed a copy of letter of support from abutter Jim Stewart. “This is an excellent location for GFA” he said.

With no other questions from the Board Ms. Laurenitis opened the meeting to the public. Barbara Miller introduced herself noting her support of the project as an individual (Ms. Miller is a member of the Board of Selectman in Peterborough).

“I am so pleased” she said, adding “they are really good neighbors. They are strong with the Chamber of Commerce, the school system and in donating to non-profit causes. This is a wonderful opportunity, I would really like to see this happen.”

Ms. Laurenitis suggested reading Mr. Stewart’s letter with Mr. Stewart interjecting “you don’t have to read it. I will just say they have been very accommodating in their negotiations. They have been willing to give what it takes to be here.” He concluded by noting “community development can affect residential property but all of the criteria does mitigate any possible harm to me. The town is incredibly lucky to get this in here, they do a top-notch job and benefit the community.” With a smile Ms. Laurenitis replied “so that *was* your letter.”

Ms. Sbrega concluded by thanking the members. “We have been in business for 75 years and this is our 9th Branch” she said, adding “being in many communities we see expanding or rebuilding as a partnership. We all work together and everyone is happy with the results, thank you for your consideration.”

Deliberation:

Ms. Laurenitis read the Deliberative Statement. When finished Mr. LaRoche interjected “I have no objection as long as the use is for banking. They would have to come back to us if the use changes.”

At this time Mr. Branon, for the record noted the term bank was incorrect for this applicant “GFA Federal is a financial institution, it is not a bank.”

Mr. Chatfield echoed Mr. LaRoche’s approval and concern.

Ms. Laurenitis agreed noting the decibels example was a good one. “I am in favor” she said.

Ms. Monahan also agreed “for all the reasons presented, with conditions.” “The intercom system is for a financial institution use only and will be located on the west side of the building” she said adding “lastly, the intercom system will be no louder than 60 decibels.”

Ms. Laurenitis agreed and noted “we should also add the project will be substantially compliant with the plans and testimony that were presented tonight.”

Mr. Leishman replied “I agree with all of that.”

A motion was made/seconded (Chatfield/Monahan) to approve the request for a Variance to allow the use of an amplified PA or drive-thru type intercom, as

regulated by Chapter 245, Article II, Section 9, Paragraph D,11 of the zoning ordinance. The property is located at 99 Grove Street, Parcel No. U018-069-000, in the Village Commercial District with the following conditions:

1. The intercom system is for a financial institution use only
2. The intercom system noise level must be less than 60 decibels
3. The location of the intercom system must be on the west side of the building
4. Substantial compliance with the plans and testimony presented

With all in favor.

Noting the sometimes challenging and difficult decision writing portion of the meeting Mr. Branon offered to submit his criteria to assist in its draft. The members agreed not to rework what was an already good job and incorporate the criteria cited by Mr. Branon into the template as written.

Minutes:

A motion was made/seconded (Stewart/LaRoche) to approve the Minutes of August 1, 2016 as written with all in favor.

The meeting adjourned at 8:05 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant

NOTICE OF DECISION

Case Number 1228

October 3, 2016

You are hereby notified that the request of GFA Federal Credit Union, for a **Variance** to allow an amplified PA or drive-thru type intercom, as regulated by Chapter 245, Article II, Section 9, Paragraph D, 11 of the Zoning Ordinance, on property located at 99 Grove Street, parcel number U018-069-000, in the Village Commercial District is hereby **GRANTED**.

In **granting** the variance, the Board finds that:

1. The variance **WILL NOT** be contrary to the public interest because:
Granting this variance would allow for the productive use of the existing property. The subject property has been vacant and unsightly for the better part of the last 20 years. It is our belief, that this project will be a substantial improvement to the surrounding areas as it will consist of demolishing the old gas station structure and all of the existing site improvements and constructing a new commercial building for GFA Federal Credit Union with associated site improvements. We believe that this re-development project will be viewed very positively by the general public as it will result in a huge improvement to a very highly visible property at the intersection of Routes 101 and 202. The proposed use is compatible with the surrounding commercial uses and will be a great neighbor to the surrounding residential uses. In fact the proposed site layout and design will increase the buffering to the neighboring properties as the improvements will lie completely outside of the current 30 foot buffer requirement thereby substantially increasing the buffer to the nearest abutter. The buffering will also be improved through the installation of an 8 foot privacy fence along the southern boundary and a 6 foot privacy fence parallel to the west boundary as depicted on the plans. This increased buffering and the location of the drive-through window should mitigate any noise associated with the intercom system. It is also important to point out that these intercom systems are designed to maintain privacy amongst customers which means the technology has been improved significantly over the years to be more of a direct communication. Considering the latest intercom technologies, the improved buffering and fencing proposed, the location of the drive-thru window and the close proximity to the state highway we do not anticipate any measurable impacts resulting from the intercom system in the development as proposed. The proposed site will also be designed to meet all current building codes and standard engineering practices. For all of these reasons we believe this proposal will not alter the essential character of the neighborhood or threaten the health, safety or general welfare of the public. Therefore granting this variance would not be contrary to the public interest.

2. The spirit of the ordinance **IS** observed because:
The proposal for this site is in our opinion consistent with the surrounding areas and will provide for a significant improvement to the subject property. The variance requested pertains specifically to the intercom use for the drive-through which is a necessary component of the Credit Union. The site has been designed to mitigate this component through the increased buffer area provided and the proposed privacy fencing. Another way to determine whether this proposal is consistent with the spirit of the ordinance is to consider other uses that could be approved in this location without a variance. In our review of the Village Commercial District we found that the uses permitted consist of commercial and light industrial use which could cover a very broad range of uses. We believe that a professional well-manicured Credit Union with a drive through window

would be a better neighbor to a residential property than most if not all light industrial uses. The development of this project will also increase the Town tax base, allow a local business to grow and serve the residents of Peterborough and we believe will have no measurable negative impacts to the general public. This proposal will not alter the essential character of the neighborhood or threaten the health, safety or general welfare of the public. For all of these reasons we believe that granting the variance would observe the spirit of the ordinance.

3. Substantial justice **IS** done because:

Granting this variance would allow a local business to grow and address an increasing local demand. We believe that this project will have no negative impacts on local services and will increase the tax base for the Town. Granting this variance would do substantial justice because it would allow for the productive use of the property, as described above, while providing responsible growth in the community. As stated previously it is our belief, that this project will be a substantial improvements to the surrounding areas as it will consist of demolishing the old gas station structure and all of the existing site improvements and constructing a new commercial building for GFA Federal Credit Union with associated site improvements. We think that this re-development project will be viewed very positively by the general public as it will result in a huge improvement to a highly visible property at the intersection of Routes 101 and 202. We believe that a denial of this variance request would be an injustice to the client as there would be no apparent gain to the general public.

4. The values of surrounding properties **ARE NOT** diminished because:

The subject property has been vacant and unsightly for the better part of the last 20 years. It is our opinion that the proposed redevelopment of the property into a Credit Union with a drive-up window and intercom system will not create any negative impacts on the neighboring property values. In fact we believe this redevelopment proposal will create positive impacts on the surrounding property values as it will increase buffer areas to the neighboring residential properties and significantly improve the aesthetics of the neighborhood. For all of these reasons we do not believe that this proposal will have any negative impacts on the value of surrounding properties.

5. Unnecessary hardship

1. 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:

1. 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:

Section 245-9.D.11 of the Peterborough Zoning Ordinance does not permit intercom systems within the Village Commercial District. We do not believe that a 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 proposed redevelopment of the site contemplates considerable improvements to the property which will benefit the neighboring residential properties as well as the general public. The zoning ordinance restricts intercom systems on commercial properties that abut residential properties within the Commercial Village District presumably due to the potential impacts that intercom systems, especially old technologies, could impose on the neighboring area. The subject property has been orientated and designed to mitigate these potential impacts. The site as designed will significantly increase the buffering to the residential properties through the restoration of the 30 foot buffer and the installation of privacy fencing as proposed on the plan. The intercom system utilized on-site will also incorporate the latest technologies which is geared to promote privacy and security amongst customers. This type of system is intended to be very pointed and not a broadcasted conversation. Considering the latest intercom technologies, the improved buffering and fencing proposed, the location of the drive-thru window and the close proximity to the state highway we do not anticipate any measurable impacts resulting from the intercom system in the development as proposed. Also when you compare this proposal and use to other potential uses that are permitted within the Commercial Village District such as commercial and light industrial uses we would argue that this use is more compatible with the surroundings. For the reasons outlined above, we do not believe that a fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property.

2. The proposed use is a reasonable one because:

We believe that the proposed use is a reasonable one for all of the reasons previously stated. The following is an outline of why we believe the proposed use is reasonable:

- Granting this variance would allow for the productive use of the existing property.
- The proposed redevelopment of the property will result in a significant improvement to the aesthetics of the site and the buffering to the adjacent residential properties.

- The proposed redevelopment will increase the local tax base.
- The proposal will not alter the essential character of the neighborhood or threaten the health, safety or general welfare of the public.
- The proposed re-development will not result in negative impacts to the surroundings and in our opinion will actually increase neighboring property values.
- The design as proposed will improve the storm water management and erosion and sedimentation control on the subject property. Essentially this proposal will improve the water quality leaving the subject site.
- The redevelopment of this site is in response to a public demand and we believe it makes sense for a Town to encourage the growth of a local business.

For all of these reasons we believe that the proposed use is reasonable.

- B. Explain how, if the criteria in paragraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to 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 subject parcel consists of approximately 0.8 acres and is currently occupied by a commercial building and associated site improvements. The existing building and site improvement are old and are not in good repair. We believe that the geometry and size of the property are special conditions that distinguish it from other properties in the area. The property is very restricted as it has double frontage along NH Route 101 and 202 and is bordered by residential properties to the south and west which requires additional buffering. Considering the site restrictions and the properties' proximity to the intersection of Routes 101 and 202 the site is very limited to development opportunities. For example the development on the property has to occur within a small footprint, consist of a relatively small traffic generator or impact and be comfortable with having a one-directional flow through the property due to access limitations that have been imposed in the past by the NH Department of Transportation. Considering these factors we believe that the subject property has special conditions that distinguish it from other properties in the area and that a variance is necessary to enable a reasonable use of it

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

1. The intercom system is for a financial institution use only.
2. The intercom system noise level must be less than 60 decibels.
3. The location of the intercom system must be on the west side of the building.
4. Substantial compliance with the plans and testimony presented.

Signed,

Loretta Laurenitis, Vice-Chair

Note: An application for rehearing on any question of the above determination may be taken within 30 days of said determination by any party to the action or person directly affected thereby according to the provisions of New Hampshire Revised Statutes Annotated, Chapter 677. Decisions for Variances and Special Exceptions shall become null and void in two years if substantial compliance with said decision or substantial completion of the improvements allowed by said decision has not been undertaken after the date of approval. If this decision becomes null and void, the owner must reapply to the Board of Adjustment for a Variance or Special Exception as provided for in §245-42 of the Peterborough Zoning Ordinance.