

Danville Zoning Board of Adjustment
May 31, 2016
7:30 pm

Members present: Chris Stafford-chairman, Tara Burkhart, Roger Denison, Joe Luna, Curt Springer,

Excused members: Jason Holder

Others present: Roger Whitehouse, Tim Lavelle, Andy Carace, Terry Demaine. Ed Morrison, Travis Cook, and Sheila Johannesen arrived at 8:30pm.

2016-4: request for a variance of Zoning Ordinance IV.B.2 from ANAA Realty for property located at 225 Main Street, known as Tax Map and Lot 3-59A1. They are proposing to construct a 4000sf office and warehouse space.

Tim Lavelle introduced himself as the agent working with Mr. Carace who is the owner of Pest End Exterminators. Mr. Carace owns the property on Main Street which is in the Village District. This had first been discussed with the Planning Board as a preliminary discussion. The Planning Board minutes were reviewed. The opinion of that Board was that this is not an allowed use in that district. Chris explained that the application before this Board tonight is not an administrative appeal but a variance in which the applicant will need to prove all five criteria for this to be ruled in his favor.

Mr. Lavelle said the mailing address is 225 Main Street. The plan proposes an office building with storage for vehicles, equipment, and pesticides. Mr. Lavelle said the allowed uses listed in the Zoning Ordinance could not have been written exhaustively without taking several pages. A professional office is allowed, which is what they are proposing, but the ZO does not address the ancillary uses of offices, such as equipment storage.

The lot was described as two acres with 150' of frontage. The topography is essentially flat and dry, sloping 6-8' toward the back. They are proposing a 4000 square foot building. About 10% of the building, an area 15'x15', will be the office space; the rest will be for both storage and garage for vehicles and equipment. Drainage has not been designed but the placement meets all of the setbacks for this district. It was noted this is a legal non-conforming lot of record.

The building will have garage doors on both sides to allow trucks to pass through without going in reverse. This will be further scrutinized by the Planning Board during a site plan review.

Mr. Carace explained he has several locations around New Hampshire and Massachusetts that he maintains well. The vehicles stationed in the office in Methuen are mostly driven home by employees. He needs a space to house more vehicles mostly during the winter months. The office will be for record keeping, scheduling and dispatch. The business is not the type to have regular walk-in customers, but there will be a reception area for those who do come in.

It was explained that the chemicals used do not fall under the definition of hazardous as outlined in the Zoning Ordinance. He has certification to work with these chemicals which follows the NH Division of Pesticide Control.

Curt asked the applicant why they are meeting with this Board. Mr. Lavelle said that the Village District was created in 2008. At that time there were several types of businesses that were listed as allowed uses. Mr. Lavelle said it would be difficult to list every type of business and any ancillary uses.

It was pointed out that a greater percentage of the building will be used for product storage, including garaging the vehicles. Mr. Carace explained a few more details about the proposed garage. He said it will house six to eight vehicles and two trailers for approximately eight months of the year. They may take care of oil changes inside the building. These are single axle vehicles. The lawn care equipment will be here most likely during the entire winter. The pest control vehicles are on the road year-round.

Mr. Carace explained how he disposes of the rat boxes. They are triple-rinsed, punctured, then disposed of in a certified landfill. There will probably not be any rinsing of the boxes at this site. There will be no other solid or liquid waste at this site.

They plan to receive one or two deliveries every six months. There will be no outside storage of vehicles. The building will be paved all around to allow emergency vehicle access. The building will be on a 3' foundation. It will be metal, the roof slightly pitched, with awnings over the front door.

The Board reviewed the five criteria. Curt asked what is unique about this lot that makes it different than others in the same district. Chris said it seems the office is the ancillary use and not the main use. Mr. Carace said the nature of the business requires a larger area for storage of equipment than an office area.

The meeting was opened to the public. Terri Demaine asked about runoff and what would happen if the building were built, then the lot is sold to another company. It was explained that the approval is specific to this particular business. The runoff would be reviewed by the Planning Board.

There were no other questions and the public hearing was closed.

The Board reviewed the five criteria in depth.

1. Not contrary to the public interest: This is determined in conjunction with the other criteria.
2. Spirit of the ordinance is observed: Chris interpreted the list of allowed uses in the Zoning Ordinance as having people as the common denominator. Joe said the idea of the Village District was to inter-mingle personal services with residential. Chris said he's not sure this type of business meets that intent.
3. Substantial justice: Curt said this proposal does not fit in this district. The architectural aspects would be reviewed by the Planning Board. There are areas of town where this building and business as presented would be allowed. He said there is some loss to the individual if this is denied. Roger stated the district has been part of the Zoning Ordinance for many years but nothing has come of it. The commercial zone in town has a lot of wetlands, making much of it unusable. Mr. Carace explained that his business would be a positive addition to the town. The Board was polled about whether or not substantial justice would be done by granting the variance: Curt, Joe, and Tara voted no. Roger voted yes. Joe said that if the intent was personal services, he is not sure that granting this would be a loss to the town.
4. Property values: It was agreed this is difficult to determine and often objective.
5. Hardship: It was agreed that there appear to be no unique characteristics about this property that provide hardship.

The Board reviewed the first criterion and agreed this business would alter the character of the neighborhood.

Curt made and Joe seconded a **motion to deny the variance for the reasons discussed**. The motion **passed** unanimously. Chris said a notice of decision will be written within five business days.

Minutes:

It was agreed a comment about the interim building inspector being unfamiliar with Danville regulations. The addition reads: "Mr. Cook reported that he met with the Sandown Building Inspector who was serving as the interim building inspector because the Danville position was vacant. That person did not sign off on the plan as required by our Zoning Ordinance prior to filing with the ZBA. A new building inspector has just been appointed. We and the applicant agreed that he would meet with the new building inspector and seek his approval as required and we recessed for a week to allow this." Joe made and Curt seconded a **motion to add this to the May 24, 2016 minutes**. The motion **passed**.

2016-3: Travis Cook of 192 Kingston Road, request for Special Exception from Zoning Ordinance IV.A.4.c to construct an accessory dwelling unit.

This is a continued discussion. An email from the new building inspector, Ed Morrison, was reviewed. The email was sent May 31 to the clerk. Mr. Cook was told that the Zoning Ordinance requires a plan approved by the building inspector and he has not provided one yet.

Mr. Cook said the new inspector has walked through the house and can verify the layout and measurements. The work completed so far has been cost about \$380 and Mr. Cook was told that a certain dollar amount will trigger the need for a permit. This threshold has not been reached yet.

Ed Morrison, the new inspector, verified that no plan has been reviewed yet. He agreed to meet with the applicant to explain the code requirements.

There was a short discussion about the septic requirements. The septic capacity is based on the number of bedrooms in a home. Mr. Cook was advised to speak with the health officer. Mr. Morrison confirmed that the septic requirements should be met before a building permit is issued. Mr. Cook said the septic was inspected when the house was purchased.

Other criteria from the application were reviewed. It appears Mr. Cook has met the other criteria. Mr. Cook was advised to also meet with the fire chief regarding NFPA codes.

Joe made and Curt seconded a motion to continue the hearing to June 14 at 7:30pm. Roger Whitehouse will be in attendance while Roger Denison is absent. Roger W. has attended each meeting in which this case was discussed.

Other Business:

SB 146 was discussed briefly. It was agreed this Board should work with the Planning Board in revising the Zoning Ordinance.

At 9:30pm Joe made and Curt seconded a **motion to adjourn**. The motion **passed** unanimously.

Respectfully submitted,

Janet S. Denison