

SOMERSWORTH ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
December 5th, 2018

MEMBERS PRESENT: Matt Keiser, Donald Routhier, Richard Brooks Coty Donohue, Brad Fredette

MEMBERS ABSENT:

STAFF PRESENT: Shanna Saunders, Director of Planning and Community Development and Christien DuBois, Assessing/Code Clerk

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

Keiser appointed Brad Fredette as a full Board member for the meeting.

- 1) Approval of the minutes of the meeting of November 7, 2018.

Donohue moved to approve, seconded by Brooks, the motion carried 5-0.

2) **OLD BUSINESS**

- A) Any old business that may come before the Board.

3) **NEW BUSINESS**

- A) Somedowntown, LLC is seeking a variance from Section 21.A.1 of the Zoning Ordinance to add residential units without adequate parking on property located at 59-65 High Street, in the Business Historic (BH) District, Assessor's Map 11, Lot 63A, ZBA #13-2018 – PUBLIC HEARING.

Keiser opened the public hearing at 7:01pm.

Saunders provided an overview of the number of units on the property and the fact there was no on-site parking. Saunders provided a scope of the project and the City's ordinance on the required parking.

Keiser asked how many parking spaces there would be.

Saunders stated that the applicant could fit 6 on his own lot. On the plan, there are 4 proposed and 2 are in the City's right of way and the applicant is working with the City to obtain an easement and the deal was not finalized yet. There has been a recommendation to approve by the Economic Development Committee but easement needs full approval from Council. The applicant would still need a variance to move forward even if the approval was given.

Routhier asked if there was a specific number of units the Board was being asked to rule on.

Saunders recommended asking the applicant that question.

Keiser asked about the handicap spot and if that is a requirement.

Saunders stated she didn't believe so but the Building Inspector would know.

David Baker, the applicant stated they wanted to put 8 studio apartments in the building and the idea being to create more density downtown to attract younger people to the City. The request is to have 1 parking spot per studio apartment. The applicant stated as density increased, the need for parking would decrease as hopefully walkways would be improved by then. The applicant stated he has already worked with Public Works Department for winter parking bans.

Keiser asked the applicant to discuss the 5 criteria for the record.

The applicant stated there is public benefit as he is trying to bring people into town that are consumers. The applicant stated the property as a whole is an under-utilized asset and by improving the building it would increase the tax base. His project allows the opportunity to have business come into a downtown area who otherwise couldn't afford Dover or Portsmouth. The applicant stated that it is only economically feasible for him to complete the project to have 8 units at the property and if it isn't possible to move forward with less than 8 units it would become a hardship. He continued that by improving the site he would not diminish property values, but rather increase property values. He stated he is re-configuring an old building for modern use and the building was designed before many people had cars. The applicant stated that his variance request does substantial justice because there will be an increase in quality affordable housing, which is very difficult to find in the area. The applicant stated the spirit of the ordinance is from a time that is past us and the property is underutilized. The applicant stated that you can see the work he has already done in the area.

Jeffrey Doherty at 7 Lord's Court stated that he had a couple issues. He stated that he doesn't see how 8 units renting is going to create a large economic boom. Doherty stated he is concerned with property values because a buyer of his property may be concerned with 8 cars parked outside. Doherty raised concerns with the easement and spoke to his experience with plow trucks in the winter and has had issues with tenets parking where they aren't supposed to park. Doherty raised an issue with a retaining wall nearby. Doherty stated that the additional paving may cause an issue to the retaining wall and could cause it to collapse. Doherty raised concerns with potential light pollution that may arise from the additional units. Doherty stated the street is very narrow and any additional congestion will be problematic.

The applicant stated he was buying land from the VFW, and that his parking spots would be further into the lot. He stated that he has had discussions with Public Works to address concerns about parking.

Fredette asked if he was going to have 8 parking spaces for 8 units.

The applicant stated that was correct.

Fredette stated that he spends a lot of time on that part of High Street as he owns property in the area and that when Teatotaler is busy, there is almost no spaces, and Fredette expressed concerns over the property values from the lack of parking.

The applicant stated the overflow would have to park in the surrounding areas.

Donnohue asked how many spots he currently has.

The applicant stated 2.

Donohue asked how many spots were currently utilized.

The applicant answered 2.

Routhier stated you can't limit the apartments to one person, a couple could live there. If there is a couple there, both parties would likely have cars.

The applicant stated that is possible, but they would be renting with the foreknowledge that there is 1 vehicle allowed on site and if there are two people there or if they have company they will have to park off site.

Routhier asked why 8 apartments were going to be placed as opposed to other amounts.

Routhier stated that a financial hardship is not a hardship under New Hampshire law when considering variances and proceeded to ask if there was anything unique about the property.

The applicant stated it's a very desirable location and the more density there is, the more desirable the location is. To create the most impact to the community, he needs to put the most units into the building.

Routhier asked if the number of units complies with the zoning regulation.

Saunders stated that it did.

Routhier asked if there had been any improvement of the downtown parking situation since his last variance request for another property in the area.

The applicant stated that he has on-site parking but no improvement had been made in the downtown.

Fredette asked what is unique about the building.

The applicant stated that the layout of the building and size was unique as compared to others. He has the space to put in 8 studio apartments. Many other properties in the downtown area have no parking as well. He has the ability to create his own parking spaces to suit the development.

Brooks asked if the other variance was prior to the downtown reconstruction.

The applicant stated it was in 2014.

Brook stated that it hasn't helped parking downtown.

The applicant stated because it is not economically viable for anything less than that.

Brooks stated that he lives on the hill and has concerns with fitting 8 cars on the street.

The applicant stated that he isn't changing anything on the street and there isn't an impact as the spots will be on his property.

Keiser asked about the handicap spot that is shown on the plan

The architect for the applicant stated that the property has a specific hardship, which the site itself is a two-story difference from the other buildings. A handicap spot is required above 5 spots from his interpretation of the ordinance. The variance being discussed now is the 6 spots on the property. The applicant will be purchasing additional land to accommodate the 6 spots. The idea of densifying the downtown is part of the master plan. It is a project the City is attempting to pursue. Investing in the downtown requires densification and sometimes walking some distances.

Keiser closed the public hearing at 7:40pm.

Saunders stated that Public Works reviewed the site. DPW feels there is enough room to get the plow up the street. When the City worked at the Hall at Great falls, the City found that there are many spots that are available downtown. People walk in Dover and people walk in Portsmouth from their parking spots to their destination in the downtown.

Routhier asked if people need a permit to park at the Plaza.

Saunders stated they lease the spaces for a very nominal fee and it isn't assigned parking, but rather blocks of spots.

Routhier asked about future development of the Plaza.

Saunders stated the charrette featured significant development of the plaza, but with re-arranging of parking, there was only a loss of 6 spots.

Donohue asked Saunders to address her opinion as a City Planner about economic development and if the goal is to still densify.

Saunders stated there is no doubt about bringing people into the City is a good thing. Every City struggles with parking. In downtowns, historically the building takes up the entire lot. If a city wants a vibrant downtown, they typically need to give properties whose building takes up the entire lot a break with parking.

Donohue stated that the criteria he doesn't see being met is the hardship criteria. He believes all other criteria have been met. There is no way to determine the actual impact of the number of cars. He believes that it is otherwise a reasonable request.

Fredette stated he agrees with Donohue and believes there is nothing unique about this building than any other buildings to justify the criteria being met.

Brooks stated he agrees and doesn't see a hardship being met. He can re-configure the apartments to increase the number of units and have parking.

Routhier stated that he believes he should go back to the drawing board with this proposal. Routhier expressed concerns with the parking impact to the surrounding area.

Keiser stated he agreed and stated he does not see how the property is unique and doesn't see a hardship.

Donohue moved to deny the variance based on the hardship criteria and the spirit of the ordinance requirement have not being met. Seconded by Fredette, the motion passed 5-0.

B) Martin Quintanar is seeking a variance from Table 4.A.3.11 of the Zoning Ordinance for the storage of more than one unregistered and uninspected motor vehicle on property located at 372 Main Street, in the Business (B) District, Assessor's Map 07, Lot 07, ZBA #14-2018 – PUBLIC HEARING.

Keiser asked the applicant if he wanted to discuss both variance requests at the same time.

The applicant answered yes.

Saunders stated that the property is an existing legal, nonconforming auto repair garage and they are looking to sell vehicles on the property. Saunders stated two other properties in the area that have unregistered uninspected vehicles on the site. Both have court orders related to the properties.

Fredette asked if the application stemmed from a complaint.

Saunders stated it did come from a complaint and then the property owners then asked the Planning Department about the propensity of car sales

Keiser opened the public hearing at 7:56pm

Jim Schulte, the attorney representing the applicant stated the criteria for both request is virtually identical. The building was built in 1963 and has 6/10th of an acre. 60% of the property is paved, 40% is not. The building was built as a garage and has only been a garage. The property is located in the business zone and is located at the far end of Main Street. The property directly behind the property is an industrial area and there are few other businesses in that section, despite being zoned that way. The reason for the duplicative requests is that many people leave their vehicles there for the garage to be repaired. There will always be used cars on the lot. The property isn't large enough to qualify for a new car dealership. To supplement their income, the owners purchase vehicles at auction to repair and then re-sell. The applicant is asking what the limitation would be on the number of vehicles. The applicant is suggesting 4-6 unregistered vehicles at any one time and 4-6 vehicles for sale.

Schulte continued that the use of this property as a motor vehicle garage has existed for many years, allowing unregistered vehicles on the site will not change the appearance of the property. Driving by, you would not know the difference between a vehicle for sale versus a vehicle awaiting repair. The general use of the property as a repair facility and a sales lot would be the same. The variance would not be contrary to the public interest because there would not be a fundamental change to the neighborhood. The fundamental use would be the same, there are used vehicles on the lot. There is no impact to health or safety. There is a hardship because it is a designated type of property. It is a wide road, well-traveled and easy to find, it is at the far end of the City. It is a unique property in the neighborhood because of what the building was built for. The variance would do substantial justice as denying the variance would do more harm to him, than how anyone would benefit. There is no benefit to the City from barring it. The proposal is not contrary to the spirit of the ordinance because it is the same test as the public interest. There is no detrimental impact to the neighborhood or the City.

Richard Rue of 378 Main Street stated he has lived at the property since 1979 and stated that the property is very noisy. He stated he was strongly opposed to the proposal due to the noise. There hadn't been a problem with noise with the

former property owner. He stated he never experienced anything close to the level of noise, there is more noise than any maintenance facility that he's experienced. He said there have been sounds of peeling rubber and screeching. He also stated there have been tow trucks dropping off cars at night. He doesn't see how the existing business would improve the sound. He stated he is concerned about the property value of his house diminishing as a result of the noise.

Patrick Bable of 13 Middle Street, he is thankful that the building was purchased and is being used and that the business is a good thing in the neighborhood. He stated that the property owner told him that in order to repair vehicles the model had to be adjusted to being more of a used car dealership. There are other businesses in the area that are un-kept but had no interests in being a junkyard. Changes are needed for the sustainability of a business. A variance could open up the possibility of a junkyard and could possibly be unsightly. He stated that he can attest to hearing some of the noises including cars taking off at high speed and tires screeching. He stated that he thinks the request is contrary to the public interest. An auto repair shop is grandfathered and substantial change would move the property further from the spirit of the ordinance. He does not support a blanket approval but the proposal to be limited in scope.

Seth Jackson at 371 Main Street stated he agreed with the idea of limiting the proposal. He is fine with the proposal of selling cars on the lot. Seth stated there had been noise issues and the property owner had worked with them to address them.

Keiser read a letter from an abutter about the noise and unsightliness of the property.

Fredette asked about the number of mechanics that worked at the facility.

Schulte stated 2.

Fredette asked how many cars are serviced on a daily basis.

Chris Lapp, the manager stated 3-6 cars.

Fredette asked if up to 22 cars could be on the property at any day.

Lapp stated yes.

Fredette stated he drove by the property recently and there had been snow on the same cars almost 4 or 5 days after.

Lapp stated that many cars on the lot are long term repairs, and there are parts the business is waiting for.

Fredette asked how many cars would be waiting for long term repairs.

Lapp stated that is why he is asking for the limited variance.

Keiser asked about what determines an unregistered vehicle.

Saunders stated any vehicle on the lot that is not registered whether it's for sale or repair is an unregistered vehicle.

Brooks stated that as soon as a vehicle has a dealer plate, it is a registered vehicle and cited RSA 236 and stated that more than 1 un-registered vehicle constitutes a junk yard. RSA 236 also states that any auto repair shop or any business that relates to motor vehicles is limited to 160 days that a vehicle may be on the lot. Brooks asked how many cars does the applicant expect to have and what does long term repair mean.

Clapp stated a month to 6 weeks per car.

Routhier asked about the definition of an uninspected car.

Schulte stated that any vehicle that doesn't have an inspection sticker on it is uninspected.

Routhier asked about the difference between definitions of registered and inspected in the Zoning Ordinance.

Routhier asked if there is any body work going on at the building.

Lapp answered that there wasn't.

Routhier asked how the two uses, sales and repair, is less non-conforming than what is there now.

Schulte stated non-conforming uses can be expanded organically. It cannot be a dramatic change.

Routhier stated that the property had not been used in this way prior to the current owners.

Schulte stated it is the same type of use as the property prior to it.

Routhier stated there is a difference between repairing a vehicle for a customer versus purchasing a vehicle to repair it.

Routhier stated that the proposal has been positioned as an expansion of the existing business and that this expansion is going to make the noise conditions worse.

Routhier continued that there is a residential district across the street and asked how it would not impact property values.

Schulte stated that these two proposals have nothing to do with noise.

Routhier asked that isn't there a concern about an increase in vehicles affecting property values.

Schulte stated this business could be much busier with repair work. The noise has to do with the volume of business and the nature of the repairs. This business as a long term motor vehicle repair facility could do more business without needing a variance.

Routhier asked the applicant to expand on the substantial justice criteria.

Schulte stated there is no detriment to the public as the use is consistent with vehicles that need repair. There is a detriment to the applicant by limiting the scope of repairs available.

Keiser asked how the property is unique by being an auto repair garage to allow for auto sales.

Schulte said sales is an accessory use to the primary use. The hardship is in the nature of the property. The property has been used for motor vehicle activities. Adding the possibility of sales is a minor extension of what they've already been doing.

Keiser asked the applicant if they would be open to screening of the property to avoid the property looking like a junkyard.

Clapp stated they would be open to that idea.

Keiser asked how many cars are on the lot.

Clapp stated around 20. Clapp stated that the scope of their business is significantly larger than the previous owners and the two are not comparable.

Keiser asked if the number of cars would increase.

Clapp stated that he did not believe it would increase.

Keiser asked what a reasonable time for an unregistered vehicle to be on the lot.

Clapp stated a maximum of 90 days.

Keiser asked if the auto sales hours of operation would be different than the garage.

Clapp stated that it wouldn't. The sales would just be an accessory to the garage.

Fredette raised a concern about the turnover time and whether it's an impact.

Clapp stated he had no intention to be a junkyard and that the business is here to work with the neighbors.

Brooks provided examples of junkyards that are very neat and orderly. He asked if the variance is approved, would they be licensed as a dealer.

Clapp stated that he didn't have an intention to, but the only reason he would, was to be to acquire a dealer plate to drive the vehicle.

Brooks asked about getting a repair plate.

Clapp stated that after his conversation with the DMV, it didn't seem that it was an option.

Keiser closed the public hearing at 8:49pm.

Saunders stated that although this is a grandfathered use, the variance stays with the land.

Brook stated that the Board should discussed the two separately.

Keiser stated that was a good idea.

Brooks stated that he doesn't see a hardship in needing this variance.

Keiser stated that our local ordinances are stricter than the State laws.

Brooks explained the two state laws that he cited earlier about the differences between auto-repair, auto-dealership and a junkyard.

Fredette stated that a car there for a garage is linked to a third party owner. There is a connection to another person, whereas a junk yard has a car that is owned by the business. Fredette stated that having many vehicles on a lot is very unsightly.

Routhier stated he doesn't know why the Board isn't examining this from the scope of a non-conforming use.

Saunders stated the applicant isn't adding more land. The grandfathered use was the property prior. Car sales is a different use category.

Routhier cited a court case in Strafford County that in his opinion, is the same as which was overturned by the Court.

Saunders stated that she believes this is an addition of a use but if it was an expansion the applicant would be here anyway.

Routhier asked if the growth is organic and gave an example of a gaming business in Hampton.

Saunders showed the ordinance that showed the definition of an expansion.

Keiser stated it would be the same 5 criteria.

Brooks stated that adding more mechanics is not expanding the business.

Saunders stated that was correct, an expansion has to deal with the land.

Donohue stated that the business did do tires, but now offers more services and that isn't necessarily an expansion. Donohue stated he doesn't see how adding on another variance wouldn't be contrary to the spirit of the ordinance. Donohue stated he doesn't see hardship by the proposal being denied.

Fredette stated that without this variance, the business can still be run very successfully.

Saunders stated that a junkyard is also not allowed in this zone.

Brooks stated that having several un-roadworthy vehicles on the property could affect surrounding property values.

Keiser stated that with the appropriate screen, the property values would be not diminished. Keiser stated that he hasn't determined what the right number of cars. There is no detriment to the public to allowing 4 unregistered vehicles on the property. The property, an auto repair facility is unique in a business district. He does believe it would do substantial justice as it would allow the business to expand. The proposal is in the spirit of the ordinance if it's limited in scope.

Fredette stated he agrees with a lot of what Keiser is saying, but the City has worked hard to control the issue of too many unregistered cars on a property.

Routhier stated that he agreed and is not in keeping with the spirit of the ordinance. He believes it would affect property values.

Brooks stated he agreed with the property value being affected and that there is no hardship and doesn't believe the proposal is keeping with the spirit of the ordinance.

Brooks moved to deny the variance based on the property values being affected, not being a hardship and being contrary to the spirit of the ordinance not being met be denied seconded by Fredette, and the motion passed 4-1.

- B) Martin Quintanar is seeking a variance from Table 4.A.5.21 of the Zoning Ordinance for automobile sales on property located at 372 Main Street, in the Business (B) District, Assessor's Map 07, Lot 07, ZBA #15-2018 – PUBLIC HEARING.

Fredette stated that after taking into account the last motion, this would be difficult to approve and would be an expansion of a non-conforming use and therefore layer nonconformity. The business has run without an auto sales operation and therefore does not need a variance. The business doesn't meet the hardship or the public interest criteria.

Donohue stated he agreed.

Brooks stated that provided the car dealership is well maintained it would not diminish surrounding property values, but we don't know how it will be maintained. Brooks stated that having another business in the City is a good thing. The two uses go hand-in-hand. A car sales facility must have a car repair operation in place. The building is unique, the building is constructed for auto vehicle use. He would not be against the proposal if the property could be maintained.

Routhier stated that there was very little testimony about auto sales. Granting a variance would allow a business to have a far greater sales operation than what this current owner would conduct.

Keiser stated that they did only ask for 4-6 cars.

Rotuhier stated he still believed it was an expansion of a non-conforming use. And that he believed it would diminish property values as well as not seeing a hardship.

Keiser stated that there wasn't a consensus on which criteria was not met.

Fredette asked Routhier which criteria the expansion of the non-conforming use falls under.

Routhier stated that it would fall under keeping with the spirit of the ordinance.

Donohue stated there were three board members who believed the spirit of the ordinance criteria was not being met.

Donohue moved based on the hardship and spirit of the ordinance criteria not being met that the variance being denied. Fredette seconded the motion and the motion was approved 5-0.

The Board took a recess at 9:22pm.

Keiser re-convened the meeting at 9:27

- C) Meroff Enterprises, LLC is seeking a variance from Table 4.A.1, superscript 3 of the Zoning Ordinance to convert office space into residential space on property located at 97 High Street, in the Residential/Business Historic (R/BH) District, Assessor's Map 11, Lot 37, ZBA #16-2018 – PUBLIC HEARING.

Keiser opened the public hearing at 9:27pm.

Saunders stated the existing property has been used solely as a commercial space. Saunders stated that a conversion of an existing commercial space into residential is allowed with conditions. There is an issue of the square footage of the lot per unit.

Keiser stated that there appeared to be 3 lots on the proposal.

Saunders stated the property owner of lot 37, also owns lot 39, which is where the parking spaces are and there is an easement across lot 38 under separate ownership.

Donohue asked Saunders if one of the purposes of requiring the square footage per lot is to accommodate parking spots.

Saunders stated that is one of the reasons.

Routhier asked about the number of floors of the building.

Saunders stated that would be a question for the applicant.

Brian Barrington, the applicant's attorney stated that Bill Cormier, a realtor will speak to the property values.

Bill Cormier stated that the property, has not sold as a commercial use building as of yet. All of the offers have been for a residential use of the building. There is a great deal of functional obsolescence such as high ceilings and a large number of stairs. There has been a large decline of office space needs. Cormier cited Eric Chinburg of taking commercial space and turning into residential space. The building, sitting empty is not doing the City and good. The property will have plenty of parking. Having both mixed office and residential will not diminish property values because in his experience, having mixed use in that type of property is what a buyer would expect for that type of property. The characteristics of the property would not allow for a rentable property being solely commercial.

Barrington stated the property has ample parking. It would not impact property values and there is a symbiotic relationship because people who work in the area, live in the area. Barrington stated the proposal is not contrary to the public interest the ordinance

was written indicating that increasing density is a good thing. The spirit of the ordinance was to allow mixed use of the building. The ordinance, in general allows multi-family mixed use. There is a substantial relationship between the purpose of the ordinance and the proposal, the issue is the footnote. The exterior of the property will remain unchanged. The proposal is reasonable because the use is allowed. The previous tenets left because the property is not conducive to office use. Substantial justice is met because it's not against the general purpose of the ordinance. The variance is not contrary to the spirit of the ordinance because there is a continuation of the offices but allow residential use, just like every other property around. The City Council stated that they wanted an increase in mixed use and density. 6 units is conducive to a downtown atmosphere and would not place a tax burden on the City.

Paul Delial, the applicant stated he has been acquiring and repairing property in the Seacoast for 30 years. This building has caught his attention. He stated he owned mix use property in Rochester and cannot rent the office spaces. He believes he can rent an office space first floor. The character of the building lends itself to nice units. Several walls have exposed brick and people like that. He sees a hardship as the two lots not being contiguous.

Fredette asked what other buildings the applicant has worked on.

The applicant stated he has worked on a building on Rt. 125 in Rochester. He has also worked on buildings in Portsmouth. There is a dire need for housing, but not a need for office space.

Routhier asked where the offices would be located.

The applicant stated on the first floor.

Routhier asked if any of the offices were occupied.

The applicant stated none of the offices were occupied.

Routhier asked about the square footage of each unit for both 4 and 6 unit scenarios.

The applicant stated between 600-1200 square feet.

Routhier asked about the renter these units would attract.

Cormier stated that smaller units attract working professionals rather than families. One bedroom or studio apartments attracts single or couples that are professionals.

Keiser asked Saunders how many units could be placed here and asked about the definition of apartment complex versus multi family when commercial use is involved.

Saunders stated that this property is a multi-family building even if there is commercial space involved.

Barrington stated you have to have parking and square footage as well as site plan approval.

Keiser asked about the lot behind the property.

Barrington stated those two lots have to be conveyed together by deed.

Keiser asked what the preference is 4 units or 6 units.

Barrington stated 6 units.

Keiser asked if this was a new building would they need a variance.

Saunders stated no.

Brooks stated the footnote states it can be converted up to 4 units.

Keiser stated the applicant is here because it is currently a commercial building.

Fredette asked about price structure for the rents.

The applicant stated it depended on the utilities. He estimated around \$1000 for a 1 bedroom.

Fredette asked about the quality of the units and who would be renting these.

The applicant stated a single professional would likely be renting these units.

Brooks asked about the lots being contiguous.

Saunders stated the City's position is the lot isn't contiguous.

Brooks asked about a slip and fall incident on the footbridge.

Barrington stated the property owners and the insurance of the property owner must cover the easement.

Brooks asked if he was intending to use both the basement and the first floor as commercial use.

The applicant stated he has not done a floor plan analysis yet.

Routhier stated the deed shows they're different lots and there are conditions running with the land on lot 2. He asked if he needs permission from the Housing Authority for this project.

Barrington stated that the covenants of the Housing Authority have expired.

Keiser closed the public hearing at 10:12pm.

Fredette stated he supports the variance. Fredette stated this is a perfect example of an approval for granting the variance. Fredette stated that all 5 criteria have been met.

Routhier stated he supports the project as well and is inclined to grant 6 units. He stated there has been a change in the real estate market and there is less demand for commercial space. He believes property values won't be diminished, it does substantial justice and there is a hardship that runs with the property.

Brooks stated he agrees and that he is in favor of the project. He would like there to continue to be commercial on the first floor.

Fredette stated he agreed.

Keiser stated he disagrees. Without the footnote, he could be right, put units on the first floor and he is not inclined to limit that.

Donohue stated he is in favor of the variance. He doesn't see it being contrary to the spirit of the ordinance, it's not changing the character of the neighborhood, and substantial justice would be done. Donohue stated there would be no diminish in the property values and there is a hardship because it's unique. Donohue stated he wouldn't support adding any additional restrictions to the variance.

Fredette moved to approve the application due to all 5 criteria having been satisfied with the condition of there be no more than 6 units on no more on the second and third floors.

Routhier stated he would be inclined to allow residential units on the first, second and third floors.

Fredette stated he would be willing to amend the motion.

Donohue stated he favored keeping the proposal as it is.

Brooks stated he agreed.

Fredette stated he agreed.

The motion was seconded by Brooks and the motion was approved 5-0.

- D) Meroff Enterprises, LLC is seeking a variance from Table 4.A.1, superscript 3c of the Zoning Ordinance to allow a multi-unit dwelling without required lot area on property located at 97 High Street, in the Residential/Business Historic (R/BH) District, Assessor's Map 11, Lot 37, ZBA #17-2018 – PUBLIC HEARING.

Keiser stated that with 6 units, the property would need 9000sqft, and currently the lot is contiguous and does not meet the ordinance.

Keiser asked if the Board could rule that the two properties must be always connected.

Routhier stated the deed says there is two tracts of land. There are restricted covenants, but the covenants are no longer in effect and therefore, tract 2 could be sold.

Routhier asked there if could be a condition that there be common ownership between the two tracts.

Donohue stated he is inclined to approve this request as well. Donohue stated that having the units without the proper square footage is not contrary to the spirit of the ordinance. Substantial justice will be done by granting this variance and the variance will not impact property values and, due to the uniqueness of the building, there is a hardship.

Brook stated that he agreed. The proposal doesn't diminish property values, is not contrary to the public interest, as well as there is a hardship. A condition that there is common ownership is a good idea. The parking lot is very close to the building.

Fredette stated he would like to use the word parking the variance request.

Routhier stated he agreed.

Brooks stated he agreed the second tract be parking.

Fredette moved that the variance be approved due to all 5 criteria being met with the condition that lot 11-39 and 11-37 share common ownership for the use of parking on 11-37. The motion carried 5-0.

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

Brooks stated the numbering on the variance application and the handbooks differ.

Saunders stated staff could correct that.

Fredette moved to adjourn, seconded by Brooks and the meeting adjourned at 10:33pm.



Christien DuBois Assessing/Code Clerk
Somersworth Zoning Board of Adjustment