

Zoning Board of Appeals Meeting Minutes

Minutes of December 3, 2014

Hearing on the petition of Leicester Main LLC by David Dunham of P.O. Box 275, Spencer, Ma. for a 1-year extension of a Variance issued in December 2013 on property located at 1605 Main Street, Leicester, Ma.

Members present: David Orth, Chairman; Jim Buckley, Clerk; David Kirwan, Vaughn Hathaway

Alternate members present: Paul Schold, Jim Reinke

Meeting called to order at 7:30PM

Instructions were given on hearing procedures.

Voting at tonight's hearing: David Orth, David Kirwan, Jim Buckley, Vaughn Hathaway and Paul Schold.

Mr. Buckley read the Notice and Application into the record.

Submitted into Evidence: return receipts from the Certified Mailing to Abutters, a Registered Plot Plan.

Correspondence received: Site Consideration from the Building Inspector that was read into the record by Mr. Orth.

Mr. Orth opened the meeting to the applicants to present their petition.

Mr. David Dunham said this application was previously approved by the ZBA last year and they've recently received approval for an extension from the Planning Board.

They have been in ongoing negotiations with tenants consistent with the gas station, convenient store and commercial business building.

They are seeking one additional year on the variance to locate the commercial driveway 1-foot from the adjacent residential property line.

They have been in negotiations with a couple of national chain companies and it's taking longer than anticipated.

Mr. Orth asked for confirmation if the reasoning for the extension was because there were no tenants in place.

Mr. Dunham agreed and explained that once they have the tenants in place, they will finalize the project.

Mr. Buckley said the Zoning Bylaw states they have to be 20-feet from the residential property line, but the application states that the Town of Leicester's Planning Board required the driveway to line up with the intersection.

Mr. Orth agreed that the Planning Board made that requirement, but explained the MassDOT also wanted the driveway to line up with the existing traffic light.

Unfortunately, because of the adjacent residential property, it created a problem.

Mr. Orth asked the adjacent property owners, who were present, if they had any concerns.

Ms. Lisa Walls stated they had no concerns.

Mr. Dunham explained that it also helps expand the ability on any future development to that site.

Mr. Buckley asked without the variance, would they still be able to develop the property or would that be the hardship. Mr. Dunham said yes that would be the hardship.

Mr. Orth felt that they wouldn't be able to enter or exit the site because they have to line up with the light.

Mr. Dunham said they wouldn't be able to get a curb cut permit from MassDOT, unless they lined up with the light.

Mr. Buckley asked what they would do with the property if they couldn't get a curb cut permit.

Mr. Dunham said that is what their hardship would be. They wouldn't be able to develop the property and meet MassDOT requirements. He noted that there will be left turn lane added on the eastbound side and all turns will be signalized with the current traffic signal.

Mr. Dunham felt there was a safety benefit doing it this way and that it would also be a benefit to the Town on any future development there.

Mr. Orth asked for any further comments or concerns; hearing none, asked for a motion.

MOTION: Mr. Hathaway moved to approve the petition of Leicester Main LLC by David Dunham, P.O. Box 275, Spencer, Ma. for a 1-year extension of a variance issued in December 2013 on property located at 1605 Main Street, Leicester, Ma.

SECONDED: Paul Schold – Discussion: None

VOTE: All in Favor

Finding of Facts:

Vaughn Hathaway voted in favor of the motion because he felt it met the hardship requirement and it made sense to have the driveway line up with existing traffic light for safety reasons.

Paul Schold voted in favor of the motion for the same reason, it made sense to locate the driveway with the existing traffic light for public safety.

David Kirwan voted in favor of the variance due to the circumstances related to the topography of land, because that was the only spot MassDOT would allow the driveway to go. Desirable relief can be granted without substantial detriment to the public good because moving the driveway would create safety concerns. A literal enforcement of the Bylaw would create a substantial hardship and render the land useless.

David Orth voted in favor of the variance because he felt the hardship was established due to the limitation with MassDOT and the Town's Planning Board requiring the driveway meet Mass DOT requirements.

Jim Buckley voted in favor of granting the variance because he felt the criteria of Chapter 40A and the Leicester Zoning Bylaws were met.

Instructions were given on the appeal process and filing of this Decision with Registry of Deeds.

MOTION: Mr. Schold moved to close the hearing

SECONDED: Mr. Buckley – Discussion: None

VOTE: All in Favor

Hearing closed at 7:45PM

General Minutes

Approval of Minutes

10/29/2014

MOTION: Mr. Hathaway moved to approve the minutes of October 29, 2014 with noted corrections

SECONDED: Mr. Wright – Discussion: None

VOTE: All in Favor

Correspondence

- Building and Occupancy permits issued month of October & November 2014

Meeting adjourned at 8:00PM

Respectfully submitted:

Barbara Knox

Barbara Knox