

## **ZONING BOARD OF APPEALS MEETING MINUTES**

Minutes of May 30, 2018

Members present: Vaughn Hathaway, Chair; David Kirwan, Jim Buckley, Clerk; Jim Reinke

Alternate members present: Mary Moore, Dick Johnston

Continued Hearing from May 23 & April 25, 2018 on the petition of Shailesh Patel of 875 Pleasant Street, Rochdale, MA for a Variance for a proposed addition 9.5ft from rear property line and a Special Permit for alterations and extension of a nonconforming structure.

Meeting called to order at 8:28PM

Instructions given on hearing procedures

Voting at tonight's hearing: Vaughn Hathaway, Jim Buckley, Jim Reinke, David Kirwan, Mary Moore

Mr. Hathaway opened the meeting to the applicant to present their petition.

Mr. Elliot Patruzio, Engineer representing the applicant and Mr. Shailesh Patel, applicant in attendance.

Mr. Patruzio submitted copies of a revised plan done in accordance with the Board's recommendations from the last meeting.

Their plan is to put a 10 foot x 20 foot addition on the back of the building. Marking out 12 parking spots, with 1 handicap space. The dumpster will be fenced in and a fence will go around the side and back of the parking lot area.

The addition will be 9.5ft from the property line. The existing building is currently 29.4ft from the property line and built in 1947.

There were 3 signs on the roof and when Mr. Patel put a new roof on they removed those signs. Mr. Hathaway said the wall sign was the one in question.

Mr. Reinke said the sign currently there, needs to comply with the Sign Bylaw.

Mr. Patruzio said they will make the change.

Mr. Hathaway asked the applicant to address concerns raised at the last meeting regarding parking lot traffic and damage to the neighbor's fence.

Mr. Patruzio said they put stops at each parking space to keep cars from hitting the fence and showed them on the plan.

They are proposing to install a fence around the side and back of parking lot area and a concrete block wall in the back of the building.

Mr. Kirwan questioned having no parking available in back.

Mr. Patruzio confirmed no parking allowed in back. The dumpster will go back there and a storage trailer will be in the back northwest corner.

Ms. Moore asked what type of fence installed and where it would be placed.

Mr. Patel said the fence the same type will go in on the package store property.

Mr. Hathaway asked having the parking spaces marked out on pavement.

Mr. Patruzio agreed

Mr. Kirwan asked if parking would be in front of the store.

Mr. Patruzio said those spots will be marked employee parking only.

Mr. Paul Hammond, 885 Pleasant Street asked that the privacy fence be 8ft high and have it continue around the back of the building to the property line, instead of putting in a concrete wall. There are Jersey barriers already there and only sit 3ft high at most.

Ms. Moore asked Mr. Hammond, as an abutter, would he prefer an 8ft fence in back instead of concrete blocks, so not to see the addition from their yard.

Mr. Hammond said yes and asked if the fence could be completed before the start of construction of the building.

Mr. Hathaway said the Board had never entertained that kind of requirement.

Ms. MaryAnn Hammond wanted to make sure it would get done.

Mr. Hathaway explained any conditions to the decision will have to be complied to, otherwise they would be in noncompliance of their approval and the Zoning Enforcement Officer would be required to take action.

Mr. Hammond said Mr. Patel was supposed to move the storage trailer away from his property and never did. There is also construction debris against the cement blocks that was supposed to be removed and has not. Her concern was Mr. Patel won't comply with any conditions noted in the Decision. It is pretty hard for her, as the abutter, to believe things will get done.

Mr. Reinke noted there is a one-year use on a special permit and if construction doesn't start in one year, the applicant has to come back before this Board for an extension. If that does happen, he would not be inclined to extend it.

Mr. Hathaway said the hardship was the need for additional storage for the business.

One of the conditions was for a fence placed the full length along the south and east side of the property line. Also striping the parking lot; post no customers' park in front, reserved for employee parking only; and stop-blocks be placed at each parking spot to protect the fence.

Mr. Johnston said discussion at the last meeting was the possibility of putting the addition on the side of the building. It's very clear from the parking layout that it would remove half of their parking.

Ms. Moore asked about access for delivery trucks and how trucks would get by if someone is parked in the last spot. Mr. Patel said the trucks would enter in from the other side.

Mr. Johnston questioned the height of the fence, because in Leicester, a fence is not to be greater than 6ft without a permit.

Mr. Hathaway suggested that condition state a fence be at the maximum height allowed.

He reviewed conditions for discussion: solid fence around north-west and south-east property lines; marked parking; no parking along front marked by signage; stop blocks at parking spots along fence; dumpster screened.

Hearing no further questions, or concerns, Mr. Hathaway asked for a motion.

MOTION: Mr. Reinke moved to approve the petition of Shailesh Patel of 875 Pleasant Street, Rochdale, MA for a Variance for a proposed 20 x 40sf addition, 9.5ft from rear property line, as illustrated on plan, revision date 5/29, with the following conditions:

- 1) Designated employee parking spaces, marked by signage, along front;
- 2) Parking lot striped;
- 3) Solid fence wall installed all the way to northwesterly side of lot, to maximum height allowed;
- 4) Stop blocks placed at parking spots along fence;
- 5) Dumpster screened as shown on approved plan;
- 6) Any work done outside the approved Registered Plot Plan, revision date 5/29/2018, will require additional review by the Zoning Board of Appeals

SECONDED: Ms. Moore - Discussion: None - VOTE: all in Favor

### **Finding of Fact:**

Mary Moore voted in favor of the motion because she felt it would impact the business owner's ability to buy and store products to run his business.

Jim Buckley voted in favor of the motion because he felt there was a unique shape to the lot. Desirable relief can be granted without a substantial detriment to the public good. It met the definition of hardship, it would create an economic hardship by not being allowed to build the addition to store additional products.

Vaughn Hathaway voted in favor of the motion because he felt it would met create a financial hardship if not able to buy and store additional products.

David Kirwan voted in favor of the motion because he felt it met the definition for a hardship and met the requirements for the granting of a Variance.

Jim Reinke voted in favor of the motion because he felt it met the requirement for a hardship and the granting of a Variance.

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

### **Special Permit Hearing**

Hearing on the petition of Shailesh Patel of 875 Pleasant Street, Rochdale, MA for a Special Permit of alterations and extension of a nonconforming structure.

Hearing no further discussion, comments or questions, Mr. Hathaway asked for a motion.

MOTION: Mr. Reinke moved to approve the petition of Shailesh Patel of 875 Pleasant Street, Rochdale, MA for a Special Permit for alterations and extension of a nonconforming structure.

SECONDED: Ms. Moore – Discussion: None – VOTE: All in Favor

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

MOTION: Mr. Reinke moved to close the hearing.

SECONDED: Mr. Buckley – Discussion: None – VOTE: All in Favor

Meeting adjourned at 9:16PM

*Barbara Knox*

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