

TOWN OF BEDFORD
March 20, 2018
ZONING BOARD OF ADJUSTMENT
MINUTES

A regular meeting of the Bedford Zoning Board of Adjustment was held on Tuesday, March 20, 2018 at 7:00 PM in the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: John Morin (Chairman), Melissa Stevens (Town Council), Sharon Stirling, Kevin Duhaime, Len Green (Alternate), Neal Casale (Alternate), and Karin Elmer (Planner I)

Chairman Morin called the meeting to order at 7:00 p.m. and introduced members of the Board. Regular member Gigi Georges was absent. Mr. Casale was appointed a voting member for tonight's meeting.

Approval of Minutes:

MOTION by Mr. Casale to approve the minutes of the February 20, 2018 meeting of the Zoning Board of Adjustment as submitted. Ms. Stirling duly seconded the motion. Vote taken; motion carried, with Councilor Stevens and Mr. Green abstained.

Chairman Morin reviewed the rules of procedure and swore in members of the public.

Applications:

- 1. Carnevale Holdings LTD (Owner) – Request for a variance from Article III, Section 275-22A and Table 1 in order to construct a new addition for the Bedford Village Inn 21.8 feet from the front property boundary where 60 feet is required at 2 Olde Bedford Way, Lot 13-41, Zoned CO.**

Chris Rice, T. F. Moran, was present to address this request for a variance on behalf of the applicant. Also present were Shannon Alther of TMS Architects, along with the owners, Jack and Andrea Carnevale.

Ms. Rice stated I have posted an overall plan to help situate where we are on the property. Indicated is the Bedford Grand Hotel that was recently completed last year and the existing Bedford Village Inn. The function hall, inn and tavern is located here, and the addition is located in this corner as indicated. Posted now is a blowup of that entrance area. Route 101 is shown and Olde Bedford Way and this is the existing tavern here with the restaurant located in this area here.

Ms. Rice continued we are here requesting the Board consider a variance from Article III, Section 275-22A and Table 1, the Table of Dimensional Regulations, to allow a front setback of 21.8 feet where 60 feet is required. That dimension is from this blue line, which is the property line, so this kind of darker brown image is the proposed addition. It is approximately 820 square feet and the purpose of this addition is to basically enlarge the kitchen space. The kitchen is undersized and they are trying to provide a safer and more agreeable workspace for their kitchen staff. There are no new seats proposed as part of this expansion. Basically what is going on is the existing kitchen is located here and to expand it they have to go this direction, which just pushes the existing seating to the east. This addition also allows for the construction of an ADA bathroom, which does not currently exist, as well as ADA access into the building, which doesn't currently exist. So we are providing an ADA ramp in this area here and replacing the existing cobblestones with a concrete sidewalk. A portion of the existing tavern, as you can see, is located within the front setback. This line here represents the 60 foot setback line. You can see the lighter brown portion of the building is in the setback and then obviously the proposed addition would also be in the setback. If you have any questions on those pieces of it, I would be happy to answer them, otherwise I can just go into the criteria.

Ms. Rice proceeded to review the criteria for this variance request. **1. Granting the variance would not be contrary to the public interest:** The purpose of the Town of Bedford Zoning Ordinance is to promote the health, safety and general welfare of the public. No public or private rights will be affected by allowing the requested variance. **(1) Whether granting the variance would alter the essential character of the locality:** Granting of the variance will not alter the essential character of the locality as a portion of the existing tavern is located within the front setback, and in addition, the proposed architecture is being done to match the existing building. The picture posted is the existing facility; the addition is going in this location here and the architectural plans, which are also in your packet, will give you a feel for what that will look like. **(2) Whether granting the variance would threaten public health, safety and welfare:** Granting the variance would also not affect public health, safety or welfare. The proposed addition, again, is intended to provide a safer more agreeable workspace for the kitchen staff, which will allow them to provide a better service to their patrons, and, again, it will also provide an ADA bathroom and access where one does not currently exist. **2. The spirit of the ordinance is observed:** The spirit of the ordinance relative to building setbacks is to ensure that structures are not too close to abutting property lines or roadways. The southeast corner of the tavern is currently located within the front setback, at the closest point the building is approximately 34.8 feet from the property line and as you can see if you go back to the plan, the existing right-of-way does kind of jog into the site in this location. The existing building, again, is roughly 34.8 feet at the closest point and it is about 67 feet from the edge of pavement, if you were to just draw a line across Olde Bedford Way here. With the proposed addition we would be 21.8 feet from the blue line and approximately 47 feet from the roadway. Given that you can't really see the addition from any neighboring properties, we feel that it is a reasonable request and it doesn't create any public health or safety issues. **3. Granting the variance would do substantial justice:** Substantial justice will be done.

Substantial justice is done when the loss to the applicant of denying the variance would exceed any gain to the general public. Denying the variance will not result in any appreciable gain to the general public because a portion of the existing facility is located within the front setback area, and denying the variance will cause a substantial loss to the applicant as it will not allow them to provide a safer work environment for the employees and would not allow them to provide an ADA bathroom or access. **4. The values of the surrounding properties will not be diminished for the following reasons:** Again, it will not alter the character of the neighborhood. The existing building currently extends into the front setback area, the proposed addition will enhance the functionality of the tavern for the employees and patrons, and, again, will provide the ADA access and bathroom to the facility. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** Again, it would prohibit the applicant from addressing a safety and health issue for the existing facility. Given the current location of the undersized kitchen, enlarging the kitchen requires the existing seating to be relocated to the east, and, again, there are no new seats proposed as part of this addition. The special condition of this property that distinguishes it from others, again, is that a portion of the existing building is already located within the front setback and the way that the property line jogs into the site in that location. **A. Denial of the variance would result in unnecessary hardship: i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:** Adhering to the required front yard setback in this instance will serve no public purpose. The proposed addition and front yard encroachment do not affect any neighboring properties and do not alter the essential character of the neighborhood. And, again, the addition as proposed purely will increase the health and safety of employees and patrons. **ii. The proposed use is a reasonable one:** Again, it is a continuation of a permitted use and it also provides for the ADA bathroom and access that don't currently exist. I would be happy to answer any questions you may have.

Mr. Casale asked could you clarify what you mean by providing a safer work environment? What is the issue in the kitchen aside from it being smaller and you want to enlarge it? Shannon Alther of TMS Architects responded to answer your question about the kitchen; as Ms. Rice mentioned, it is kind of in the upper right-hand corner of that image, the brownish area, and right now some of the aisle-ways in the kitchen are pretty tight, and the kind of operational flow we are trying to adjust and update and make better. Additionally, in terms of the accesspoint from the outside into the kitchen is not great. There are a couple of level changes and some old cobblestone, so the combination of those fixes is what are going to help make that a much safer environment, not only inside the kitchen but also getting in and out of the kitchen. Mr. Casale responded okay. And with regard to the ADA changes; were those required or is it just more to benefit your customer? Mr. Alther replied it is more to benefit the customer. It was right on the edge in terms of the existing building and the amount of seats and requirement, but we felt that at this opportunity it made a lot of sense to put it in there. We could fit it in there but it really made sense plumbing-wise just to get on the

outside of the building and help us with our access into the new addition. Mr. Casale responded okay, thank you.

Mr. Carnevale stated I would like to make a comment. Basically the Bedford Village Inn was built in 1986. We took it over in 1989, three years after it was built, and we have gone ahead of that revenue maybe 20 times at this point, so the kitchen that was designed in there was still woefully designed that we have grown out of that kitchen, especially with the addition of the Grand. We have no space whatsoever to do groups in that kitchen; we turn away one group after another because we don't want to impact our ala carte business. When we have a group of 30 – 40 people, we have to basically put the red light on all of the ala carte business, put out the group meal, and obviously people who are there on an ala carte meal don't really appreciate that. We felt it was time to redesign the kitchen to make it more efficient and the equipment in this day and age, in terms of the restaurant industry, in terms of everything, is light years ahead of what it was in 1986. Not to say that we haven't continued to replace equipment, but the major structure that is there is so obsolete that it is pathetic. I really put my employees in harms way by working in that kitchen as basically they are running into each other, there are safety issues there in terms of being able to use the same burners or the same convection ovens to put out these groups. So think back 30 years and think about now and how the Bedford Village Inn has grown in those 30 years and we can no longer conduct business there with that kitchen as it exists now. Mr. Casale asked and the Grand is totally reliant on that? Mr. Carnevale replied the Grand has a kitchen, but that is not to say that a lot of people from the Grand don't come down to the Bedford Village Inn for dinner and additional meals. That has brought us a lot of business in terms of ala carte, in terms of groups, we do many more groups now, the Grand has a full size kitchen but when a group comes in, they want multiple eating establishments; our ala carte business has been growing significantly year-to-year. When I hired the restaurant planners to come in and look at our kitchen, they were actually shocked at the way our kitchen was laid out and the amount of business we do from that particular kitchen was insane. They talked to each and every one of my employees that work in the kitchen and they got their feedback, and it is kind of embarrassing at this point to say that they have to work in that environment. Ultimately that is by and large, bottom line, the only reason why we are doing this expansion is to increase the size of that kitchen to make it more efficient and to be able to serve our growing clientele. There is not one seat being added into this whole project, not one seat. We just want to make it a good environment for our employees to operate and function and to provide them with the equipment that they need to put out the types of groups that are coming now. We are part of Preferred Hotels, we are bringing in people from all over the world now, and it is a very sophisticated, very affluent clientele that we are bringing in and they are used to cuisine from some top class restaurants. From top class restaurant they have the latest in equipment and I can't really boast that that is the case with the Bedford Village Inn. That by and large is the reason why we want to do this. Mr. Casale responded thank you.

Chairman Morin asked the public for those wishing to speak in favor, in opposition, or for those having comments neither for nor against this application.

Jim Lamp, 30 French Drive, stated I am an abutter to the west of the Bedford Village Inn. I am speaking in favor. Mr. Carnevale has been a good neighbor. Looking at this project and when you look at the right-of-way, it is not a typical right-of-way, as was mentioned by Ms. Rice. If you look at the gift store, the gift store is probably in the low 20's as far as setback, so this isn't even much further back than that. If you also sit in the tavern and eat there and see the collision of waiters and waitresses at the top of the stairs, the bar counter and the kitchen, you can understand why this would be something that would help out the operations.

Mr. Lamp stated the one request that I would like to make that I have made before is unfortunately the beautiful lights that Mr. Carnevale has throughout his parking lot are not compliant to dark skies. They are just lanterns, old carriage lanterns, they are beautiful but they really spill a lot of light. You can especially see it on snowy nights or foggy nights because it is 360 degrees. It goes straight up, there is no cut-offs, there are no regulations, they don't meet any of the local codes, so typically when someone comes into the Board and asks for a variance, sometimes it is an opportunity to make things become more compliant with the site. I would like to request that there be an upgrade of the lights to the type of light that they have over at the Grand, which has cut-offs, they are LED, they function wonderfully, you can't see them at all from our property. That is my one request, but otherwise I am in favor.

Mr. Carnevale stated I appreciate Mr. Lamp's concern about the lights. The lights have been there for 30 years, they are really special lights, they are part of the aesthetics of the property, and for me to do anything with those lights at this point would be compromising the aesthetics of the property. I don't really think that it impacts any neighboring properties to the extent of which no one has ever asked me to lessen the lighting. I think that is a safety issue by lessening the lighting in the parking lot. Right now I think it is just right where it should be, if maybe a little bit less than it should be, so I am not too agreeable to do that at this point. I would like to keep the lights as authentic as they possibly are. These are lights that they use in downtown Boston and the charm of these lights, the charm of the property, is what keeps our clientele coming back, and I referenced the Preferred Hotel aspect of our operation and we are finding that we have really seen a major clientele come through that really appreciates the aesthetics of the property, the gardens, the history of the property, and to do anything that impairs that history or what we have right now I think would be a detriment to me. I think we have a great property, if I don't say so myself, and I think we have maintained it over the last 30 years, we keep growing, we keep maintaining it, putting money into it, and making it a world class facility. Unfortunately I don't really think I can compromise on that issue at all.

Chairman Morin asked Ms. Elmer, we don't have any say in any changes like that, do we? Ms. Elmer replied you could but the addition really is the only part of the variance. It is not like he is redoing the parking lot or redoing all that other stuff. It would be more in the Planning Board's purview than the Zoning Board because right now you are just looking at a variance for a setback. You are not looking at a full site plan review.

Chairman Morin stated that is what I was thinking and I wanted to verify it through our staff member first. Mr. Lamp responded I would beg to differ, but I am not going to get into a discussion with the Board on that as I understand your position. I would like to say that I have been requesting this for about 20 years, so this is not the first time this has been brought up. I do agree that they are aesthetically pleasing but it has been proven that the lights work just fine over at the Grand. They have cut-offs, they work well. I have waived in the past buffers from our property in favor of doing the right thing with the lighting, that is on the record, you can go back to the old meeting minutes when they did the expansion, we didn't do any of the plantings along the stone wall, but I have requested that these lights be replaced. I will go to the Planning Board, I will request it there, and I guess I won't reverse my favorable response to this, but I am disappointed. Chairman Morin stated thank you.

Chairman Morin asked for any further questions from the Board. There were none. Are there any further comments from the applicant? There were none.

MOTION by Mr. Duhaime to move into deliberations on this application. Ms. Stirling duly seconded the motion. Vote taken – all in favor. Motion carried.

1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality: Ms. Stirling stated I don't believe it would do that. Chairman Morin stated I don't either. I think it still keeps the same character of that area even though it comes out a little more. **(2) Whether granting the variance would threaten public health, safety and welfare:** Mr. Duhaime stated it sounds like it helps safety based on the improvements they are making for employees, as well as the ADA bathroom and access. I think it helps out that situation. Ms. Stirling stated I would agree. **2. The spirit of the ordinance is observed: 3. Granting the variance would do substantial justice:** Chairman Morin stated I think when it comes to that teeter totter thing; I am not seeing the gain to the general public by saying no. We are talking 20 feet that it is coming out a little bit; it is not making a big difference to the building as in the pop-out. I think the positive piece for the general public looking at the plan is that new entrance with the ADA accessibility there. I see it meets that criterion. Mr. Green stated with my knee issue I am very sensitive to ADA compliant bathrooms. Ms. Stirling stated I agree with everything Chairman Morin said. **4. The values of the surrounding properties will not be diminished for the following reasons:** Chairman Morin stated we haven't heard any testimony concerning that issue, and where the addition is, other than State property, I don't know if there is anything facing that. Ms. Stirling stated that's right. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** Chairman Morin stated again, it is a corner lot where it has the two roads that give that 60 foot setback, and that side road that it is on is pretty much, except for these businesses, the only things there, there are a few pieces still down at the end but it is the only thing there at this point. It definitely is a different piece, especially the way some of these jogs come into the parking lot for the lines and

stuff like that. It definitely does have that distinguishing piece to it. Mr. Casale stated the only thing we didn't hear is if there were any alternatives to this. I assume that it would be taking up parking so that they weren't further in violation. Chairman Morin stated really if you look at the full plan, it is hard to say where that could go. To go the other way then you are taking a whole walkway out. I don't know how many actual alternatives there are except like you said to go straight into the parking lot, which probably wouldn't be good with the way the flow goes in there. **A. Denial of the variance would result in unnecessary hardship:** i. **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:** Chairman Morin stated there are the things we have already talked about. The location, the way it is set up, where it is set up, the way it is designed, and it is going to better the property for the public not go the other way. Ms. Stirling stated agreed. ii. **The proposed use is a reasonable one:** Chairman Morin stated for what they are looking to do it is reasonable.

MOTION by Mr. Duhaime that the Zoning Board of Adjustment approve the request for a variance submitted by Carnevale Holdings LTD (Owner) from Article III, Section 275-22A and Table 1 in order to construct a new addition for the Bedford Village Inn 21.8 feet from the front property boundary where 60 feet is required at 2 Olde Bedford Way, Lot 13-41, Zoned CO, for the reason that it meets all of the criteria for a variance per our deliberations. Ms. Stirling duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Ms. Stirling to move out of deliberations on this application. Mr. Casale duly seconded the motion. Vote taken – all in favor. Motion carried.

Old Business:

2. Approval of a new application and fees specifically for Wireless Telecommunication Facilities.

Ms. Elmer stated to give you an update; last week at the polls there were some zoning changes that got approved. One of them had to do with the height of cell towers and one had to do with the setback of a cell tower in the residential zone. Those both passed and those changes have been made to this application. The application is now up-to-date with the new zoning.

Chairman Morin asked if there were any questions regarding the new application or fees. Ms. Stirling stated I think it looked good.

MOTION by Ms. Stirling that the Zoning Board of Adjustment accept the new zoning application and fees. Mr. Duhaime duly seconded the motion. Vote taken - all in favor. Motion carried.

Other Business:

Chairman Morin stated it is time to think about appointments of Chairman and Vice Chairman for the Zoning Board of Adjustment for the 2018-2019 term. I am willing to stay on as Chairman. We will deal with these at the next Zoning Board of Adjustment meeting and then someone can bring up a nomination for the Vice Chairman position.

New Business: None

Adjournment:

Motion by Ms. Stirling to adjourn the meeting at 7:33 p.m. Mr. Duhaime duly seconded the motion. Vote taken – all in favor. Motion carried.

Respectfully submitted by
Valerie J. Emmons