

**UNAPPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
September 27, 2022**

Present: Mike DiPietro, Chairman. Kevin Stuart, Vice-Chairman, Patrick Bergeron & Shannon Daoust, Members. Shawn Matte, Steven Kimball & Nick Pappas, Alternate Members. Minutes were taken and prepared by Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector/Code Enforcement.

Absent: None.

Mr. DiPietro called the meeting to order at 7:00 p.m.

Mr. DiPietro pointed out that there was only one case tonight and that there was a full board and therefore there was no need to elevate anyone tonight. Mr. DiPietro moved on to introduce himself and moved on to introduce each of the Board members and Alternate members of the Board. Mr. DiPietro explained the procedure for tonight's hearing whereby the applicant would read their case into the minutes and then he would ask if there were any questions from abutters and interested parties. Mr. DiPietro pointed out that, Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer was also present this evening and with that said, asked Ms. Royce to read the case into the minutes for the record.

Case #22-21

**All Purpose Storage Auburn, LLC
212 Depot Road – Map 13, Lot 23A
Zoned Residential One
TABLED from August 23, 2022**

Applicant is requesting a Variance from Article 3, Section 3.05(1)(a) to allow the expansion of the commercial use of the property within the Residential One zoning district; a Variance from Article 4, Section 4.06(2) to allow the construction of two (2) new commercial buildings to be utilized as "Contractor Bays" (Commercial Service Establishment) – use not permitted in the Residential One zone; and, a Variance from Article 4, Section 4.06(6) to exceed the 5% building coverage allowed in a Residential One zone.

Mr. DiPietro asked if there was anyone representing for the applicant. Mr. Branon of Fieldstone Land Consultants presented on behalf of the applicant. Mr. Branon began by saying that they were before the Board tonight with regard to two (2) Variances for an expansion of a non-conforming use in the Residential One zone. It's currently a mixed use with a residence in one location on the property with a driveway off of Depot Road and the self-storage driveway comes off of Old Candia Road. The parcel contains 37.5

acres, and they are looking to expand the existing commercial use. Mr. Branon pointed out the drainage area of which they would be upgrading. Mr. Branon pointed out that this has been in existence for quite some time. Mr. Branon also indicated that, the property owners would like to put the back portion of the property into conservation land and put some walking trails out there that would connect to the other trails.

Mr. Branon stated that they are proposing a little addition to the front of the property and then also proposing two (2) contractor bay buildings would be towards the back of the property that would be leased. Mr. Branon further explained that the total area that they are proposing would be 22,750 square feet with a gravel access for the driveway. They are proposing the new area to be paved with a stormwater management system in the back of the property. Mr. Branon talked a little bit about the drainage and infiltration.

Mr. Branon the existing building is approximately 57,000 square feet with just under 6,000 square feet of residential area. Mr. Branon believed the front part would remain the same and pointed out the tree line. Mr. Branon read the application into the minutes for the record. In conclusion, Mr. Branon indicated that that was the Use Variance. Mr. DiPietro asked the Board if they wanted to stop here and discuss this one and then move on to the next Variance request. Mr. Stuart believed that they should hear all the Variances and then discuss each one individually. Mr. DiPietro explained to the abutters that they would all have a chance to ask questions when the time came. Mr. Kimball believed there were three (3) Variances. Mr. Stuart asked about the 5% lot coverage. Mrs. Rouleau-Cote stated that it was not lot coverage but building coverage of 5% in the residential one zone. Mrs. Rouleau-Cote further explained each Variance which the first Variance was for the expansion of the non-conforming because he's putting an addition on one of the buildings. The second one is to create another Commercial Service Establishment use of the property which requires Variance because it is not a permit use in that zone. The third one is for the building coverage. Mr. DiPietro indicated that the Board would be voting on three (3) Variances and asked the applicant to go ahead and continue his presentation. Mr. Branon understood and continued his presentation. Mr. Branon indicated that they would be adding an additional 22,750 square feet for a total building coverage of 85,325 square feet which includes all the buildings. Mr. Branon stated that you take the total square footage and you come up with 5.2% building coverage which is an increase of .2%. Mr. Branon added that there would be screening from abutting properties. In conclusion, Mr. Branon stated that he would be happy to answer any questions that the Board may have at this time.

Mr. DiPietro asked the Board Members if they had any questions. Mr. Stuart asked Mrs. Rouleau-Cote about a possible Variance from the 125-foot wetland buffer. Mrs. Rouleau-Cote explained that she suggested that they just go before the Zoning Board for the Use Variance as she did not want them to spend a lot of money in engineering if the Board did not grant the Use. Mrs. Rouleau-Cote also pointed out that there may be other things that they may need relief from once they go before the Planning Board for Site Plan Review. Mrs. Rouleau-Cote also pointed out that the Planning Board would most likely require the site to be paved as they are not going to let them drive over gravel to get to pavement and improving the front entrance so there is two-way traffic and travel access

around the buildings for the Fire Department. Mrs. Rouleau-Cote also pointed out that the Planning Board may also require a cistern and would also address lighting, hours of operation and possibly a drainage analysis. A brief discussion ensued with regard to the wetlands. Mr. DiPietro so noted that they would only be determining the use at this point and exceeding the 5% building coverage and let the Planning Board do their thing and who knows what else they will be required to obtain.

Mr. DiPietro asked if there were any other questions from the Board for the applicant. Mr. Bergeron asked if there were any plans for offices and bathrooms. Mr. Branon stated that he did not show any but they have 37.5 acres and didn't think it would be an issue to accommodate that. Mrs. Rouleau-Cote stated that bathrooms would be required. Mr. Stuart asked the applicant why Contractor Bays? Mr. Branon stated that Contractor Bays is in high demand at this time. Mr. Stuart wanted to ask Mrs. Rouleau-Cote that there was an expansion of the non-conforming use and then there's the Variance to allow a Commercial Service Establishment. Mrs. Rouleau-Cote explained that he is asking for an addition on the existing building and then he's asking for a whole new use which is the Commercial Service Establishment. A brief discussion ensued with regard to the two (2) Variances. Mr. DiPietro noted that they could easily vote on two (2) Variances. Mr. Stuart asked about the addition to the existing building. Mr. Branon stated that it was just to add some additional storage space.

At this time, Mr. DiPietro read a letter from Manchester Water Works where they have a concern about adding buildings close to the Manchester Water Shed and would like the Planning Board to treat all stormwater runoff. (A copy of the letter can be found in the file). Mr. DiPietro also read a letter from Ms. Carreau who lives across the street from this property and is concerned that this residential area will get busier, noisier and dustier than it already is. (A copy of this letter can be found in the file).

Mr. DiPietro asked if there were any abutters present who would like to speak and if so to please state your name and address for the record. Mr. Wayne Slango of Joan Drive asked about the back buildings and if there were any time limits of the business. Mr. DiPietro stated that it would be up to the Planning Board to go through hours of operation, parking, lighting and signage. Mr. Slango was happy about the idea that they were looking to put the back property into a Conservation Easement. Ms. Dodge of Joan Drive asked about the two (2) new buildings and their location. The Board and Mr. Branon pointed out the location of the two (2) new proposed buildings which would be behind the existing rear building. Mr. Vaillancourt of Joan Drive indicated that he would have a problem with them not paving the entrance if he lived off of Old Candia Road. Ms. Slango of Joan Drive asked about the two (2) entrances. The Board and Mr. Branon pointed out the two (2) entrances of which one is used by the residential home and the other is used by the storage company which are the entrances in use currently. Mrs. Rouleau-Cote wanted to point out that the residential home also has a commercial building being used which is not labeled on the plan. Mr. Slango asked about the height of the buildings. Mr. DiPietro believed that usually contractor bays or storage units are single story but that would all be dealt with at the Planning Board level. Ms. Wills of Joan Drive thought that this land was agriculturally grandfathered when it was Jaskolka. Mr. DiPietro believed

the egg farm was there prior to zoning coming into play. A brief discussion ensued with regard to allowing a use to continue or expanding a non-conforming use. The abutters were informed that they would all be noticed if and when they go before the Planning Board for site plan review. A brief discussion ensued with regard to the wetlands, and it was so noted that once they submit a plan for Planning Board that they will most likely be sent to Conservation Commission for review as well. Mrs. Rouleau-Cote wanted to point out that the huge part of the use of this property is basically for storage purposes whereby the Palace Theater stores their props in there so the activity onsite is somewhat limited. Mrs. Rouleau-Cote further pointed out that a few of these buildings is used for storing cars, boats and the like and is basically seasonal. Mrs. Rouleau-Cote also indicated that, the Planning Board would most likely look at the entire site as opposed to one section of the site as well as the drainage of the property. Mrs. Rouleau-Cote also stated that the Fire Department would also take a look at the site to make sure that the fire trucks could get around those buildings.

Mr. Bruaw of Old Candia Road which is directly across the street from this site commented that the business has really grown and explained that there are cars and trucks coming and going seven (7) days a week and they come in on Saturdays and Sundays before 7:00am and it's non-stop all day. There are tent people and cabinet people in and out all day with non-stop traffic. Mr. Bruaw also mentioned that the previous owner would close the gate at night but that the new owner leaves the gate open and therefore there is traffic 24/7. Mr. DiPietro reiterated that this would trigger the Planning Board with a site plan review whereby they would go through all the requirements which would include hours of operation. Mrs. Bruaw read a number of concerns of which the Board was presented with a copy of what their concerns were which can be found within the file. Mrs. Bruaw went through a number of concerns which included wetland impact, traffic, noise and the fact that the FBI already raided a business that operated at this location due to selling of illegal counterfeit merchandise. Mrs. Bruaw also commented that it was not in the spirit of the ordinance and the fact that it would do substantial injustice to the area.

Ms. Wills of Joan Drive pointed out that the owner did not show up to the last meeting so how are we to know that they will follow the rules. Mr. DiPietro reiterated that if this is granted that they would then have to go before the Planning Board for Site Plan Review. Mrs. Rouleau-Cote commented that there are steps that can be taken if there is significant change to the property where the owners are brought before the Planning Board to discuss the changes that are taking place at the property. Mrs. Rouleau-Cote explained that she receives enforcement questions all the time.

Mr. Shields of Old Candia Road commented that he believed that adding 14 new contractor bays brings the potential for 14 new businesses to come in adding more traffic and noise and that contractor bays can turn into workshops. Mr. Slango commented that there is no one onsite anymore where the previous owner was onsite. Mr. Bruaw stated that he used to sweep the roadway because of the rocks that would be brought onto the roadway because the entrance was not paved. A brief discussion ensued with regard to the property. Mr. Branon commented on the concerns that the abutters have and that they could fence in the property and make it a gated access again and that he would

Speak with the owner. Mr. Branon talked about the lighting and that the new lighting would be down casted, and they could prepare a lighting plan. Mr. Branon stated that, as far as the landscaping that they could landscape along the front and put up some evergreens and put in a two-way traffic entrance as well as paving the entrance. Mr. Branon talked about the drainage on the property which would be improved and would deal with the hours of operation. Ms. Dross asked what tractor trailers are going into there for. Mr. Bruaw stated that it was cabinet people, tent people and snack trucks that are coming in to pick up their daily sales items. Mr. DiPietro stated that he is hearing a lot about traffic which leads to other things such as dust and noise.

Mr. DiPietro turned to the Board members and believed they could start with the expansion of a non-conforming use and would entertain a motion to vote on the request as presented tonight.

Mr. Stuart made a motion to vote on the application for a Variance for Article 3, Section 3.05(1)(a) expansion of a non-conforming use of the property as submitted for Case #22-21, 212 Depot Road, Tax Map 13, Lot 23A. Seconded by Mr. Bergeron.

Mr. DiPietro stated that we have a motion and a second and do we have any discussion. Mr. Matte wanted to know if this was only for the expansion of the existing building. A brief discussion between the Board members ensued regarding the expansion. Mr. Stuart added that they did submit a plan of the square footage for the expansion and believed that they could go by the submitted plan and application submitted to the Board. It was agreed that one Variance was for the expansion of the building and the other Variance was for the Use being Contractor Bays. In conclusion, it was decided that they could make it a condition for the expansion of the front building. Mrs. Rouleau-Cote informed the Board that there was a lot of discussion. At this point, Mr. DiPietro asked the Board members if they wanted to enter into deliberations. Mrs. Rouleau-Cote wanted to point out something prior to them entering into deliberations which was that the zoning ordinance does speak about the expansion of a building area of a building area subject to a non-conforming use and the Zoning Board can grant a 10% expansion as a Special Exception if we were just talking about the tiny portion so what they are asking for is for more than 10% expansion.

Mr. Bergeron made a motion to enter into deliberation. Seconded by Mr. Stuart. The Board entered into deliberation at 8:27pm.

Mr. DiPietro pointed out that they still have a motion and a second but have now entered into deliberation. Mr. Bergeron did not believe it was just the front building but was everything they are proposing to expand on which includes the Contractor Bays. It was discussed that it was not just for the front building but also included the two (2) new buildings that they want to expand upon. Mr. DiPietro explained that if they grant the first Variance and not the second Variance, they could still expand upon the building but expand as more storage units and not the Contractor Bays. Mr. DiPietro further explained that there was a motion made for the expansion of a non-conforming use and believed Mr. Stuart cited an Article and Section as well and asked if it still applied. The Board

members all agreed that it did still apply' s and Mr. Stuart believed that they clarified it further. With that said Mr. DiPietro asked for a motion to come out of deliberation.

Mr. DiPietro made a motion to come out of deliberation. Seconded by Mr. Bergeron. The Board entered into deliberation at 8:30pm.

Mr. DiPietro stated to the applicant that they heard what they had to say and that they were voting on a Variance for the non-conforming use.

Ms. Dross voted to Grant finding all five (5) factors have been met for the non-conforming use of the expansion of the commercial use, Mr. Matte voted to Grant finding all five (5) factors have been met for the non-conforming commercial use, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. Bergeron voted to Deny as all five (5) factors have not been met being the spirit of the ordinance with regard to noise and the neighbors' concerns, and Mr. DiPietro voted to Grant finding all five (5) factors have been met. A vote was taken and, the motion passed with four (4) in favor and one (1) to deny.

Mr. DiPietro moved on to the other Variance request to allow the Contractor Bays in a Residential zone.

Mr. Stuart made a motion to vote on the application for a Variance for Article 4, Section 4.06(2) to allow the construction of two (2) new commercial buildings to be utilized as "Contractor Bays" (Commercial Service Establishment) use not permitted in the Residential One zone as submitted for Case #22-21, 212 Depot Road, Tax Map 13, Lot 23A. Seconded by Mr. Bergeron. Mr. Bergeron voted to Deny based on the noise and the neighbors' concerns, Ms. Dross voted to Deny finding all five (5) factors have not been met with regard to the neighbors' concerns and the increased traffic and the noise, Mr. Matte voted to Deny finding all five (5) factors have not been met as the tractor trailers and the cars, dust and the neighbors' concerns, Mr. Stuart voted to Deny finding factors (2), (3) and (5) have not been met as they have not met their burden, and Mr. DiPietro voted to Grant finding all five (5) factors have been met and finds it is a reasonable use. A vote was taken and, the motion did not pass with four (4) denying and one (1) in favor.

Mr. DiPietro moved on to the last Variance where the applicant is asking to exceed the 5% lot coverage to 5.2%. Mr. DiPietro wanted to remind the members that they just granted an increase in lot coverage for a storage facility in town and if this were in a commercial zone it would be 40% lot coverage. Mr. Matte indicated that it was not in a commercial zone and there were houses behind this property.

With that said, Mr. DiPietro indicated that he would entertain a motion to vote on this Variance request.

Mr. Bergeron made a motion to vote on the application for a Variance for Article 4, Section 4.06(6) to exceed the 5% building coverage to be 5.2% building coverage in the Residential One zone as submitted for Case #22-21, 212 Depot Road, Tax Map 13, Lot 23A. Seconded by Mr. Stuart. Mr. Bergeron voted to Grant finding all five (5) factors have been met, Ms. Dross voted to Grant finding all five (5) factors have been met, Mr. Matte voted to Deny finding all five (5) factors have not been met because of the concerns made by Manchester Water Works, Mr. Stuart voted to Deny finding factors (2), (3) and (5) have not been met as they have not met their burden and see no reason why it needs to exceed the 5% required, and Mr. DiPietro voted to Grant finding all five (5) factors have been met and finds it is a very small deviation from the 5% requirement. A vote was taken and, the motion passed with three (3) in favor and two (2) to deny.

Mr. DiPietro explained to the applicant that the first Variance was Granted so there is a Variance for the expansion of a non-conforming use. The second Variance was Denied, and the last Variance was Granted by a vote of three (3) to Grant and two (2) to Deny. Mr. DiPietro went on to explain that there was a 30-day appeal period where abutters or interested parties could appeal the Board's decision.

Mr. Branon asked the Board to clarify that, they can build the two (2) buildings in the back but that they just can't be Contractor Bays. The Board said yes, they can be self-storage and they would need to go before the Planning Board and Conservation Commission with a full site plan review.

Mr. DiPietro informed the abutters to keep their eyes and ears open for when they go before the Planning Board which would be a public hearing and they would all be notified of the Public Hearing. Mrs. Rouleau-Cote explained that they would have to ask for a rehearing with the ZBA and if the ZBA decides to rehear it then it goes back to the ZBA whereby all the abutters would get re-noticed again. If it ends up going to court, then it's the applicant against the ZBA of which town counsel would oversee it. A brief discussion ensued with regard to noticing abutters. Mr. DiPietro thanked everyone for attending.

Lastly, Mr. DiPietro asked for a motion to adjourn.

Minutes

Mr. Bergeron moved to the approval of the minutes of August 23, 2022.

Mr. Bergeron made a motion to approve the minutes of August 23, 2022, seconded by Mrs. Daoust with Mr. Stuart abstaining. A vote was taken and, the motion passed.

Adjourn

Mr. Bergeron made a motion to adjourn, seconded by Mr. Matte. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 9:10 p.m.

The next scheduled meeting for the Zoning Board of Adjustment is October 25, 2022 at 7:00 pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted on the upcoming Agenda.

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