



**Zoning Board of Adjustment Meeting**  
Monday, February 4, 2008  
Council Chambers, City Hall at 7:00 p.m.

**Meeting Minutes**

Meeting Called to order at 7:00 pm by Chair Hurd

**Roll Call**

**Present:** Robert Woodman, Michael Hurd, Tracy Pope, Carolyn Towle

**Absent:** Jim Hanson

**I. Appointment of Alternates**

Carolyn Towle to sit in for Mr. Hanson

**II. Report(s) of Secretary:**

- Tuesday, January 07, 2008 Public Meeting Minutes

**Motion to:** Accept the meeting January 07, 2008

**Made by:** Mr. Woodman

**Second:** Ms. Pope

**Vote:** Unanimous

**III. New Business:**

- **(ZO2008-00002) Sue Turpin Montessori School, 156 Hanover Street, Claremont, NH** – seek a Use Variance from Sections 22-232 of the City Zoning Ordinance in order to have a group Child Care Center on the property of 156 Hanover Street. Tax Map: 96, Lot: 8, Zoning District: R-2, Property Owner: Lory & David Klosieski.

Mr. Hurd asked the Applicant if there was any objection to being heard by a four-member Board. The Applicant had no objection.

Abutters' Roll Call – None Present

Mr. Coogan advised that the applicant currently operates a daycare at 156 Hanover with approximately 5 children. They are allowed by right in R-2 to have a family daycare and family group daycare. A group child care would require a use variance. They are here to seek a use variance. Regardless of the outcome of tonight's meeting they will still be required to meet all building and safety codes. Chief Chase has communicated this to the Applicant.

Ms. Lory Klosieski addressed the board advising that there is a great need in Claremont for child care and this is an opportunity to establish that childcare. The type of childcare she is providing is not just babysitting but an opportunity to provide children a caring and learning environment while the parents are away from them. There are a lot of families who are interested in their children learning earlier in life but do not have the capacity to pay for before and after school childcare. They are applying for this use variance to have an early childhood school operating from 6:30 a.m. to 5:30 p.m. They have received background and approval from the state Bureau of Childcare Licensing.

Open public hearing – No one appeared.

Closed public hearing

Mr. Woodman asked how many children Ms. Klosieski has now. Ms. Klosieski advised they would like to have 12 children. Mr. Woodman advised that he is concerned with the safety of the children and he is not comfortable with taking shortcuts when it comes to small children. Ms. Klosieski advised that she is not against fire safety; she just desire to do what is allowable by law. Mr. Woodman advised that the application points out that if she has a hardship they can get around some of the codes and he is not comfortable with that. Mr. Woodman also asked about who will be taking care of

the children and parking. Ms. Klosieski advised that they will be hiring some help and the state standard is 8 children per teacher and she plans to have one teacher for every 6 children. Ms. Klosieski advised that she is very willing to follow fire safety laws.

Ms. Towle asked about the parking, drop-off and pick-up and overflow. Ms. Klosieski advised that they were told they were only required 6 spaces for 12 children; they do have 6 parking spaces. Ms. Towle is very concerned with the fire safety and feels there should be another means of egress. Ms. Towle advised that egress, fire safety and sprinklers are very important. Mr. Hurd advised that sprinklers, etc will be addressed at the Planning Board level for Site Plan approval. Mr. Coogan advised that if they are granted a use variance they will be required to have a site plan reviewed by the planning board. Mr. Hurd discussed parking and the concern that the parking is not quite adequate for turning around, etc.

Mr. Woodman asked if there is room enough for people to turn around in the yard or do they have to back out of the driveway. Ms. Klosieski advised that most people turn around but some do back into the street. Ms. Klosieski advised that due to the fact that the children come at different times they do not anticipate a problem with the parking. They have also spoken with Mr. Tom Woodley regarding the driveway.

Ms. Pope asked if the family group daycares are allowed she doesn't understand why they are going for a group child care center which requires a use variance. Ms. Pope asked Ms. Klosieski if they want to have more than 12 children. Ms. Klosieski advised that they are targeting to have 12 children and this variance is so that they will be recognized as a preschool and group child care center, not just a daycare, even if they only have 12 children. Mrs. Pope asked if the Applicant was agreeable to a condition to limit the number of children to 12. The Applicant agreed.

**Motion to:** approve the applicants request for a use variance in order to use 156 Hanover street as a group child care center with the condition that she not have more than 12 children and meet all building and fire safety code improvements required by the City

**Made by:** Mrs. Pope                      **Second:** Ms. Towle                      **Vote:** Unanimous

The proposed activity will not diminish the value of surround property  
Unanimous

The granting of the variance for the proposed activity will not be contrary to the public interest  
Unanimous

Denial of the variance would result in unnecessary hardship to the application because the zoning restriction as applied to this property interferes with reasonable use of the property considering the unique setting of the property in its environment – interferes with the use of the property as a daycare  
Unanimous

There is no fair and substantial relationship between the general purposes of the zoning ordinance and the specific restriction on the property  
Unanimous

Granting the variance would not injure the public or private rights of others  
Unanimous

The granting of the variance will do substantial justice  
Unanimous

The proposed use is not contrary to the spirit of the City of Claremont Zoning Ordinance  
Unanimous

- **(ZO2008-00003) M&W Soils Engineering, Charlestown, NH** – seeks a Special Exception from Section 22-297(1) of the City Zoning Ordinance in order to add fuel storage and sales to the property located at 58 Washington Street. Tax Map: 108, Lot: 69, Zoning District: B-2. Property Owner: Mandala Convenience LLC.

Mr. Hurd asked the Applicant if there was any objection to being heard by a four-member Board. The Applicant had no objection.

Abutters' Roll Call Jim Marchionna, for AR Sandri (property owner Rexbo Realty)

Mr. Coogan advised that this property did come before the ZBA back in 1992 and the City Solicitor advised that the approval for the special exception to sell fuel does not run with the land. The applicant would like to remove the existing building and would like to build a new gas station. They are looking for two actions from the board and the board should treat them as separate applications. They need a variance because there is a requirement to be 50 feet from the property line and they only want to be 10 feet from the property line. It was also brought to his attention that there is a storm water drain underneath the property and if they move forward with the application they would be required to apply for a site plan approval from the Planning Board.

Mr. Randy Rhoades, with M&W Soils Engineering, advised he is representing the Mandala Convenience Store. They would like to remove the existing building and construct a building further back from Washington Street for a 2,400 square foot convenience store. They would like to move ahead and it is contingent upon having approval to sell gas. They will do a site plan for the planning board but are looking for this approval before they go through the expense of a site plan. They will be able to build a building within the zoning setbacks and they have spoken to DPW regarding the parking and entrance and egress. They are planning on removing the building and they will address the exit onto Washington Street which has been a concern on the site plan. They are asking for the special exception for the gas pumps in the B-2 zone. They have plenty of room on the property to place the new building and there are a few vacant lots in and around the property and it is next to a gas station and there is a rest home which is at least 250ft away. Mr. Rhoades had a discussion with Mr. Hanson regarding the storm water drain and this building will be about 650 ft away from the City intake line and he does see it as an issue and it will be addressed on the site plan.

Mr. Hurd asked where the tanks are going to go. Mr. Rhoades said he is asking for a special exception to sell gas. Mrs. Pope noted that the second issue before them was a variance from the property line, so he must know where the tanks will go. Mr. Rhoades said no. Mr. Rhoades advised that the site is only 100ft wide and no matter where they put it they will need at least 10ft and it will go towards the front of the property. Mr. Woodman asked if there is going to be room enough for the tractor trailers to get in and fill the tanks. Mr. Rhoades advised that should be plenty of room to enter through Winter Street and exit onto Washington Street and the exit onto Washington Street will be a right hand turn only.

Mr. Hurd asked Mr. Temple how a right hand turn could be enforced. Mr. Temple said it would be part of the site plan and an issue for the Planning Board.

Ms. Towle asked why the previous application that was approved was not pursued in 1993. Mr. Rhoades advised that they are different owners and it doesn't run with the land. Ms. Towle advised that she is a little disappointed that the plans are sketchy, asked how many types of gas would be sold and she said she has no idea where the tanks will be placed. Mr. Woodman is concerned with the tractor trailer traffic and he is worried about the congestion on the corner of Washington Street and he does not want them backing out into the road. Mr. Rhoades advised that sometimes the tractor trailer trucks miss their turn and they use this property to turn around in with no problem.

Open public hearing

Mr. Jim Marchionna is the district manager for AR Sandri and he is here representing the property owner (Rexbo Realty) at 54 Washington Street. Their primary concern is that he cannot see where the tanks are, where the curb cuts are, where they are going to put up the canopies and this is of importance and the request should be denied. They want to be sure that this is not going to hurt the value of their property, want to make sure people are not going to miss their property because it is blocked by this new gas station. They are also concerned with accidents onto Washington Street. Mr. Hurd advised that the question on the table is if this is a good location for fuel storage and sales, the curb cuts, canopy etc will be addressed at the Planning Board. Mr. Marchionna mentioned that one of the questions on the variance application asks if your business can run without it and they have been running a business successfully without it. They do not feel that they have enough information thus they must oppose it.

Mr. Hurd asked Mr. Marchionna to clarify his statement regarding the issue of operating the business without fuel. Mr. Marchionna referred to the hardship standard required for granting a variance. Mr. Hurd noted that the hardship standard was not applicable to consideration of a special exception.

Mr. Rhoades advised that if he was a gas station next door he would also be opposing it. But due to the gas station next door and the location of the property off of Washington Street this appears to be a good location. Mr. Rhoades also advised that the fuel storage tanks will also have to be approved by the State and show the catch basin's, etc.

Mr. Hurd asked Mr. Coogan about the interaction between the special exception and the variance. Mr. Coogan said the Board could make the special exception contingent on obtaining the variance if it wanted to.

Closed the public hearing

Discussion regarding the questions for the special exception. Mr. Hurd felt that they did not have enough information to answer these questions to be fair to the applicant. Mrs. Pope stated her concerns with the question regarding adverse impact on light and air when they don't have any plan before them. Mrs. Towle asked the owner of the property if he owned other stores and if they sold gasoline. Mr. Nauroz Wein the owner of the property said yes, his other stores all sell gas, this is the only one that does not have gasoline sales. Mr. Coogan advised that the board can request the applicant for more information and continue the hearing to next month.

Mr. Woodman is concerned with the traffic on Washington Street and that the plan provided is not adequate for the Zoning Board to make a decision. Mr. Hurd asked the Applicant if he would have a problem with continuing to next month. Mr. Rhoades said he was willing to come back next month with more information.

**Motion to:** to continue both the applications to March 3, 2008 meeting so the applicant can provide additional information including a sketch plan.

**Made by:** Mr. Hurd                      **Second:** Ms. Pope                      **Vote:** Unanimous

- **(ZO2008-00004) M&W Soils Engineering, Charlestown, NH** – seeks an Area Variance from Section 22-297(1)(c) of the City Zoning Ordinance in order to allow for fuel storage tanks within 10ft of the property line located at 58 Washington Street where 50ft is required. Tax Map: 108, Lot: 69, Zoning District: B-2. Property Owner: Mandala Convenience LLC.

Continued to the March 3 meeting.

#### **IV. Correspondence**

- Save the Date – OEP Spring Planning and Zoning Conference – April 26, 2008

Ms. Towle advised that she would like to attend.

#### **V. Adjournment**

**Motion to:** Adjourn

**Made by:** Mrs. Towle                      **Second:** Ms. Pope                      **Vote:** Unanimous

Meeting adjourned at 8:12 p.m.

Respectfully Submitted,

Michelle Aiken

Boards and Commissions Coordinator