



**Zoning Board of Adjustment Meeting**  
Monday, May 19, 2008  
Council Chambers, City Hall at 7:00 p.m.

**Meeting Minutes**  
*Approved June 2, 2008*

Meeting Called to order at 7:02 pm by Chair Hurd

**I. Roll Call**

**Present:** Robert Woodman, Ed Friedman, Michael Hurd, Pierre Caouette, Carolyn Towle

**City Staff:** Eric Giles, City Planner; Allan Britton, Director of Planning & Development; Michelle Aiken, Boards & Commissions Coordinator.

**Absent:** Jim Hanson

**II. Review of Minutes:**

Monday, April 7, 2008 Public Meeting Minutes

**Motion to:** Accept the April 7, 2008 public meeting minutes

**Made by:** Mr. Woodman                      **Second:** Ms. Towle                      **Vote:** Unanimous

**III. New Business:**

- **(ZO2008-00006) Emily and Rachael Lemieux, 519 Jarvis Hill Rd, Claremont, NH** – seek a Special Exception from Section 22-207 (5) (Accessory use) of the City Zoning Ordinance in order to have a seasonal ice cream stand at 519 Jarvis Hill Road. Tax Map: 128, Lot: 1, Zoning District: R-1.

Mr. Giles advised that the application has been changed to a use variance. The purpose is to conduct and accessory use inside the residential zoning district to conduct a seasonal ice cream shop. The shop will be in an existing barn, the parking area will be on site. There are 6 conditions we would suggest, such as a food license a revised driveway permit, all parking be within the barn yard area, hours of operation from 12-9pm and they will be allowed only one exterior sign and if the permit discontinued for 1 summer season that the permit is null for 1 year. It was originally submitted as a special exception application and should be reviewed as a use variance application, primarily because the evaluation of the Use Variance was more appropriate. If the property is conveyed a new owner would be able to continue this same use within the parameters of the conditions of application.

Ms. Beth Lemieux advised that she is the owner of the property and their intention is to run a small scale ice cream stand, they have 3 teenagers and felt it would be a perfect opportunity for them to learn how to run a small business. Property was previously a dairy farm and they would like to convert the old milk barn into an ice cream stand. The applicant provided photos of the property. The barn is 38X90ft and everything will be contained within the barn, including waste disposal, there would not be a dumpster. The cars would not be visible from the road and they have parking for 20 9X19 spaces although they are anticipating 3-5 cars an hour. The speed is 35 mph on Jarvis Hill Rd and the visibility in either direction is adequate. The business will be seasonal, May to September probably, 7 days a week noon to 9pm and they would have the signage per zoning requirements.

Chair Hurd asked about parking and driving around the fence. Ms. Lemieux felt that driving around the fence would make the most sense. Ms. Towle asked if compressors, etc would be on the interior. Ms. Lemieux advised that everything will be inside. Ms. Towle also wanted to clarify what dates they would be open. Ms. Lemieux advised that they are not sure what the days are but she was thinking it would go around the kids schedule with sports, etc. Chair Hurd advised Ms. Lemieux that it would be better to note the dates of operation and they would have the ability to open and close anytime within that window, although not before or after.

Mr. Woodman advised that Jarvis Hill Rd is a State Road so they would need a State permit. Mr. Giles advised if there is a change of use in the residential driveway they will need to contact the City Department of Public Works who will refer them to the State and if it's ok with the state then they will not have to. Mr. Woodman asked Ms. Lemieux if there will be a bathroom on site. Ms. Lemieux advised there is a bathroom already in the barn. Mr. Woodman was glad to see there is a lot of space for parking because he thinks it will be bigger and busier than they anticipate.

#### Open Public Hearing

Abutters present with no comments or objections were Suzanne Veilleux, Todd Geil, and Mrs Lacasse representing Brenda LaCasse Trust.

#### Closed public hearing

**Motion to:** To approve the applicants request for a Use Variance to conduct an ice-cream shop as an accessory use to 519 Jarvis Hill Rd with the following conditions.

1. Applicants shall obtain a Food Service License from the City of Claremont Health Department.
2. Applicants shall obtain a revised Driveway Permit or letter of exemption from the City of Claremont Department of Public Works or the State of New Hampshire.
3. All off-street parking shall be located in the designated "barnyard" area with a minimum of five (5) 9 x 19 spaces.
4. Hours of operation shall be from 12:00 pm to 9:00 pm. The business shall be in operation during the summer season months from May to October.
5. Only one (1) exterior affixed, hanging, or freestanding sign not exceeding four (4) square feet in area identifying the permitted use shall be allowed.
6. If this permit is discontinued for more than a period of 1 summer season as identified in condition #4, this permit will be null and void.

#### Findings of fact:

1. The value of surrounding properties will not be diminished - Unanimous
2. The variance will not be contrary to the public interest- Unanimous
3. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship - Unanimous
4. Substantial justice is done - Unanimous
5. The variance is consistent with the spirit of the ordinance - Unanimous

**Made by:** Mr. Caouette      **Second:** Ms. Towle      **Vote:** Unanimous

Ms. Lemieux advised she was looking at 22-604 and did not realize how small the sign was and wanted to know what she needed to do to have a bigger sign. Chair Hurd advised that she would need to ask for an area variance and a sign permit.

- o **(ZO2008-00007) Lynda Trepanier, 13 Ashton Avenue, Claremont, NH** – seeks an Area Variance from Sections 22-209 (4) of the City Zoning Ordinance in order to build a garage approximately 16 ft from the rear yard where 25ft is required. Tax Map: 118, Lot: 96, Zoning District: R-1.

Mr. Giles advised that the applicant is requesting to construct a garage and will encroach 9' into the rear setback. Under the review criteria we did find that it met the variance review and it is on City Water and has a septic on site.

Mr. Trepanier is here on behalf of his wife Lynda and advised that Lawrence Click is his brother in law and he does not seem to have a problem, the garage will be closest to his brother in law and the garage will be put in on the back side of the property. Mr. Woodman advised that he is just worried about if the septic needed to be replaced. Mr. Click advised that the septic system is on the opposite side of the property so it will not infringe on the garage placement.

#### Open public hearing

Abutters present: Mr. Henry Fluery and Lawrence Click who both advised that they did not have any problems with the location of the garage.

Mr. Friedman asked why they are not considering moving the garage so that they do not encroach on the setbacks. Mr. Caouette asked what the relevance of the setbacks is. Mr. Giles advised that setbacks are normally for fire safety if one house was to catch on fire the ones closest also catch on fire. Discussion among board members and abutters regarding the location of the garage and why it must be placed where they are suggesting.

Mr. Caouette asked Mr. Fluery about the building on the back of his property with concern that the new garage may affect his property. Mr. Fluery advised it is a wooden building that he uses for storage that he is planning on cleaning out.

Closed public hearing

**Motion to:** approve the applicants request for an area variance to construct an accessory building within 16’ of the rear property line which requires a 25’ setback on Ashton Avenue, Tax Map 118, Lot 96

Findings of Fact:

1. The special circumstances or physical conditions for which the variance is sought apply to the land, are unique to such land or existing structure and are not shared by the owners of other property in the same district - Unanimous
2. Because of these circumstances or physical conditions, the literal application of the requirements of this chapter would deprive the property owner of a reasonable use of the land, and would create an unnecessary hardship in the use of the land, unrelated to the specific owner or his/her financial considerations - Unanimous
3. That granting of the variance would not diminish the value of surrounding properties - Unanimous
4. The granting of the variance would be of benefit to the public interest, will be in harmony with spirit and intent of this chapter and with the character of the district within which it is proposed, and will not endanger the public, health, safety or welfare - Unanimous

**Made by:** Mr. Woodman

**Second:** Ms. Towle

**Vote:** Unanimous

#### **IV. Correspondence**

- o Notice of Decision – Bernard & Rebecca Ferland, 38 Summer Street

#### **V. Adjournment**

**Motion to:** Adjourn

**Made by:** Mr. Woodman

**Second:** Mr. Caouette

**Vote:** Unanimous

**Meeting adjourned at 7:59 p.m.**

Respectfully Submitted,

Michelle Aiken

Boards and Commissions Coordinator