



Zoning Board of Adjustment Meeting
Monday, August 4, 2008
Council Chambers, City Hall at 6:30 p.m.

Meeting Minutes
Approved 9/2/08

Meeting Called to order at 6:40 pm by Vice Chair Woodman

I. Roll Call

Present: Robert Woodman, Jim Hanson (arrived at the beginning of the second case), Carolyn Towle, Ed Friedman

Absent: Michael Hurd, Pierre Caouette

City Staff: Eric Giles, City Planner; Allan Britton, Director of Planning & Development; Katrina Spaulding, Administrative Assistant

Vice Chair Robert Woodman sitting in the absence of Chair Hurd and Ed Friedman is the appointed alternate

II. Review of Minutes:

July 7, 2008 Public Meeting Minutes

Motion to: Accept the July 7, 2008 Public Meeting Minutes

Made by: Ms. Towle

Second: Mr. Friedman

Vote: Unanimous

III. Continuation:

- **(ZO2008-00008) Walter Fletcher, 33 Winter Street, Claremont, NH** – seeks an Area Variance from Sections 22-229 (3)&(4) of the City Zoning Ordinance in order to build a garage approximately 5 ft from the side yard where 10ft is required and 5ft from the rear yard where 25ft is required. Tax Map: 108, Lot: 103, Zoning District: R-2.

Eric Giles said Mr. Fletcher has provided a surveyed map where all the legal property boundaries are and where he proposes to build his garage. He stated the board is to determine whether or not there are grounds for a hardship. The report has two conditions: 1. the applicant obtains a building permit from the office of Planning and Development and 2. prior to building permit that written authorization is obtained from the Department of Public Works for the alteration of storm water runoff and that there will not be any runoff into adjacent properties.

Ms. Towle wanted Mr. Fletcher to state what he feels is his hardship for the application. Mr. Fletcher said his driveway is very unsafe and you have to back out from the driveway onto Winter Street. The proposed garage would sit back further and allow for a turnaround and a safer exit from the driveway. Ms. Towle complimented the applicant for bringing whatever the Board has asked of him every meeting. Ms. Towle also notified Mr. Fletcher that he is only being heard by a three member board and the decision is up to him to have the Board continue with the hearing. Mr. Fletcher says he is ok with having a smaller board hear his case. Mr. Fletcher says his hardship lies in the fact he already has a water problem in the basement and if he were to place another building right next to the house he will have a larger water problem.

Mr. Woodman asked for an abutter roll call.

Abutters: No Abutters present

Open Public Hearing

Mr. Friedman feels that Mr. Fletcher has provided several documents including the survey to support his case when asked. He planned out where his garage could and could not go. For safety reasons Mr. Friedman feels that Mr. Fletcher has a good case. Ms Towle is in favor as well.

Motion to: Accept the area variance Sections 22-229 (3) and (4) to build a garage with the conditions to obtain a storm water permit from the City and a Building Permit be obtained from the Planning and Development office.

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

1. Does the proposed use maintain the value of surrounding property? **Unanimous**
 2. Would granting the variance be in accord with the public interest or, in other words, would granting the variance not violate the objectives of the zoning ordinance? **Unanimous**
 3. Would denial of the variance result in unnecessary hardship to the applicant because: **Unanimous**
 - a. There are special, unique conditions of the property itself that make it difficult or impossible to use applying the requirements of the zoning ordinance?
 - b. The use sought by the applicant cannot be achieved by another method, other than through the granting of an area variance?
 4. Will granting the variance result in substantial justice? **Unanimous**
 5. Is the use in accord and not contrary to the spirit and intent of the ordinance? **Unanimous**
- **(ZO2008-00009) Alan Dexter, 1 First Street, Claremont, NH** – seeks a Use Variance from Sections 22-166 of the City Zoning Ordinance in order to complete renovation to an existing building into an auto service and sales building. Tax Map: 135, Lot: 16, Zoning District: RR.

Mr. Woodman stated that Mr. Dexter has written a letter asking for an extension to next month September 2, 2008 meeting.

- **(ZO2008-00017) Catherine Pellerin, 9 Beckwith Avenue, Claremont, NH** – seeks a Special Exception from Sections 22-212 (2)(a) of the City Zoning Ordinance in order to expand from a family daycare home to a Family Group Daycare home. Tax Map: 129 Lot: 93, Zoning District: R-1.

Mr. Giles stated that this is currently a single family home. The applicant currently has a child care facility in her home. This requires a special exception when asking to provide care for 7-12 children in the R-1 Zoning District. One condition would be for the applicant to seek a license from the State.

Abutter Roll Call

Abutters: No abutters present

Open Public Hearing

Ms. Pellerin stated that she is presently licensed for 9 children and she is asking to provide care for 11 children. Mr. Woodman asked if she would need to have more help. Ms. Pellerin said she would need to have additional help. Mr. Woodman asked if the building would need to have sprinklers. The building will not need to have fire sprinklers for less than 12 children.

Kathy Paradis, the Claremont School District Childcare Resource Referral Specialist spoke. Kathy provided statistics of the need for childcare in the area. She was at the meeting to speak on behalf of the three child care providers applying before the Board. She says that out of all of the 29 childcare facilities in Claremont, only 8 open spots are available for childcare. There are 6 preschool and 2 infant/toddler openings. She feels childcare is an economic development factor and she says it is a very large need that Claremont needs to support.

Mr. Giles advised Chair Woodman if there could be two additional requirements: A building permit if required will be obtained, and an approved health inspection from the City of Claremont Health Code Officer. Mr. Woodman would also like to be sure that the providers include a health safety course.

Motion to: Approve the Special Exception from Sections 22-212 (2)(a) of the City Zoning Ordinance in order to expand from a family daycare home to a Family Group Daycare with the conditions of requiring a building permit if necessary and an approved health inspection for the Claremont Health Officer.

Made by: Ms. Towle

Second: Mr. Friedman

Vote: Unanimous

Fact Finding:

1. Is the specific site an appropriate location for such a use? **Unanimous**
2. Will property values in the district be maintained by such a use? **Unanimous**
3. The proposed use will not result in any nuisance or unreasonable hazard? **Unanimous**
4. Will there be minimal traffic impact as a result from such a use? **Unanimous**
5. Are there adequate and appropriate facilities provided for the proper operation and maintenance of the proposed use, including water, sewer and parking? **Unanimous**
6. Will there be minimal impact on the view, light, and air of any abutter as a result of the proposed use? **Unanimous**
7. The proposed use will not place a disproportional burden on the city's operational services in comparison to the anticipated tax revenue associated with the property/use in question? **Unanimous**
8. The proposed use will not be detrimental to the public health, safety and general welfare? **Unanimous**
9. Will granting the special exception be in harmony with the general purpose and intent of the zoning ordinance? **Unanimous**

IV. New Business:

- **(ZO2008-00019) Angela Wilkins, 31 Bible Hill Road, Claremont, NH** – seeks an Special Exception from Sections 22-212 (2)(a) of the City Zoning Ordinance in order to expand from a family daycare home to a Family Group Daycare Home. Tax Map: 143, Lot: 179, Zoning District: R-1.

Mr. Giles stated this is for a family group daycare home taking care of up to 12 children. Bible Hill Road and the garage which is opposite from the road is one access point and there is another access on the north property boundary and serves as second driveway which is in disrepair and doesn't meet the requirements of public works. The appropriate way to handle additional children would be to require all the children to be dropped off in front of the garage in the main driveway. The driveway on the north is a shared driveway provides access to the primary structure on site and then to another in the back. The Board could add the condition that all children be dropped off in front of the garage or applicant to reconstruct the driveway. Mr. Hanson stated this would mean a turn around in the small area allowed and he believes this could be dangerous at the bottom of Bible Hill. Mr. Giles stated if the City feels this is unsafe then the situation should be addressed as an opportunity to pave or resurface the unsafe driveway to meet the public works requirements. Mr. Giles would like to default to Public Works for the expected requirements to ensure safety. The driveway currently is in bad shape. The driveway will further deteriorate upon further use. Mr. Hanson asked if this was the paved or the gravel driveway, Mr. Giles said it pertains to the gravel driveway off of the shared driveway. Mr. Giles thinks this should be a condition of approval. Another issued that Mr. Giles noted from his recent site visit is that the storm water drainage pattern has been altered there is a tube flowing out onto the driveway. No property owner is permitted to alter the drainage on the property so as it would spill over onto adjacent properties or into a wetland. This is being diverted to flow

into a nearby stream. Any alteration such as this should be approved by DES and Mr. Giles feels it should be made a condition. This is a violation in the City of Claremont Zoning Ordinance. There are three other conditions Mr. Giles wanted to include: The applicant would need to obtain a Childcare License from the Bureau of Childcare Licensing, A building permit must be applied for, and an inspection from the City of Claremont Health Code Officer.

Open Public Hearing

Ms. Wilkins would like to increase her numbers to 12 Children. She wanted to add she is a good provider; she has three letters from parents of the children she is presently watching.

Mr. Woodman asked Ms. Wilkins if she would be willing to go to Public works and she claims the City is the reason they have a drainage problem. She said they have covered potholes and partially worked on the driveway, placed gravel in the holes but it has been hard to keep the rain from destroying all of the work they have put into the project. She also said it is hard to find the time to fix the road when she is working from 5:45 am – 6:00 pm doing childcare.

Abutters:

Shelly Werth - lives next door on the uphill side #39 Bible Hill and bought her house about 1 ½ years ago. She originally thought this was a nice quiet neighborhood. She isn't home during the day. She said during vacation or when she is home there is a lot of noise. There is a lot of yelling and hollering at the children. She finds this unpleasant. Ms. Werth said her backyard abuts up to the applicant's property. She wouldn't have purchased the house had she known there was a daycare business in this location. She is trying to sell her home. Ms. Werth said the yard is unsightly, there aren't any matching fences. A larger daycare will decrease the value of her home. She feels that if her customers cannot use the gravel driveway then there is going to be a traffic problem. The hill is a very fast hill and she can anticipate an accident with people turning around in the driveway and backing into the traffic. Ms. Werth said is listing her house with a realtor and relocating in two weeks. She wants to be sure she will be informed of the next meeting and notified of any changes. She provided her address to the Planning Office for further correspondence.

Mr. Woodman asked if the fence goes all around the applicant's property. Ms. Werth believes it is entirely enclosed but with various types of fences.

Abutters Roll Call requested by Ms. Towle.

Abutters Present: David & Lucinda Putnam

Mr. Putnam says that he is the abutter that shares the driveway entrance with the Wilkins. He is concerned with the safety of using the driveway. Mr. Putnam really feels she appears to be a good childcare provider and as long as she is licensed he feels that this is worthy of consideration. There have been a number of floods that have consistently undermined the driveway where it is tarred because of the pitch. There is a good 30 degree pitch. The previous owner of the house created the 2nd driveway (Gravel) and sometimes in the winter the driveway even needs to be closed off. In the springtime the alternate parking area becomes muddy. Mr. Putnam feels that the drainage will never be adequate as long as the driveway is used. Mr. Putnam recommends that the applicant place a driveway next to the garage coming across the lawn and use the turnaround that they have developed there now. This would be safer and less expensive.

Public Hearing Closed

Ms. Towle asked if she could see the property in question. She doesn't feel she can make any decisions or determinations without viewing the driveway herself.

Mr. Hanson has many concerns with the turnaround in front of the garage. The driveway is very steep and doesn't allow for much error. This could be very dangerous for backing out.

Ms. Towle is concerned with the jump in number from 5 to 12 children.

Motion to: Continue to hear the request for special exception from Sections 22-212 (2)(a) of the City Zoning Ordinance in order to expand from a family daycare home to a Family Group Daycare Home to the next meeting on September 2nd.

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

Ms. Shelly Werth asked if she could please be notified in the future of the continued hearing. She will provide her new address. She would like to be able to provide correspondence to the board as an abutter. She would also like to request that any board members choosing to make a visit, do so during the hours of childcare operation.

- **(ZO2008-00020) Cheryl Ferland, 6 Pawtucket Avenue, Claremont, NH** – seeks a Special Exception from Sections 22-212 (2)(a) of the City Zoning Ordinance in order to expand from a family daycare home to a Family Group Daycare Home. Tax Map: 118, Lot: 101, Zoning District: R-1.

Mr. Giles stated the surrounding property and land uses are R-1 single family. There are three conditions of approval.

1. The applicant shall obtain a Child Care License from the NH Bureau of Child Care Licensing.
2. The applicant shall obtain an approved Certificate of Occupancy or Certificate of Completeness from the City of Claremont Building Department.
3. The applicant shall obtain an approved inspection from the City of Claremont Health Code Officer.

Abutters Roll Call

Abutters: None present

Ms Ferland spoke and said she would like to have an increase to 12 children from 9 children in her home daycare. Mr. Woodman asked if she has a secured area for the children to play in. She said that she does in fact have a space for the children to play that is enclosed. Ms. Ferland has been licensed with the State of N.H. for the past 21 years. She has had Terry Carter and Cullen Downing to the house and has worked off a list required to get the facility up to code for the childcare facility.

Mr. Hanson asked if the owner was putting up a new fence and Ms. Ferland said she is in the process of putting up a fence. She said she is still running her daycare currently at her Mulberry Street address. The new property is not a daycare. She has had the inspection done with the Health Officer. Mr. Woodman asked how much she needed to add for help. There will be need to be one additional adult to cover for the added children. The youngest child she cares for currently is 2 ½ years of age. Mr. Hanson asked what her hours of operation will be. Ms. Ferland said her hours are from 5:30am –5:30pm. She has 6 preschoolers and 3 school aged children currently. Mr. Hanson asked if she had room for 4 cars, Ms. Ferland replied that she does have 4 parking spaces.

Public Hearing Closed

Ms Towle asked if the applicant be approved for Certificate of Occupancy with 12 children, would there need to be a sprinkler? Mr. Woodman said this would apply to over 12. Anything under 12 does not require sprinklers. Mr. Friedman asked if the driveway was paved. Ms. Ferland said it is paved. Mr. Woodman asked if the parking was for one car being her own, one for her helper and two additional spaces. Ms. Ferland said yes. The road is flat according to Ms. Ferland.

Motion to: Grant a Special Exception from Sections 22-212 (2)(a) of the City Zoning Ordinance in order to expand from a family daycare home to a Family Group Daycare in R-1 Zoning District with the conditions that they meet the fire and life safety codes as outlined.

Made by: Mr. Hanson **Second:** Mr. Friedman **Vote:** Unanimous

Fact Finding:

1. Is the specific site an appropriate location for such a use? **Unanimous**

2. Will property values in the district be maintained by such a use? **Unanimous**
4. The proposed use will not result in any nuisance or unreasonable hazard? **Unanimous**
5. Will there be minimal traffic impact as a result from such a use? **Unanimous**
6. Are there adequate and appropriate facilities provided for the proper operation and maintenance of the proposed use, including water, sewer and parking? **Unanimous**
7. Will there be minimal impact on the view, light, and air of any abutter as a result of the proposed use? **Unanimous**
8. The proposed use will not place a disproportional burden on the city's operational services in comparison to the anticipated tax revenue associated with the property/use in question? **Unanimous**
9. The proposed use will not be detrimental to the public health, safety and general welfare? **Unanimous**
10. Will granting the special exception be in harmony with the general purpose and intent of the zoning ordinance? **Unanimous**

- o **(ZO2008-00021) Gordon M. Scott Sr., 41 Foisy Hill Road, Claremont, NH** – seeks an Area Variance from Sections 22-62 of the City Zoning Ordinance in order to build a garage approximately 7 ft from the front yard where 50ft is required and 24ft from the rear yard where 25ft is required. Tax Map: 85, Lot: 15, Zoning District: RR.

Mr. Giles presented that the applicant wants to reconstruct a shed/utility building within the existing footprint of where it was before. The previous structure was non-compliant because it didn't meet the front setback requirements. The setback standards should have a 25 foot setback from the front in the RR district. The depth of the lot is very narrow. This is only approximately 45' in depth. This would not be able to meet any of the setbacks. It was suggested by the City of Claremont that Mr. Scott build the garage 10 feet from the rear. Mr. Hanson said the property is almost entirely on a hill.

Abutters: None Present

Mr. McCutcheon presented a drawing that he said is not a survey. He said the previous shed was in the exact spot he would like to rebuild. Mr. Scott removed the old shed and wanted to construct a 16 x 12 shed not realizing that he was violating zoning ordinance. Mr. McCutcheon said had Mr. Scott known that this would not be allowed, he would have repaired the shed he previously had. He also said there is no other location on the lot this building could be built. Mr. McCutcheon also said a 10 x 12 shed would be allowed without a permit and this isn't much larger than a 120 square foot building.

Mr. Scott said he doesn't have a garage; the former building was just a utility shed. The structure that he removed was there for about 40 years and never had any problems in the past.

Mr. Woodman has done work on the property that abuts the property and there is a very steep piece of land and it is very narrow. Mr. Scott said there is also a lot of ledge. Mr. Hanson feels there is a true hardship for the location of this shed in a usable way.

Mr. Hanson said he is all for following the setbacks when it is manageable. He doesn't think there is any other usable place on the lot and the hardship is evident for the applicant.

Motion to: Approve the Area Variance for the rebuilding of the nonconforming structure with the condition that the applicant shall build the utility structure within the existing footprint of the previous building.

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

1. Does the proposed use maintain the value of surrounding property? **Unanimous**

2. Would granting the variance be in accord with the public interest or, in other words, would granting the variance not violate the objectives of the zoning ordinance? **Unanimous**
 3. Would denial of the variance result in unnecessary hardship to the applicant because: **Unanimous**
 - a. There are special, unique conditions of the property itself that make it difficult or impossible to use applying the requirements of the zoning ordinance?
 - b. The use sought by the applicant cannot be achieved by another method, other than through the granting of an area variance?
 4. Will granting the variance result in substantial justice? **Unanimous**
 5. Is the use in accord and not contrary to the spirit and intent of the ordinance? **Unanimous**
- **(ZO2008-00023) Anthony & Stephanie Lanzara, 39 Myrtle Street, Claremont, NH** – Seeks an Area Variance from Sections 22-229(4) of the City Zoning Ordinance in order to build a deck approximately 1 ft from the rear yard where 25ft is required. Tax Map: 119, Lot: 287, Zoning District: R-2.

Mr. Giles said applicant would like to build a deck within the side setback where 10 feet is required. At the time of the staff report no surveyed map was available however there is now a survey of the property. This satisfies a condition that was being placed on the applicant. The map does show where the proposed deck was going to be placed. There does need to be a hardship presented by the applicant.

Abutters: None Present

Stephanie Lanzara represented her property and application. She said her home is a home office where the home is second level, office is the bottom level. There is no direct access to their backyard from their upstairs home space. She would like to have direct access to the yard to get from the second floor down to the yard. There are three glass doors coming off from the living room and now she would like to have the doors right to the back deck from the doors. The other side of their home is a parking lot for their customers and employees. There isn't a side yard, this would allow for the family to use the back yard to play with their small child. There would be an elevated deck with the stairs down to the yard.

Mr. Hanson asked about the deck location in close proximity to the property line. Mrs. Lanzara clarified the reason for the location to keep the snow from sliding off the roof on the porch and the angle of the roof.

Ms. Towle wanted more clarification as to why this is a hardship. Mr. Woodman said there was a real confinement of that area. Mrs. Lanzara said she would like to keep privacy for her family. The deck would allow the family access to leave their house without entering the doctor's office. Mrs. Lanzara said she doesn't want to cross the professional boundary of coming and going through the office space in street clothes.

Mr. Friedman asked Mr. Woodman if there would be another way to construct the deck without violating the setback requirements. Mr. Woodman said if the deck were cantilevered then the deck would be suspended in the air space.

Motion to: Approve the area variance section 22-62 for the purpose of building a deck structure.

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

1. Does the proposed use maintain the value of surrounding property? **Unanimous**
2. Would granting the variance be in accord with the public interest or, in other words, would granting the variance not violate the objectives of the zoning ordinance? **Unanimous**
3. Would denial of the variance result in unnecessary hardship to the applicant because: **Unanimous**

- a. There are special, unique conditions of the property itself that make it difficult or impossible to use applying the requirements of the zoning ordinance?
 - b. The use sought by the applicant cannot be achieved by another method, other than through the granting of an area variance?
4. Will granting the variance result in substantial justice? **Unanimous**
 5. Is the use in accord and not contrary to the spirit and intent of the ordinance? **Unanimous**

Correspondence

- o Notice of decision for Jerome Doolittle, 84 Elm Street
- o Notice of decision for Jerome Doolittle, 84 Elm Street
- o Notice of decision for Robert Picard, 36 Cedar Street
- o Notice of decision for Emily and Rachel Lemieux, 519 Jarvis Hill Road
- o Master Plan Advisory Committee Special Membership Meeting, August 6, 2008 at 6:30 PM
- o Municipal Volunteer Awards

Other

Mr. Hanson asked about signs and when grandfathering old signs will be not accepted. He counted a business with 9 different signs and what can we do to start cleaning up the signs. Mr. Woodman said as a board nothing can really be done however the staff would be more likely to take care of the problem. Mr. Hanson said a lot of time is spent pondering sign approval and he wanted to know when there was something done about the signs already in violation. Ms. Towle said that this is a problem of enforcement.

Mr. Giles said it comes down to code enforcement abilities. If we drove around the city we could just spend all of our time counting the code enforcement violations.

Mr. Hanson asked if there was something we can't go after. Mr. Giles said it is all citizen driven. If there is a citizen complaint form filled out then the staff takes action.

Mr. Woodman said it is hard to stop something after it has been continuing for several years.

Adjournment

Motion to: Adjourn

Made by: Mr. Hanson

Second: Ms Towle

Vote: Unanimous

Meeting adjourned at 8:15 p.m.

Respectfully Submitted,

Katrina Spaulding
Administrative Assistant