


CITY OF CLAREMONT
Zoning Board of Adjustment Meeting
Monday, January 16, 2006, 7:00 PM
Council Chambers, City Hall, Claremont, NH

Minutes
Approved February 6, 2006

Meeting called to order by Chairman, Michael Hurd at 7:02 pm

I. Roll Call:

Present: Michael Hurd, Chair; Robert Woodman, Vice Chair; Deborah Snelling; Richard Dietz; Tracy Pope; Donald Lavalette

Absent: Donald Lavalette (*email received by the Planning office from Mr. Lavalette on 1/16/05 resignation due to being unable to attend meetings – will send official resignation letter*)

City Representatives: Jerry Coogan, City Planner; Suzanne Ripka, Boards and Commissions Coordinator

II. Report of Secretary:

➤ Monday, December 5, 2005 minutes

Motion: Accept the minutes of December 5, 2005

Made by: Mr. Woodman **Second:** Mr. Dietz

Vote: Unanimous

IV. Old Business

- **Continuation - Susan Davis, 28 Myrtle Street, Claremont, NH**— seeks an Area Variance and Use Variance from Sections 22-226 (2) and 22-231 of the City Zoning Ordinance in order to use a structure previously approved as a tailor shop as an efficiency apartment. Tax Map: 119, Lot: 305, Zoning District: R2.
1. Mr. Coogan presents new information to the board: a parking plan to scale but not surveyed – prepared by Wayne McCutcheon. 7 spaces shown.
 2. Mr. Coogan informed the board that it was recently discovered that the proposed 408 SQ FT dwelling unit does not meet the 550 SQ FT minimum required by the dwelling unit definition (*Section 22-1*) in the City Zoning Ordinance. The Building and Code Enforcement Officer, Ken Walsh, pointed out that the 2003 IRC (residential code and property maintenance code) shows that a dwelling unit could potentially be measured at 250 to 300 SQ FT. Though this is in conflict to the ordinance the ordinance is what set the standard.
 3. Mr. Coogan stated that this matter could be continued and re-noticed for a variance, or the board could take action on the 550 SQ FT requirement this evening.
 4. Attorney Dipadova presents for the applicant and states that here are two issues at hand. One is parking which has been addressed by Mr. McCutcheon. The second being the 550 SQ FT requirement which the applicant did not find out about until Thursday. The city has already issued an electric permit to bring up the structure up to code for a dwelling unit. The applicant has spent over \$1000 to bring the structure to code adequate for a studio apartment. The building code and zoning ordinance conflict of information reflects ambiguity which should be decided in favor of the applicant.
 5. Mr. Coogan clarifies that the permit was issued for general electric work but was not issued specifically for residential use. The building inspector the stated that having been in structure several times he finds the facility adequate for a studio apartment. Chair Hurd verifies information received from Ken Walsh and that it does state that electric work was done because of intended residential use.
 6. Mr. Woodman requests to know how much work was done prior to permitting. Attorney Dipadova responds that the apartment was completed prior to Ms. Davis purchasing the property. Ms. Pope adds that it was mentioned at the last meeting that the previous owner approached the board requesting the structure be used as a dwelling and was denied. Attorney Dipadova states the applicant also brought the structure up to the fire safety code and that the variance should be granted.

lot size will be 1 acre with some lots having 2-3 acres which exceeds yard requirements. The plan will meet agricultural requirements. The plan is a concept plan that presents the maximum number of lots but may come out to be less. The plan is to utilize the land to the fullest and still leave a substantial area that is undeveloped. It will not affect abutters' property value and there will be covenants. All the property will have private roads that are owned and maintained by an association. The property will be maintained and built to city standards with fire and safety requirements. It will be strictly residential with no mobile homes, no commercial. Ultimately it would be good for Claremont to have a development of this type. Mr. Dombroski summarizes that he feels all the criteria have been met.

4. Mr. Dietz voices concerns regarding the plan that has been submitted. He does not feel that the plan gives enough information to make decision on if the site is appropriate. Mr. Coogan responds that the plan presented is a concept plan designed to be used in determining if the site is appropriate for Planned Residential Development. Mr. Dietz refers to contours and slope. Mr. Dombroski responds that engineering will be done but the applicant will feels it would not be feasible to spend time and money on engineering without Zoning Board Approval. Mr. Dietz questions if test holes have been done and references streams and drainage into lot 22. Mr. Dombroski responds that a concept plan has presented and that it is very possible that there will not be 23 lots when the plan is complete enough to be presented to the planning board.
5. Board discussion regarding Zoning Board and Planning Board review responsibilities. Mr. Coogan states that the Special Exception is the 1st step in the process and if the board feels that more information is required than the application can be continued.

Public Hearing Opened:

Abutter	Mailing Address	Map	Lot	Noticed
Norman and Christine St. Aubin - <i>present</i>	130 Old Newport Rd Claremont, NH	100	7, 10, 13- 15	1/3/06
Thomas Dombroski - <i>present</i>	19 Myrtle Street			1/3/06
Corbett Builders, LLC -	PO Box 34 Washington, NH 03280	100	3	1/3/06
Scott Brown -	75 Armory Road Milford, NH 03055	100	4	1/3/06
James and Pamela Fairbanks - <i>present</i>	278 East Green Mtn. Rd. Claremont, NH	100	5	1/3/06
John Hoyt & Linda Pappas - <i>present</i>	304 Old Newport Rd Claremont, NH	100	6	1/3/06
Patricia LaClair King - Deborah Partlow	342 East Green Mtn Rd Claremont, NH 03743	100	8	1/3/06
Arthur & Dorothy Luce -	368 East Green Mtn Rd Claremont, NH	100	10	1/3/06
Robert & Belle Playdon -	PO Box 1025 Claremont, NH 03743	100	13-1	1/3/06
Thomas & Sarah Brothers - <i>present</i>	265 East Green Mtn Rd Claremont, NH	100	16	1/3/06
Cynthia E. Clifford -	RR2 Box 40 Newport, NH 03773	76	1	1/3/06
Norman & Marguerite Blouin - <i>present</i>	422 East Green Mtn Rd Claremont, NH	77	1	1/3/06
Karen and Arnold Cushion - <i>present</i>	348 East Green Mtn Rd Claremont, NH	100	9	1/3/06

1. Mr. Norman Blouin - voices concerns that drainage would go into lot 22. There are already existing drainage problems on East Green Mountain Road and he has seen septic systems pollute by running into drains on the side of the road because of the types of houses that were put in. He would like to see a different lay out and an alternative map. Mr. Coogan requests that any information Mr. Blouin has on septic going into drainage should be relayed to the Planning Department and the Department of Public Works (DPW). Mr. Blouin responded that both DPW and the Planning Department are aware and the state has been notified of soil problems
2. Mr. David Perry – is not an abutter but lives on East Green Mountain Road – questions if the Special Exception is approved and the Planning Board turns the plan down is the Special Exception Null and Void. Chair Hurd responds that the applicant has 1 year to act on the Special Exception if there is no action then the land reverts back to the original use. The 1 year time frame begins when the planning process ends. Mr. Perry states that he does not know how a decision can be made without seeing the land.
3. Mr. Allan Croteau – is not an abutter but has walked the land in quite a bit of detail – expresses that there are a lot of areas that could have some nice home sites. Mr. Croteau states that there is a need for new decent housing units in this area. It will increase the tax base in Claremont and should be considered.
4. Mr. John Hoyt – states that most of his questions are for the Planning Board and that he has no problem with development of the land. His question is if the ROW setbacks stay in place for the AR zone. Concerns that his driveway has a ROW through the property. After Board discussion Mr. Coogan refers to section

22-574(3) which states that requirements from 22-169 will be followed. The ROW would be maintained with a 50 ft setback according to the City Zoning Ordinance.

5. Mr. James Fairbanks requests that the Board should look at the site. It is steep and wet.
6. Mr. Thomas Brothers - wrote a letter stating details of interest (included in packet sent to Zoning Board). Mr. Brothers voices concern that the proposed plan does not meet review criteria and questions if the board has a true understanding of the criteria and if it is appropriate to allow the exception.

Public Hearing Closed

Board Discussion:

1. Chair Hurd does not feel that enough information has been received for consideration of approval at this time.
2. Mr. Dietz restates his request for test holes, alternate plans and a professional site analysis

Motion: To continue application to the Monday, March 6, 2006 meeting, prior to the meeting boundary lines are to be flagged for site visit purposes. Applicant is to return with a professional site analysis plan.

Made By: Mr. Woodman **Second:** Ms. Pope **Vote:** Unanimous

- **Canceled due to Incomplete Abutters List (Owner notified and will submit revised list)- Robert and Lori Knight, 68 Bowker Street, Claremont, NH** – seek a Use Variance from Sections 22-206 of the City Zoning Ordinance in order to raise and keep three horses on property of 68 Bowker Street. Tax Map: 70, Lot: 45, Zoning District: R1, Property Owner: Robert E.L. Knight III.
- **Zhang Realty LLC, 66 North East Village Drive, Concord, NH** – seeks a Use Variances from Sections 22-296 of the City Zoning Ordinance in order to use one lot of record, **150-154 Washington Street, Claremont NH**, as a mixed use property with 3 separate uses. The intended uses being retail, restaurant and single family residential. Tax Map: 108, Lot: 119, Zoning District: B2.
 1. Mr. Coogan presents that the Zhangs purchased the parcel where the former Royal Dragon restaurant is located. Currently there are three uses on the property. According to the zoning ordinance only one use is allowed per lot. The board discusses how many uses have previously existed on the lot. The Zhangs would like to activate and use the single family residence located to the rear of the lot. Mr. McCutcheon has prepared a plan to reflect use proposal.
 2. Mr. McCutcheon presents that several changes will be made to the existing conditions. Mr. McCutcheon gives brief history and description of lot and house. The house cannot be seen from Bowen Street or Washington Street and has not been occupied. The new owners would like to occupy the structure and are currently commuting from concord. The property has frontage on Washington Street and Bowen Street. The house access to Washington Street would go between both commercial buildings and with 7 doors that access the same drive from the buildings travel would be a problem especially with activity in restaurant, pool tables, lounge, and bar. The access would have to be from Bowen Street and a retaining wall would be built. There is currently no access currently for emergency vehicles. Mr. Woodman questions if 50 ft width exists on interior of property along with on Bowen Street. Mr. McCutcheon responds it does not therefore they were unable to subdivide the property.

Public Hearing Open:

Abutter	Mailing Address	Map	Lot	Noticed
Zhang Realty LLC - <i>present</i>	66 North East Village Dr Concord, NH 03301	108	115, 119	1/3/06
Wayne McCutcheon - <i>present</i>				1/3/06
Brian Desmarais	144 Washington St Claremont, NH 03743	108	118	1/3/06
Seven Bowen St Inc.	7 Bowen St, Claremont NH	108	116	1/3/06
Jacqueline Ferguson Pierce - <i>present</i>	42 Wolfe Rd Lebanon, NH 03766	108	114	1/3/06
Katherine & Francis Ferguson - <i>present</i>	2 Bowen St, Claremont NH	109	1	1/3/06
Scott & Lorraine Frizzell	15 Bowen St, Claremont NH	109	2	1/3/06
West Slope Investment Trust	1125 Commonwealth Ave Boston MA 02134			1/3/06
D&R Limoges	286 Main St Claremont NH 03743	120	237, 238	1/3/06

Robert Landry	28 Pappas Rd Claremont NH 03743	120	235	1/3/06
James Jerry	PO Box 186 Plainfield, NH 03781			1/3/06

- Ms. Jacqueline Ferguson Pierce – voices concern regarding noise, specifically live entertainment, and the close proximity of the restaurant to her back bedroom. She states that the drive would not be a problem if used for residential use only but it would be a privacy issue if used for the restaurant and bar. Ms. Ferguson Pierce also expressed concerns regarding litter if used for access other than residence. Mr. McCutcheon states the drive would be used for residence and deliveries. The applicants are attempting to eliminate vehicle traffic between two buildings. Parking for restaurant in front of restaurant, employees may park in the Bowen Street parking lot, traffic flow can be controlled with signage, will do the best with all neighbors through whatever means necessary. Chair Hurd adds that the applicant will go to the Planning Board for site plan review. Tony Zhang clarifies that deliveries will occur only during the day. Chair Hurd adds that stipulations on the delivery time, within reason, can be added at the Planning Board level

Public Hearing Closed.

Board Discussion:

1. Mr. Dietz states that since the house has been there so long it should be used.
2. Chair Hurd questions if the house will be brought up to code. Mr. Coogan responds that the applicants cannot receive a building permit until the Variance is approved but the structure is structurally sound and the applicants intend to meet all building and fire codes.

Motion: to grant use variance and allow retail, restaurant, and single family residential multiuse.

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

III. Other:

- Mr. Coogan states that the Knight case will be completely re-noticed regarding keeping livestock. Mr. Dietz requests that the applicant complete the correct application. Area Variance application was previously used.

IV. Adjournment:

Motion: To adjourn

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

Adjournment at 9:10 pm.

Respectfully Submitted By,

Suzanne Ripka
Boards and Commissions Coordinator