



Zoning Board of Adjustment Meeting
Monday, July 2, 2007
Council Chambers, City Hall at 7:00 p.m.

Meeting Minutes

Meeting Called to order at 7:15 pm by Chair Hurd

Roll Call

Present: Robert Woodman, Jim Hanson, Michael Hurd, Tracy Pope, Heather Bopp

Absent: None

I. Report(s) of Secretary:

- Monday, June 4, 2007 Public Meeting Minutes

Motion to: Accept the meeting minutes of June 4, 2007 as presented

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

II. New Business:

- **(13-2007) Roger and Linda Perron, 6 Juniper Hill Road, Claremont, NH** – seeks Area Variance from Sections 22-209 (1) (5) of the City Zoning Ordinance in order to construct a garage approximately 3½ft from Juniper Hill Road where a 25ft set back is required. Tax Map: 133, Lot: 78, Zoning District: R1

Mr. Coogan advised that Mr. & Mrs. Perron started to build a garage and then it came to light that they did not have the proper setbacks. They are seeking two variances, 1 for the setbacks from the road and then another one from the buildings, the garage and the home. It is a clear cut application that will require 2 motions. Mr. McCutcheon has completed a survey. It is the applicant's job to prove to the board that this is the only logical place for garage to be.

Mr. McCutcheon passed out a board showing pictures of the property. The hardship is that when you go back further you will have steeper topography, but you would also have to have a retaining wall and there is a question as to how far back you can go before you will run into ledge. The pictures should speak for themselves.

Chair Hurd wanted to state for the record that he does business with the Perrons and wanted to be sure that no one has a problem with him hearing the application. There was no opposition from board or the applicant.

Ms. Perron advised that they know that if you go any further back you will run into ledge. She also knows that when the previous owner installed the pool they had to purchase 10 more ft because the pool did not meet the setbacks. She also stated that no matter where on the property you put the garage it will need a variance from the road.

Ms. Pope asked why it was so close to the house, she believes there is a requirement from the fire department requiring a fire wall. Mr. McCutcheon advised that they will be required to install a fire wall and they have already discussed this with the building inspector.

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

Vote: Mr. Woodman – Nay

Mr. Hanson - Aye

Mr. Hurd – Aye

Ms. Pope – Aye

Ms. Bopp - Aye

Motion to: approve the applicant’s request for an area variance under section 22-209 (5) of the Claremont Zoning Ordinance in order to allow for construction of a new garage on 6 Juniper Road, Tax map 133, Lot 78 6ft from the house where there is a 10 ft building separation requirement

Made by: Ms. Pope **Second:** Ms. Bopp **Vote:** Unanimous

The proposed activity will not diminish the value of the surrounding property

Vote: Yes – unanimous

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

Vote: Yes – unanimous

Do special conditions exist such that literal enforcement of the ordinance would result in unnecessary hardship to the owner because special conditions of the property limit the applicants proposed use of the property?

Vote: Yes – Unanimous

Do special conditions exist such that literal enforcement of the ordinance would result in unnecessary hardship to the owner because the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue without imposing an undue financial burden?

Vote: Yes – Unanimous

The granting of the variance will do substantial justice

Vote: Yes – Unanimous

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

Vote: Yes – Unanimous

- **(14-2007) Mr. John G. Olson, by his attorney, C. Nicholas Burke, 21 Charlestown Road, Claremont, NH** – respectfully request that the Claremont Zoning Board of Adjustment reconsider its decision on May 7, 2007, granting an Equitable Waiver from section 22-512 for the property located at 1 Charlestown Road, said property being shown as Tax Map 143, Lot 143. Property Owner: Brian Stowell.

Mr. Coogan advised that Attorney Burke has submitted a petition that he wants the board to reconsider the granting of the equitable waiver from March. His major premise is that granting the equitable waiver was premature due to the pending court case regarding the area variance that was granted back in November. Although the City Solicitor has advised that both applications can go on concurrently. Tonight you have to go through the findings that you made and see if there is a need to reconsider or reason for reconsideration. Chair Hurd advised that he does not feel that it was done prematurely, he feels that with the recommendation from the City Solicitor they can both be done at the same time and he feels that the board should not reconsider.

Motion to: not reconsider the decision for the Equitable Waiver

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

Ms. Pope feels that the applicant should have applied for an equitable waiver the first time around and it has now been corrected. Mr. Woodman advised that it was an honest mistake and he feels that the board should stick to its decision made in November.

- **(15-2007) Ralph Dyke, 35 Dustin Heights Road, Claremont, NH** - seeks Area Variance from Sections 22-209 (1) of the City Zoning Ordinance in order to replace an older mobile home with a new mobile home that is 3ft wider off of Dustin Heights Road 16ft from the property line where a 25ft set back is required. Tax Map: 69, Lot: 34, Zoning District: R1

Ms. Pope asked the applicant if he had a problem with her sitting on the board. The applicant advised that he did not have a problem with Ms. Pope hearing the application.

Mr. Coogan advised that Mr. Dyke has an older mobile home that he wants to replace which is a good thing although it is pre-existing as far as setbacks. Once you remove the mobile home you will lose your right to non-conforming status. He would like to remove the old mobile home and install another manufactured home that will be 3ft wider. There are significant wetlands on the site and approx 2/3 of the property is wetlands.

Mr. McCutcheon advised that Mr. Dyke was under the impression that he had 16ft where actually he has 4ft. Mr. Dyke lives off of what is called a paper street because it is not maintained by the City. The street will never be developed. Mr. Woodman stated that that road is used for a waterline that is under the street.

Mr. Mucutcheon advised that it will not be any closer to the street, but it will be 3ft wider. Mr. Woodman asked if he is going to leave the addition. Mr. Dyke advised that it is going to be removed. Mr. Woodman asked if he is going to turn it a little so he will gain more room. Mr. Dyke advised that they may turn it a little away from the street.

Motion to: approve the applicants request for an area variance from section 22-209 (1) of the Claremont Zoning Ordinance in order to allow for the replacement of the existing non-conforming mobile home on 35 Dustin Heights Road, Tax Map 69, Lot 34 four (4) feet from the property line.

Made by: Ms. Bopp **Second:** Ms. Pope **Vote:** Unanimous

The proposed activity will not diminish the value of the surrounding property

Vote: Yes – unanimous

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

Vote: Yes – unanimous

Do special conditions exist such that literal enforcement of the ordinance would result in unnecessary hardship to the owner because special conditions of the property limit the applicants proposed use of the property?

Vote: Yes – Unanimous

Do special conditions exist such that literal enforcement of the ordinance would result in unnecessary hardship to the owner because the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue without imposing an undue financial burden?

Vote: Yes – Unanimous

The granting of the variance will do substantial justice

Vote: Yes – Unanimous

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

Vote: Yes – Unanimous

III. Correspondence

- Notice of Decision for Eugene Lattuga, New Branch Properties
- Invitation to Planning Board Meeting to review corrected Zoning Maps

IV. Other

Last month the board had discussed sending a recommendation to the City Council on the need for a sprinkler ordinance.

Motion: The Zoning Board would like to see an ordinance passed for new construction of any home built. On remodels of 40% or more it should also be required.

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

Mr. Woodman stated he feels this will stop the problem of who does need and who doesn't need sprinklers. Ms. Pope advised that this is something that Peter Chase has been trying to have passed for a long time. She feels that if its part of the ordinance then it will be a mandatory thing. Mr. Woodman advised the cost is not that much compared to saving someone's life and they would also save on fire insurance.

Mr. Coogan advised that he is under the impression that in a year or so the requirement for sprinklers will be in the building code that the City follows. Mr. Hurd would like to have it passed now with the future development that will be brought into the City and not wait 5 years down the road.

V. Reports for Boards and Commissions

VI. Adjournment

Motion to: Adjourn

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

Meeting adjourned at 7:50 p.m.

Respectfully Submitted,

Michelle Aiken
Boards and Commissions Coordinator