



**Zoning Board of Adjustment Meeting**  
Monday, August 6, 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, Michael Hurd, Tracy Pope, Heather Bopp

**Absent:** Jim Hanson

Chair Hurd asked if any of the applicants had any objection to being heard by a four person board. Ms. Taylor wanted to make sure that all applicants under that they are required to have 3 affirmative votes among the four person board. If they have an objection their application could be heard at next months meeting. All applicants confirmed that they would accept a four person board.

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

- Monday, July 2, 2007 Public Meeting Minutes

**Motion to:** Accept the meeting minutes of July 2, 2007 as amended

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

Mr. Woodman advised that he would like the sprinkler motion changed to remove the word outside the last fire hydrant from the sprinkler ordinance request. Any home built outside the last fire hydrant, he thought he made it clear that he wanted to delete those 5 words of outside the last fire hydrant at the last meeting.

**II. New Business:**

- **(19-2007) St. Mary's Catholic Church, by Attorney, Richard Uchida, 16 Central Street, Claremont, NH** – respectfully requests that the Claremont Zoning Board of Adjustment remand the case involving St. Mary's Catholic Church appeal of the Historic District Commission's decision back to the Commission without prejudice with the purpose of the remand to submit additional information to the Commission. Tax Map: 119, Lot: 349, Zoning District: R2.

The church has requested that the board remand the case back to the Historic District Commission so that they can present new information to the Historic District

**Motion to:** move this application back to the Historic District Commission

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

- **(16-2007) Edward and Nancy Sirlin, 22 Michael Street, Lebanon, NH** – seeks Area Variance from Sections 22-209 (3) of the City Zoning Ordinance in order to construct a garage approximately 5ft from the side yard on 9 Clark Street where a 10ft set back is required. Tax Map: 129, Lot: 56, Zoning District: R-1. Owner of Record: Catherine MacKenzie.

Mr. Coogan advised that they did not have ownership of the property when the application was filed, although they do own the property at this time. They are requesting to build a garage that is 5ft from the property line.

Open Public Hearing

Ms. Bopp asked why he cannot move the garage over to meet the setbacks. Mr. Sirlin advised that it would not be aesthetically pleasing, it would not line up with the existing driveway. It is a small lot only 61ft wide. Mr. Woodman asked if the lot has been surveyed. Mr. Sirlin advised that the lot next door has been and he has located 3 of the pins. The realtors have provided a survey of the adjacent properties and he is quite certain about the boundaries. Mr. Woodman asked if it was a septic on site. Mr. Sirlin advised that it is on City water and Sewer. Mr. Hurd asked how far the house is from the road. Mr. Sirlin advised it is about 8ft, the driveway itself is within 5ft. Mr. Sirlin advised it is approx 72ft from the house and garage. He has spoke to the abutters and given the location of their houses they had no problems with his proposed garage.

Closed the public hearing

**Motion to:** approve the applicants area variance under section 22-209 (3) from the Claremont Zoning Ordinance in order to allow for the construction of a new garage on 9 Clark Street, Tax Map 129, Lot 56 5ft from the property line.

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

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

**Vote:** Yes – Unanimous (4-0)

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

**Vote:** Yes – Unanimous (4-0)

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 (4-0)

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 (4-0)

The granting of the variance will do substantial justice?

**Vote:** Yes – Unanimous (4-0)

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

**Vote:** Yes - Unanimous (4-0)

- **(17-2007) New Branch Properties, 729 East Road, Cornish, NH** – seeks Use Variance from Sections 22-266.5 (a) & 22-266.5 (d-2) for residential units on the 1<sup>st</sup> and 2<sup>nd</sup> floor and residential to non residential use ratio is 1.44% where a ratio of 2.0:1 is required at 30 and 38 Main Street, Tax Map 120, Lot 34&35, Zoning District: B-1

Mr. Coogan advised that this application is for the redevelopment of the buildings at 30 and 38 Main Street and now he is seeking a variance for special use. The staff made an error in not noticing this and this is the first time this has been invoked. He wants to put residential uses on the first floor. Also in the regulations it says you should have a ratio of 2 to 1 and he has a ratio of 4 to 1. At first we did not feel that it applied and due to collective reasoning it has come to light that he will need the use variance and area variance permits. It is a use variance for the residential uses on the first floor and an area variance for ratio of 2 to 1. Ms. Pope asked why it was not grandfathered. Mr. Coogan advised that the regulations are not clear and the way it appears is that once you remove the building you lose the ability to grandfather. City Staff felt it was important that this was clarified. If it a new permitting process and he is going to the Planning Board for a site plan and could not do it if he wanted to put residential on the first floor. Mr. Coogan advised that part of the judgment process is to look at what is there today and what is being proposed.

Mr. Lattuga advised that nothing has changed since he was here last month. There is currently residential use on the first and second floors of the building. There will be commercial space in one part of the building. There will be a unit on the back that will have a residence up and down and the carriage house will have residence on the first and second floor. The carriage house will be just residential and the other building will have residential on the 1<sup>st</sup> and second floor and

commercial on the first floor in the front. Mr. Woodman asked if the building in the back is going to be lowered. Mr. Lattuga advised that the one that backs up to the church will be removed and then the area will be excavated down. Mr. Woodman advised that the area is quite hard, a lot of ledge. Board looked over plans from the previous meeting to clarify where the residential units will be located.

Open Public Hearing on both Variance Applications  
No one from the public appeared.

Closed Public Hearing

**Motion to:** approve the applicant's request for use variance in order to allow for redevelopment of the two parcels (Tax Map 120, Lots 34 and 35) and construction of a new building. The applicant seeks relief from section 22-266.5(a) (residential use on 2<sup>nd</sup> and 3<sup>rd</sup> floors) of the Claremont Zoning Ordinance

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

The proposed use will not diminish surrounding property values

Vote: Yes – unanimous (4-0)

The granting of the variance will not be contrary to the public interest

Vote: Yes – unanimous (4-0)

Denial of the variance would result in unnecessary hardship to the owner because of the zoning restrictions as applied to this property, interferes with the applications reasonable use of the property considering the unique setting of the property in its environment

Vote: Yes – unanimous (4-0)

No fair and substantial relationship exists between the general purpose of the zoning ordinance and the specific restriction on the property

Vote: Yes – unanimous (4-0)

The variance will not injure the public or private rights of others

Vote: Yes – unanimous (4-0)

The granting of the variance will do substantial justice

Vote: Yes – Unanimous (4-0)

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

Vote: Yes – Unanimous (4-0)

**Motion to:** approve the applicant's request for an area variance in order to allow for the redevelopment of the two parcels (Tax Map 230, Lots 34 and 35) and construction of a new building. The applicant seeks relief from and section 22.266.5 (d-2)92.0 to 1 ratio of residential to non-residential uses) to of the Claremont Zoning Ordinance

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

The proposed use will not diminish the surrounding property values

Vote: Yes – unanimous (4-0)

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

Vote: Yes – unanimous (4-0)

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 uses of the property

Vote: Yes – unanimous (4-0)

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 (4-0)

The granting of the variance will do substantial justice

Vote: Yes – Unanimous (4-0)

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

Vote: Yes – Unanimous (4-0)

Mr. Lattuga just wanted to thank the board and he assured everyone that they will be upscale units. He would like to say that he appreciates the effort. Mr. Lattuga stated that he was a Zoning Administrator and he was involved with the planning commission, 5 of those he was chairman and he went to planning and zoning meetings representing clients for 20 years. He knows what Zoning is and he knows a lot about Zoning. They started this process in December of 2006. He approached Mr. Coogan about this, they were making this a more confirming use, he is adding acreage, they are providing parking and there was no reason to come to this board. Mr. Coogan was then overruled by the city attorney. He came because it was cheaper and quicker than fighting the City Attorney and by the time they get all the permits together they will not get started until October. For a city that touts itself as wanting development they make it hard for anyone to redevelop. He would appreciate someone pointing this out and he needs some help getting this solved. If you want some development changes there has to be some changes to the process. He has spoken to Mr. Santagate 5 years ago and asked if he was working on a fast track to get development here and he was told there would be and there is still no way to get things done quickly. He thanked the board and advised he appreciated the time of the board.

- **(18-2007) Sherra and James Carr, 152 Elm Street, Claremont, NH** – seek a Special Exception from Sections 22-227 (1) of the City Zoning Ordinance in order to add a hair salon to the property of 2 Severance Street. Tax Map: 132, Lot: 207, Zoning District: R2.

Mr. Coogan advised that Mr. and Mrs. Carr are in the process of purchasing this property and under the home occupation ordinance they must be the owners of the property before they can obtain this permit. Due to the change of use it brings up the issue of parking since the property was previously a two family residential unit. The property has 5 bedrooms and it would need about 2½ parking spaces each and it should need about 10 or 11 parking spaces. They currently have a two car garage and that would count towards those spaces. Those are the concerns of the staff and the applicant will need to prove to the board that they have adequate parking. Mr. Coogan also noted that at 9 Severance St there was a Hair Salon for about 25 years, although the woman passed away.

Ms. Pope asked if the water usage has changed. Mr. Coogan advised that they will be required to contact the water department.

#### Open Public Hearing

Mr. Carr advised that they are days away from closing on this property and they want to be sure that they will be able to have the salon in their home. Mr. Carr passed out photos of the property. Mr. Woodman asked if the photo with the truck asked if it slopes off, Mr. Carr advised that this is the lawn. Mr. Woodman advised that if they take out some of the shrubs and lawn they would have enough room for the parking that they need. In the back of the building would be parking for the upstairs tenants and there is a possibility of 13 spaces. Mr. Carr advised he wanted to talk about the email sent to Katrina Spaulding and he wanted to let them know that this is not a big salon, there is clientele and people do not just walk in. The parking problem can be solved; on the last page of the photos he passed out he showed where the salon would be in an area of 13X16. They are not going to change anything on the exterior with exception of adding some parking. Ms. Carr advised that she is an existing business and she does not feel that she has ever been a nuisance to anyone and would be an asset to the neighborhood. A letter from the current owner of the property was provided and Mr. Hurd advised that only with the ownership of the property would they be able to have the salon in the property.

Mr. Martin Davis advised that he lives at 40 Severance Street and he is concerned about the appearance of the neighborhood and safety. He has some questions about the ordinance and the regulations. He has a question on setbacks on a corner lot. Ms. Pope advised him that the property already exists and the setbacks would only come into play if they

were building something new. The parking for the tenants they are proposing has been very informal and it is about a 15ft depth in the back. He is not opposed to this parking although he would like it to be done in a more formal way. Chair Hurd advised that with the provisions of the Salon they will be required to have 10-11 spaces and there is a 2 car garage and there are also some existing spaces. They can also use street parking during the day and there is plenty of lawn space where they can add the additional spaces. For commercial use of the building they can prove that they can put all the required parking in their property and they can also use the street for parking. Mr. Davis advised that there are lots of children and activity on these streets and this is a safety issue.

Ms. Bopp asked how long Mr. Davis lived at the property. Mr. Davis advised that he has lived at the property for 20 years. Ms. Bopp asked how the previous salon worked in the neighborhood. Mr. Davis advised that the salon at the other property was fine because they had adequate parking. If the board does not specify where parking takes place he is afraid that people will park irregularly. Ms. Pope advised that the Carrs have advised that they look forward to being good neighbors and this board cannot make them do anything other than what is required in the ordinance. Ms. Taylor wanted to clarify the parking requirements. There are parking requirements in the ordinance for setbacks for driveways but it is only in the R-1 district and this is the R2 district and it does not apply here.

Mr. Davis wanted to address the properties value issue. The Carrs have advised him that they do not intend to remove the white pine barrier. The one question that has come up is that the business sign at 9 Severance was quite discrete. Chair Hurd advised the cosmetology board has a minimum and the city has a maximum and Ms. Carr's sign is within those guidelines and quite discrete. It would be something that will fit in with the neighborhood.

Mr. Carr advised that he would like to touch on some of the things that Mr. Davis mentioned. They are only open Tues to Sat and the latest they are open until 6:00 on Thursday and Friday night and the earliest they start is one day at 8:30am. With the appearance of the property, there are a line of shrubs that they plan on keeping and they will keep it in because they do like their privacy. They are going to take their old sign down, apply a fresh coat of paint and use the same sign. Ms. Bopp wanted to be sure that it is clear that on a good day there will be a lot of people coming in and out of there and it will not be just one car at a time. Mr. Woodman asked if this business is by appointment only. Mr. Carr advised that it is by appointment only. Ms. Pope asked about very high fence on the property that was of concern by the neighbor. Mr. Carr advised that this is around the pool.

Closed the public Hearing

**Motion to:** approve the applicant's request for Special Exception under Section 22-227 (1) to establish a home occupation at 2 Severance Street for a hair salon with the have a site plan approved by the City Planning Office.

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

The specific site is an appropriate location for such a use

Vote: Yes – Unanimous (4-0)

Property values in the district will not be reduced by such a use

Vote: Yes – Unanimous (4-0)

No nuisance or unreasonable hazard shall result

Vote: Yes – Unanimous (4-0)

No adverse traffic impact will result from such a use

Vote: Yes – Unanimous (4-0)

Adequate and appropriate facilities will be provided for the property operation and maintenance of the proposed use, including water, sewer and parking

Vote: Yes – Unanimous (4-0)

No adverse impact on the view, light and air of any abutter will results

Vote: Yes – Unanimous (4-0)

The 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

Vote: Yes - Unanimous (4-0)

Such a use would not be detrimental to the public health, safety and general welfare

Vote: Yes – Unanimous (4-0)

### **III. Correspondence**

- Notice of Decision for Roger & Linda Perron, 6 Juniper Hill Road
- Notice of Decision for Attorney Nicholas Burke, John Olson, 1 Charlestown Road
- Notice of Decision for Ralph Dyke, 35 Dustin Heights Road
- Planning Commissioners Journal, Summer 2007 Roadways
- Save the Date : OEP Fall Conference

### **IV. Reports for Boards and Commissions**

Mr. Coogan advised that the Master Plan survey is online starting tomorrow. Hard copies can be obtained from the Planning Office which in turn the Planning office will enter it on line for them. But the preference is for people to do their own. Is there a designation on who can fill out the survey. Mr. Coogan advised that there is a question on there for people to advise what their position is in Claremont, a homeowner, renter, stake holder, etc

### **V. Adjournment**

**Motion to:** Adjourn

**Made by:** Ms. Pope

**Second:** Ms. Bopp

**Vote:** Unanimous

Meeting adjourned at 8:45 p.m.

Respectfully Submitted,

Michelle Aiken

Boards and Commissions Coordinator