



Zoning Board of Adjustment
Monday, September 6, 2005, 7:00 p.m.
Council Chambers, City Hall, Claremont, NH

MINUTES
Accepted 11/7/05

Meeting called to order at 7:00 p.m. by Mr. Woodman.

I. Roll Call:

Present: Robert Woodman, Michael Hurd, Tracy Pope, Richard Dietz, Deborah Snelling, Erwin Caplan, Don Lavalette

Absent: Michael Hurd (Chair)

Staff: Jane Taylor, City Solicitor; Gerald Coogan, AICP, City Planner/Zoning Administrator

II. Appointment of Alternates

- o Mr. Woodman appointed Mr. Caplan for Chairperson Hurd

III. Report of Secretary

- o Minutes of August 1, 2005 meeting

Motion: To approve the minutes of August 1, 2005 and August 22, 2005 as presented.

Made by: Mrs. Pope **Second:** Mr. Dietz

Vote: Unanimous

IV. New Business and Related Public Hearings:

A. Faith Pregno and Tammy Crossley, 14 First Street, Claremont, NH –desire to construct a two car garage with an apartment above. The applicants are seeking an area variance from Section 22-231 of the Claremont Zoning Ordinance. Tax Map: 121, Lot 56; Zoning District: R-2.

Open Public Hearing:

Abutters list read.

Present: Applicant

Mr. Coogan presented the request to the Board and explained their prior application was withdrawn.

The applicant approached the Board and explained she would like to put an apartment above her garage for her mother. The current structure is 23 feet. She would like 24 feet by 24 feet. This would be one foot over to the left towards the house. The existing structure would be smaller than the new structure. Mr. Woodman questioned when the mother passes, what are the applicants' plans for the apartment? The applicant responded she had not thought that far ahead. Mrs. Pope said even if the restrictions were placed in the deed, when the home is sold, the new owners have an apartment they will want to rent and they fear the City would not realize it was to be rented to a relative. She also said the lot is currently nonconforming with the present dwelling and adding to that would not be beneficial to the zoning ordinance.

Mr. Coogan stated that if the applicant wants to sell the property she has to disclose the in-law apartment to the realtor in the offer for sale. Mrs. Pope responded that the city does not check up on them. Attorney Taylor stated that a deed restriction is enforceable; however, it is questionable how it would be done. Mr. Caplan said at the time a property is listed for sale, the owner (s) has (have) to disclose any and all information. Mr. Dietz stated he felt they needed to deny the application as it is currently a nonconforming lot and approval would make it more nonconforming which is contrary to the *spirit of the ordinance*.

Close Public Hearing

Motion: To deny the application for the reason that is not is contrary to the spirit of the ordinance and it would make it more nonconforming.



Made by: Mr. Dietz
Vote: 4-1, motion passes

Second: Mrs. Pope

Roll Call Vote:

Ms. Snelling yes
Mr. Caplan yes
Mr. Dietz yes
Mrs. Pope yes
Mr. Woodman no

Reconsider vote:

Made By: Mrs. Pope **Second:** Mrs. Snelling

Vote: Unanimous

Motion: To deny the application for the reason that is not is contrary to the spirit of the ordinance and it would make it more nonconforming.

Made by: Mr. Dietz

Second: Mrs. Pope

Vote: 4-1, motion passes

Roll Call Vote:

Ms. Snelling yes
Mr. Caplan yes
Mr. Dietz yes
Mrs. Pope yes
Mr. Woodman no

B. Susan Tarczewski, 52 High Street, Claremont, NH –seeks relief from Section 22-229 (3) of the Claremont Zoning Ordinance to construct a deck approximately

Open Public Hearing:

Abutters Roll Call

The deck was constructed and it is unknown if a building permit was issued. It was an existing concrete stoop and there was sill damage. A contractor was hired to demolish the stoop and repair the sill. There is a handicapped tenant in the apartment and it is handicapped accessible. A 7 foot fence is between the abutting properties. Mrs. Pope asked if the deck is larger than the stoop. He responded it was not wider. There is a shared driveway and there is access to the deck from the driveway. No neighbor complaints were made to his knowledge. Mr. Coogan stated the contractor became aware it did not meet the setbacks and an application was made at that time.

Close Public Hearing

Motion: To approve the application with the five criteria as it doesn't extend any further closer to the property line than the main structure does now and it appears to have been an honest mistake.

Made by: Mr. Dietz

Second: Mrs. Pope

Vote: Unanimous

Roll Call Vote:

Ms. Snelling yes
Mr. Caplan yes
Mr. Dietz yes
Mrs. Pope yes
Mr. Woodman yes

Motion passes.

- C. Brian and Tina Johnson, 67 High Street, Claremont, NH**—seek relief from Section 22-239 (3) of the Claremont Zoning Ordinance to construct a two car garage approximately 8 feet from the side of the lot line on 67 High Street. The requirement is 10 feet. The applicants are also seeking an area variance from Section 22-229 (4) of the Claremont Zoning Ordinance to construct a two car garage approximately 18 feet from the rear of the lot line. The requirement is 25 feet. Tax Map 120, Lot 144, Zoning District R2.

Open Public Hearing:

Abutters Roll Call

Present: Applicant

Mr. Coogan presented the applicants request to the Board. Mrs. Johnson stated this would be more useful to them and the cost of rebuilding is about the same. Mr. Dietz asked where the driveway was and she responded it was in front of the garage, off of High Street.

Close Public Hearing

Motion: To approve the application and grant both setbacks. Proposed work increases existing structure building setbacks and removes property that is in disrepair. The proposal meets the five criteria for a variance. *(Mrs. Pope read the five criteria for a variance.)*

Made by: Mrs. Pope

Second: Mr. Dietz

Vote: Unanimous

Roll Call Vote

Ms. Snelling yes

Mr. Caplan yes

Mr. Dietz yes

Mrs. Pope yes

Mr. Woodman yes

- D. Chris and Kim Gogan, Grannis Street, Claremont, NH** are appealing an administrative decision made by the Chief Building and Code Enforcement Officer to deny the applicants building permit application to construct a modular home. The denial was based on Saf-C 3311.01 Building Permits for Certified Modular Homes that include the installation of a certified modular home. Tax Map: 69, Lot: 39; Zoning District R-1.

Open Public Hearing:

Abutters Roll Call

Present: Applicant

The Chief Building and Code Enforcement Officer (Building Inspector) was told by Chairperson Hurd he did not need to be present as Mr. Coogan and Attorney Taylor would be. Mr. Coogan explained the request of the applicant. The applicant submitted a permit for the footing and foundation which was approved. He declined to pick up the permit application. They feel it would be inappropriate to overrule this decision as it will set precedence. The City feels very strongly that the building inspector's decision should be upheld.

The applicant stated that they understand the denial and it was based upon the CEO. The certified third party review plan is required for modular homes. They are appealing the Building Inspector's decision because it doesn't state when the review needs to be done. The plan submitted has very specific detailing of the structure. It shows the floor, wall and roofing systems. A spec sheet was also submitted. Per the applicant, it is not a state regulation these plans are reviewed prior to the permit being issued. They were not familiar with Saf-C 3311.01, which was read and explained to them by Attorney Taylor. The applicant explained the financing would be 100% by bank loan but they question if the permit can be given prior to the plans being done. Mr. Dietz questioned why an engineer will not stamp the plans or provide a letter stating it meets the Claremont Codes. She responded the manufacturer designs the plans, does the structure and they are then loaded and sent to a third party. A letter can not be issued until the loan is closed on and that can not be done

V. Old Business:

- **Jim and Joanne Rogers, 308 Jackson Road, Cornish, NH**—requesting a rehearing on the affirmation of an Administrative Decision and denial of an Area Variance. Map 87, Lot 1; Zoning District: AR

Mr. Woodman recused himself. Mr. Lavalette to sit in for Mr. Woodman.

Attorney Taylor stated the Board is not the same as the one that heard the application. The applicant requests to continue to the October meeting.

Motion: To continue the application of Jim and Joanne Rogers

Made by: Mrs. Pope **Second:** Mr. Caplan

Vote: Unanimous

VI. Adjournment:

Motion: To Adjourn

Made by: Mrs. Pope **Second:** Mr. Caplan

Vote: Unanimous

Meeting adjourned at 9:15 p.m.

Respectfully Submitted,

Tracey Hagerman
Recording Secretary