



**Zoning Board of Adjustment Meeting**  
Monday April 6, 2009  
Council Chambers, City Hall at 7:00 p.m.

**Meeting Minutes**  
*Approved 5/04/09*

Meeting Called to order at 7:00 pm by Chair Hurd

**I. 7:00 PM - Roll Call**

**Present:** Robert Woodman, Jim Hanson, Michael Hurd, Ed Friedman

**Absent:** Pierre Caouette, Carolyn Towle

**City Staff:** Ed Tinker, Director of Planning and Development; Jane Taylor, City Solicitor; Katrina Spaulding, Administrative Assistant

**II. Appointment of Alternates**

Chair Hurd Appointed Ed Friedman to sit for Pierre Caouette.

**III. 7:05 PM - Public Meeting Minutes: March 2, 2009 Meeting Minutes**

**Motion to:** Accept the March 2, 2009 Public Meeting Minutes

**Made by:** Ed Friedman                      **Second:** Jim Hanson                      **Vote:** Unanimous

**Motion to:** Acceptance of Site Visit Minutes from March 25, 2009

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

**IV. 7:15 PM – Old Business**

- **(ZO2009-00003) Travis DeCamp, 260 North Street, Claremont, NH – Continuation** – seeking a Use Variance from Sections 22-206 of the City Zoning Ordinance in order to operate a trash disposal and recycling business at **260 North Street**. Tax Map: 95, Lot: 24, Zoning District: R-1.

Chair Hurd asked if Mr. DeCamp wanted to be heard by a 4 member board. Mr. DeCamp gave his approval of a four member board. Chair Hurd clarified there needs to be 3 affirmative votes for the motion to pass.

Mr. Tinker discussed the Site Visit of March 25<sup>th</sup>. Applicant is looking for a use variance of RSA #674:33. The facility is surrounded by primarily residential property. There was previously a D.E.S. complaint on this property however it was regarding a swimming pool and the area filled in for the pool. This has been remedied with the D.E.S. The issue of water runoff of the truck will be taken care of as Mr. DeCamp will be taking the truck to an offsite location to be rinsed every day the truck is used. The City will recommend that the applicant consult with DPW as a condition of the approval for safety purposes. DPW can verify the current driveway is accommodating for entrance and exit safely. The truck needs to be visually screened to conceal its appearance and no other storage is permitted outside.

Mr. DeCamp feels all the issues the Board previously wanted to be addressed have been taken care of. He has owned the truck for almost 3 years and has had no difficulty getting in and out of the driveway. With inclement weather he tries to take the approach from Main Street upward to the driveway. Mr. Hanson asked what the width of the driveway cut might be. Mr. DeCamp wasn't actually sure of the exact width. Mr. DeCamp mentioned his line of sight leaving the driveway is clear in both directions. Mr. Hanson mentioned a possibility of a "Truck Entering" sign be installed at the top of the hill.

Mr. Hanson asked about screening the truck. Mr. DeCamp plans to place the truck behind the garage and there won't be any visibility of the truck. Mr. Hurd wanted to make sure the abutting neighbors are not seeing the truck from their locations.

*Open public hearing*

Nicholas Koloski wanted to give a personal reference for Travis DeCamp and expressed his support for what Mr. DeCamp intends to operate.

Chair Hurd and Mr. Friedman mentioned only there should only be two employees operating the business and only personal trucks, other than the one business truck, are to be stored in the driveway.

Mr. Friedman asked if there was any permit required for the truck to be lettered. Mr. Hurd said it would have to be lettered and registered with D.O.T.

Mr. Woodman asked if the variance would go with the property. The variance will go with the property not the owner. Mr. Woodman is opposed to this.

*Public hearing closed*

Review Criteria:

The value of surrounding properties will not be diminished? Chair Hurd felt that a processor being there for a week is not going to diminish the values of the property – Consensus

The variance will not be contrary to the public interest? Consensus

Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship. The zoning restrictions as applied interfere with the landowner's reasonable use of the property, considering the unique setting of the property in its environment; Location this use fits best. Consensus

No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property as applied to this specific parcel? Consensus.

The variance would not injure the public or private rights of others – Consensus.

Substantial justice is done? The public health will be protected by the trucks being cleaned prior to parking. Consensus.

The variance is consistent with the spirit of the ordinance and does not interfere with the underlying purpose of the restriction - Consensus.

Chair Hurd asked if the title is deeded for the Variance, will this stay with the property. It will mean whoever is purchasing will know this is on the deed. Another owner could continue the same use.

**Conditions Precedent**

- The applicant will provide evidence to the Planning and Development Department that they have considered and if necessary remedied, in consultation with the City of Claremont Department of Public Works, any driveway access issues pertaining to both safe entrance onto North Street and using the proposed size of truck with the existing driveway entrance.

**Conditions Subsequent**

1. The trash disposal and recycling business will be incidental to the residential use.
2. The number of trucks permitted to be stored on-site is limited to two commercial, solid waste, business related trucks.
3. All trucks will be stored on-site empty of waste and be kept clean to minimize foul odors and any attraction for vermin.
4. Trucks will be washed off-site to comply with NHDES.

5. No compacting trucks may be stored on-site.
6. No more than two (2) employees are permitted to work on site.
7. No exterior storage is permitted with the exception of the two trucks according to the conditions above.
8. On-site commercial dumpsters are prohibited.
9. Any signage must comply with the City of Claremont Zoning Ordinance, Article 22 Section 22-604.
10. The variance will be recorded in the chain of title for the property with the Sullivan County Registry of Deeds.

**Motion to:** Grant the Variance from Sections 22-206 of the City Zoning Ordinance in order to operate a trash disposal and recycling business with all conditions listed above.

**Made by:** Mr. Hurd

**Second:** Jim Hanson

**Vote:** Mr. Woodman - Nay  
 Mr. Hanson – Aye  
 Mr. Hurd – Aye  
 Mr. Friedman – Aye

#### V. 7:30 PM - New Business

- o **(ZO2009-00006) Phillip Osgood, 19 Whitcomb Lane, Claremont, NH** – seeks approval to expand a nonconforming use at **96 Summer Street** to increase the amount of space used as automotive repair. Tax Map: 131, Lot: 41 Zoning District: R-2.

Mr. Osgood gave his approval of a four member board.

Mr. Hanson said he is a personal family friend and wanted to see if the board and the applicant were ok with him remaining on the Board. Everyone has approved of Mr. Hanson staying on the Board.

No Abutters Present

Mr. Tinker said the project description includes an addition as well as a new roof structure over the entire building with a new pitch. There is a courtyard between his two buildings and this area will be enclosed to work on larger vehicles such as motor homes.

The City is concerned with the storm water runoff and how it will be affected by the new roof. The runoff will be directed to the east and west of the property and this will create a decrease in the concentration of water runoff. There should be no increase in water merely a redirection. The applicant must be sure the conditions are met:

1. Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.
2. There will be no nuisance or serious hazard to vehicles or pedestrians.
3. Adequate and appropriate facilities (i.e., water, sewer, streets, parking) will be provided for the proper operation of the proposed use.

Mr. Osgood said the roof on the summer street side doesn't have a drain and is flat. There is no drain on that roof and the water runs off all four sides. The easterly side already has a pitched roof in between a cement wall that is 36 inches from the side of the building and the existing building. There is a cement walkway and the water runs to the parking lot and from the center of the parking lot out into the street.

Mr. Osgood said this will be done in phases. The pitched roof and the new bay which will increase the interior space, but not the working space they are currently using. This will create a higher ceiling for maintenance of the market of larger vehicles. He wants to close it in and there will be no more heating system requirement and no more water usage. There

will be a loss of one parking space. Mr. Osgood purchased the abutting multi family and has gained 4 more parking spaces during the day time hours.

Phase 2 will be slanting the roof towards Pearl Street creating a roof that is flat enough to keep the snow from falling off the roof. Structure of the flat roof is strong enough to support the snow. He intends to put asphalt on the roof when completed.

Mr. Hanson stated there is only one drain on the hill and any improvements or changes need to ensure the water stays on site. Diverting it towards the storm drain is not recommended. There is a drywell on the property however Mr. Hanson mentioned it doesn't work very well. If there were gutters on the building there needs to be a place to direct the water to. Regardless there will be more water on the property. Mr. Osgood said the parking lot was originally designed too low and has been a problem.

Mr. Osgood said this summer the dry well is due to be dug out. The silt needs to be removed and following that it works quite well. Mr. Osgood said he wouldn't be opposed on holding off on phase 2 until there is a place to send the water. Mr. Hanson said the plans for the City working on Summer Street are not definite.

Chair Hurd felt if the applicant installed a French Drain there may be a way for the City to pick up the water. Mr. Hanson said Pearl Street is going to take the brunt of the water. Mr. Osgood said he has never seen the storm drain go beyond what it could handle.

The applicant is not required to have a storm runoff plan. However, Mr. Tinker feels this could be discussed with DPW. Chair Hurd asked if Mr. Osgood wouldn't mind continuing the application so the Board can collect some information on the runoff from DPW or another source.

**Motion to:** Continue to the May meeting in order to collect more information on the impact of the water runoff.

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

- **(ZO2009-00007) Maurice Joyal, 1 Carriage Drive, Acton, MA** – seeks an Area Variance from Section 22-229 of the City Zoning Ordinance in order to construct a second means of egress for a multi-family building as required by the Fire Department at **23 Lincoln Heights**. Tax Map: 108, Lot 61, Zoning District R-2.

Mr. Joyal gave his approval of a four member board.

Mr. Tinker stated the applicant is applying for a second means of egress for a multifamily property. The proposed location is within the front building setback. There is a driveway located in close proximity to the proposed construction and the City recommends a fence and concrete bollard to protect the landing from vehicle damage and safe egress.

Mr. Tinker said this is the most feasible option for a second means of egress from the building and pertaining to Zoning perspectives.

*Open public hearing*

Mr. Joyal, the property owner, said the property was purchased by his father in 1923. The Fire Department has been requiring many upgrades and he has complied with all requests. The only outstanding item is the second form of egress. Sprinklers were considered but are not feasible. There is one tenant living in the building. The Fire Department said he can't rent the other apartment on the second floor and hasn't since May 2008. This is becoming quite costly for Mr. Joyal. This will allow him to rent to another tenant.

The option of a front stair for egress would be encroaching on City property. This plan is the construction option with the least amount of impact. Mr. Friedman asked if would be covered. Mr. Joyal said it hasn't been required.

*Public hearing closed*

Review Criteria:

1. Does the proposed use maintain the value of surrounding property? Consensus
2. Would granting the variance be in accord with the public interest or, in other words, would granting the variance be in agreement with the objectives of the zoning ordinance? Consensus
3. Would denial of the variance result in unnecessary hardship to the applicant because:
  - a. There are special, unique conditions of the property itself such that the proposed use cannot be made without a variance? Consensus
  - b. The applicant cannot achieve the intended result by another reasonably feasible method, other than through the granting of an area variance? Consensus
4. Will granting the variance result in substantial justice? (Is the loss to the applicant outweighed by the benefit to the public if the variance were denied; would granting the variance threaten the public health, safety or welfare?) Consensus
5. Is the use in accord and not contrary to the spirit and intent of the ordinance and does not interfere with the underlying purpose of the restriction? Consensus

*Condition:*

1. A concrete bollard and fence will be installed between the stairway landing and the driveway in order to protect the egress and those using the egress from vehicle traffic damage and personal injury.

**Motion to:** Grant the Variance to construct a second means of egress with the above City's Condition being met.

**Made by:** Mr. Woodman

**Second:** Mr. Hanson

**Vote:** Unanimous

- **(ZO2009-00008) Joanne Jaworski/Harry Chesley, 358 South Hemlock Road, Charlestown, NH** – seeks an Area Variance from Section 22-169 of the City Zoning Ordinance in order to construct a second means of egress for a multi-family building as required by the Fire Department at **72 Sullivan Street**. Tax Map: 119, Lot 267, Zoning District RR.

Harry Chesley gave his approval for a 4 member board.

Abutters Present:

Merton and Kathleen Thompson

Alphonse Belanger

Mr. Tinker said the egress is proposed in the rear of the building. Landing will be located on the parcel. There is a limited amount of area for construction. The landing will be built into the parking lot and should consider a fence and concrete bollard to protect the landing from vehicle damage.

The egress should be located on the applicant's parcel. It appears from the applicant's diagram that the proposed landing is located on the parcel; however, it is unclear how far into the setback the landing is located.

*Open public hearing*

Harry Chesley said he plans to bring the stairs 4' off the building and the deck needs to be 3' x 4' to meet code. This may eliminate one parking space and depending on how the stairs are built it could cut into the side yard setback or the rear setback. This will be a fire egress only. Without pillars there could potentially be a parking space under the stairs. It will be built far enough away from the other exit to meet code. This will be parallel and about 13-14 feet to the closest part of the property line.

Chair Hurd stated he would like to see the exact property line locations so it is clear what the distances are from the property line. This would allow for a clearer picture for parking spaces and distances from property lines.

Chair Hurd recommends the application be continued to the May meeting for the purpose of clarifying the boundary line locations.

*Public hearing closed*

**Motion to:** Continue to the May 4th meeting

**Made by:** Chair Hurd

**Second:** Jim Hanson

**Vote:** Unanimous

- **(ZO2009-00009) Claremont Lock & Key, 65 Pleasant Street, Claremont, NH** – seeks a Special Exception from Section 22-207 (1) of the City Zoning Ordinance in order to conduct a Home Occupation at **24 Dartmouth Street**. Tax Map: 121, Lot 24, Zoning District R-1.

Mr. Veale accepts a 4 member board.

Mr. Tinker read the Planning Considerations:

**Planning Considerations:**

The following elements should be considered when evaluating a home occupation:

1. A home occupation shall be ordering or receiving advice, a product, a repair or service.
2. A home occupation shall be conducted entirely within a dwelling or an accessory building to a dwelling.
3. Not more than two (2) persons who are not residents of the premises may be employed.
4. Such use must not change the residential character of the dwelling, and must create no nuisance, odor, noise, glare, vibration noticeable off premises, or safety hazard.
5. There shall be neither outside storage of materials, display of stock in trade, nor sale of articles not made or assembled on premises. A home occupation relates to the activity of a specific occupant and does not run with the land.

Additional Considerations: Sight distance where the applicant's driveway intersects with Dartmouth Street which should be considered for adequacy and safety due to the sharp corner, volume of customer traffic to ensure safety and character of the neighborhood, adequate parking for customer use.

#5 Relates to the home occupation and the City is saying it should be specific to that use only. The use needs to be limited to the lock and Key business only. Chair Hurd states that this cannot be interpreted literally. Mr. Tinker says it is only a condition to keep the Applicant from doing other things on the property.

*Open public hearing*

Mr. Veale spoke to say the goal is to continue to have the space on Pleasant St. and have a drop off and pickup area at the Pleasant Street location. Phones will be moved to Dartmouth Street. Larger work will be done there for locksmithing but there won't be a lot of retail.

Chair Hurd asked how much walk in traffic will be anticipated. Mr. Veale said once or twice a day. There will be one room for office space and personal use and another room for lying out of keys and these will be hung on the wall.

Chair Hurd asked how much parking is there onsite. Mr. Veale figures there is room for 5 or 6 cars. The box van for the business is currently parked there on the property. This vehicle is inoperable at this time.

Elizabeth and Chris Miller, neighbors of the applicant and wanted to state they encourage the small business. They are concerned about the traffic in the area and there are a lot of small children and animals. They are not worried about his trucks rather than the business traffic.

Chair Hurd asked if there would be a sign and Mr. Veale said they would not have an exterior sign for advertising purposes. There will be a work space and office space located in the home. Mr. Friedman asked if this would be permanent and Mr. Veale said he didn't want it to be. This would be an immediate move once approved according to Mr. Veale.



- **Discussion of Draft Bylaws with City Attorney Jane Taylor** – Jane Taylor opted to withdraw until the next meeting

**Correspondence**

- **Email from Mayor Deborah Cutts**
- **Notice of Decision** – Mr. Roy Barnes, 80 Bible Hill Road, Claremont
- **Notice of Decision** – Claremont Savings Bank, 145 Broad Street, Claremont

**VI. Other** - Chair Hurd asked if the Planning Board could be asked to review the Home Occupations criteria.

**Motion to:** Adjourn

**Made by:** Mr. Woodman

**Second:** Jim Hanson

**Vote:** Unanimous

**Meeting adjourned at 10:00 p.m.**

**Respectfully Submitted,**

**Katrina Spaulding**

**Administrative Assistant**