



**Zoning Board of Adjustment Special Hearing**  
Monday, July 6, 2009, 7:00 p.m.  
City Council Chambers, City Hall, Claremont

**Meeting Minutes**

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

**Roll Call**

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

**Absent:** Carolyn Towle

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

**I. Review Meeting Minutes:** June 1 and 15, 2009 Meeting Minutes

**Motion to:** Approve minutes of June 1, 2009 as submitted

**Made by:** Pierre Caouette

**Second:** Jim Hanson

**Vote:** Unanimous

**Motion to:** Approve minutes of June 15, 2009 as submitted

**Made by:** Pierre Caouette

**Second:** Jim Hanson

**Vote:** Unanimous

**II. New Business**

- **Claremont Savings Bank request for fencing material substitution related to their March 2, 2009 approved Special Exception** from Sections 22-553 (**ZO2009-00005**) of the City Zoning Ordinance in order to build an emergency generator that will exceed permitted noise levels at **145 Broad Street**. Tax Map: 120, Lot 118, Zoning District B-1.

**Project Description:**

The applicant is requesting a Special Exception under Section 22-553 of the Claremont City Zoning Ordinance for the purpose of constructing an emergency generator that will exceed noise level standards. Access to the site is from Broad Street.

They will choose a compatible color. Two side of the enclosure will be chain linked fence. Ed Friedman asked if the material was pressure treated. Stan Woodman said it is a plastic material. This is just a change in material and doesn't require approval. It is just a preliminary procedure.

Enclosure does have bollard posts to protect the equipment if necessary. There will be posts that will support the panels. The LSE system has the same performance characteristics. This will be equal to or better than what was originally proposed.

**III. Planning Considerations:**

Emergency generators and their pads are considered a structure under city code. The applicant is proposing to place an emergency generator on the southwestern corner of the site (see applicant's site plan).

The generator will be for emergency use only; however, it will require ongoing operation weekly or biweekly as part of the required maintenance routine. Otherwise, the generator will only operate during power outages.

The proposed generator is sound attenuated and in terms of generators is relatively quiet (about 82.7 dB(A) at 3.3', 71.0 dB(A) at 23.0', and 65.0 dB(A) at 49.2'). However, the decibels are in excess of city standards. The existing standard is 25 decibels A-weighted, which is equivalent to the noise generated during normal conversation between individuals (about 25 dB(A)). The lowest level of urban ambient sound is typically 40 dB(A). A whisper at 5 feet away is about 35 dB(A). Without the proposed enclosure, at 3.3' away the generator will sound like a truck passing by (82.7 dB(A)).

The applicant is proposing to shield the generator noise with an enclosure around the generator. This includes a solid masonry wall on the two sides facing the residential abutters towards the west. The other two sides, which face the CSB site, are to be surrounded by chain link fence which will allow sound to freely pass through.

**Motion to:** Zoning Board doesn't object to the change in materials being presented to previously approved special exception.

**Made by:** Jim Hanson

**Second:** Mike Hurd

**Vote:** Unanimous

- **ZO2009-000017) Daniel Howard, 125 Pearl Street, Claremont, NH** –seeks an Area Variance from Sections 22-229 of the City Zoning Ordinance in order to construct a second means of egress in the front setback, 125 **Pearl Street**. Tax Map: 119, Lot: 96, Zoning District: R-2.

**Project Description:**

The applicant is seeking an area variance from the requirements of Section 22-229 that required a minimum of twenty-five (25) feet from any public right-of-way and a minimum front yard of at least twenty-five (25) feet in depth where only nine (9) feet is available to meet both requirements. The applicant is proposing the construction of a second means of egress for the multifamily (3/DU) property located at 125 Pearl Street, as required by code. The egress is proposed in the front of the building and inside the front setback.

**Planning Considerations:**

The applicant has determined that the egress will be located on the parcel, about 9 feet from the front lot line, i.e. city sidewalk.

Chair Hurd asked if this would be an emergency exit only. Mr. Howard said this could quite possibly be used as an every day exit/entrance.

**Review Criteria:** When considering this application, the following Area Variance criteria should be considered. The burden of proof is upon the application to demonstrate that the meet the following criteria.

*Open Public Hearing*  
*No Abutters present*

Jim Hanson asked Dan Howard if there was a dumpster service and he said the trash is picked up curbside. There isn't a dumpster on the location.

This is strictly a requirement of the Fire Department and the main reason for this request. Loren Howard stated a door needs to be placed on the structure. He was informed by the Building Inspector.

Pierre Caouette said the stairs will go out about 8 feet and this will create a loss of space. Mr. Hanson asked where the snow was pushed and if it would affect the location. Mr. Howard said the snow doesn't go into this location. This will not be an obstruction of view it is far enough back and therefore won't create a problem.

### *Close Public Hearing*

**Area Variance** To review an Area Variance in accordance with New Hampshire statutory criteria the ZBA must adopt the following **Findings of Fact** for each criterion:

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. Explain the special conditions of the property make an area variance necessary in order to allow the applicant to construct the development as designed: **Consensus**
  - b. Explain why the applicant cannot achieve the same benefit by some other reasonably feasible method that would not impose an undue financial burden: **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**

### **V. Conditions**

If the ZBA approves the application for both an Area Variance and a Special Exception, the following **Condition of Approval** should be considered:

1. Require recording the Area Variance in the chain of title.

**Motion to:** Approve the area variance under section 22-229 in order to construct a second means of egress and the area variance will be recorded in the chain of title.

**Made by:** Bob Woodman

**Second:** Chair Hurd

**Vote:** Unanimous

### **III. Other**

Jane Taylor presented paperwork to the Board regarding SB 147-FN which attempts to eliminate the separate standards for review of use and area variances. This will not go into effect until January 2010 if/when the Governor signs the bill. There isn't any reason to believe the bill won't be signed.

### **VII. Adjournment**

**Motion to:** Adjourn

**Made by:** Jim Hanson

**Second:** Pierre Caouette

**Vote:** Unanimous

**Meeting adjourned at 7:35 p.m.**

**Respectfully Submitted,**

**Katrina Spaulding  
Administrative Assistant**