



Zoning Board of Adjustment Meeting
Monday October 5, 2009, 7:00 p.m.
City Council Chambers, City Hall, Claremont

Meeting Minutes
Approved 11/2/09

I. Roll Call

Present: Robert Woodman, Mike Hurd, Jim Hanson, Carolyn Towle

Absent: Pierre Caouette, Ed Friedman

City Staff: Mike McCrory; Interim City Planner, Jane Taylor, City Solicitor; Katrina Spaulding, Administrative Assistant

II. Public Meeting Minutes: September 8, 2009 Meeting Minutes

Motion to: Approve minutes of September 8, 2009 as presented

Made by: Mr. Woodman

Second: Mike Hurd

Vote: Unanimous

III. Old Business

- **(ZO2009-000018) Norman St. Aubin, 130 Old Newport Road, Claremont, NH –** Continued public hearing on application for a Special Exception from Section 22-147(11) of the City Zoning Ordinance in order to extend the RR-2 Zoning District provisions to the AR Zoned portion of Tax Map: 100, Lot 7, Zoning District RR-2 and AR on **East Green Mountain Road.**

Item continued to November meeting. No Quorum.

- **(ZO2009-000022) Erik Jaspersohn, 11 Spruce Street, Claremont, NH –** Application for a Special Exception from Section 22-207 of the City Zoning Ordinance in order to operate a home based business. Tax Map: 119, Lot 318, Zoning District R-2 on **11 Spruce Avenue.**

Mr. Jaspersohn addressed the board to update the two board members unable to attend the last meeting.

Jim Hanson asked about the parking headed towards Myrtle St. This is a one way street and the parking would be on the right hand side. This neighborhood is tough for parking. Mr. Jaspersohn said he wouldn't have much traffic and the only cars would be by appointment only.

Carolyn Towle asked about some of the sales that would be done from his home. Erik said 99% of his sales will be over the internet. There weren't any abutters at the last meeting. The weapons are now being held in his shop in Connecticut. The house will be alarmed when he moves the inventory. He will have to apply to the Claremont Police Department to register in order to sell handguns. The Police Department in Claremont hasn't yet been notified.

Mr. Woodman asked why he didn't have his business in his home in Massachusetts when he lived there. Mr. Jaspersohn said he had a shop in Connecticut as he had a friend with

commercial space. Mr. Woodman is concerned if this were allowed, it could become a full blown sales operation from his home.

Mr. Hanson asked if they were antique fire arms and Mr. Jaspersohn said he does carry some older guns.

The security system will be similar to a Brinks system or an alarm with sensors would be connected to ADT or Brinks.

Mike McCrory wanted to state the home occupation definition could be reviewed to consider this application. This is a local City Ordinance definition.

Chair Hurd wanted to mention the Post Office would not allow shipping of handguns it has to go through a dealer. Only long guns can be shipped at the Post Office.

Carolyn Towle is concerned with the criteria “Is the Site an appropriate location for such a use?” Chair Hurd asked Jane Taylor if it was possible to limit to internet sales only. Ms. Taylor said it could be added as a condition. The ordinance doesn’t state anything about internet but Ms. Taylor said it could be compared to phone sales and can be implied the same way.

Public Hearing Closed

Carolyn would have liked to have seen a proposal of the security system. She would like to have seen a discussion with the Police Chief and a letter to the Board from the Police Chief. She would like more fact finding done to make a decision.

Mr. Woodman doesn’t think the location is appropriate as it is very congested and hard to navigate vehicles. He also feels it is a big liability.

Motion to: Continue the hearing until November in order to obtain a detailed outline of the security system that will be used including who will monitor the system and a letter back from the Chief of Police with his feelings if this special exception were granted.

Made by: Carolyn Towle **Second:** Jim Hanson **Vote:** Unanimous

- **(ZO2009-000025) Tim & Annette Barton, 48 Carpenter Street, Manchester, NH –** Application for an Area Variance from Section 22-211 of the City Zoning Ordinance in order to add an additional dwelling unit. Tax Map: 119, Lot 22, Zoning District R-1 at **32 Woodland Street.**

The applicant would like to change from 3 to 4 dwelling units. Subsequent to the hearing, Mike McCrory said a dwelling unit is a minimum of 550 square feet and one of these units will be under the requirements. This house will be in a neighborhood among single family dwelling units. With this existing building, it isn’t clear if it precedes the density requirements of the Zoning Ordinance. There are not substantial changes to the site layout.

There has been some garbage on the site that has been in place for some days and weeks. This could be a condition for the maintenance of the site.

Mr. Woodman asked if there was anything from the Fire Department because of the change in use. When you change this to more units, is this going to be exempt from the ordinance to sprinkler the building. When you do considerable changes to a multi-family building, it is required to have fire doors and some require sprinkler systems for anything over 3 units.

Mr. Barton, the applicant, addressed the board with a sketch of a more detailed description of what was going to be built. This house has been in the family since 1955 and originally was a single family home. In the 1960's he converted to two units upstairs and one downstairs. This has been a three family unit for quite a while. The first floor is very spacious and felt it was more controlled to have smaller units. This would be used as a two bedroom and a studio apartment downstairs. There has been tree removal done, painting, and a dumpster has been located on the property.

The building does have hard wired smoke detectors, a sprinklered basement, and egress. There will be 4 means of egress. The intent is not to sell the property but to maintain ownership. The upstairs units are both occupied at this time. Mr. Woodman asked about where the tenants parked. Mr. Barton said in the backyard there is a complete open parking area. It is plowed every winter and it is not paved but covered with gravel. It appears there needs to be eight parking spaces and there may not be enough space for 8 parking spaces.

Mr. Quince Hensley an abutter, said there is mostly single family housing in the neighborhood and he doesn't want to have a multi-family. Carolyn Towle asked if the renters at the house are a problem. Mr. Hensley said the current renters haven't been a problem.

Mr. Richard Larareo lives across the street and is concerned about parking and snow removal. There will be cars parking on the street. Carolyn Towle asked if the home looks nice. He agreed the house looks nice.

Ms. Geraldine Sanborn, an abutter has been good neighbors with the original owners for over 40 years. She feels the home would be changed and the character of the house would be compromised.

Lloyd Sanborn, read a letter written by Eleanor Belkovicz. Mr. Sanborn also lives in the neighborhood and he feels a landlord which doesn't live in town can create troubles and the issues may not be addressed quickly at the site. There may be safety issues such as being on the corner and parking in the street. When the Barton's lived downstairs there was still parking on the street. He is also concerned with snow removal. There isn't much room for placement of the snow. He is also worried changing this to a four unit may lower property values to other houses in the area. The quantity of parking should actually be 9 parking spaces with the requirement of 1 ½ spaces per bedroom.

Barrett Cheatham an abutter has lived there since 2005. He wouldn't have purchased the house if he had known this was going to be a multi-family. Snow removal sometimes gets placed on the street and isn't sure where there will be enough room.

Jamie Cheatham also at 26 Woodland said the trash is always blowing around and the gutters are falling off the building and still not being addressed. There is always parking on the street and she is concerned with people coming around the corner hitting the vehicles parked there. It is a blind curve and very difficult to see around the trees and embankment.

Colin Sanborn of 21 Woodland Street addressed the board with his concerns of the parking situation. He feels the change is significant the owner no longer lives on the premises. The parking hasn't been an issue as the downstairs has been empty for a long time.

Mr. Barton asked to withdraw his application as the abutters seemed to be upset and he didn't want to upset the neighborhood.

IV. New Business

- **(Z02009-000027) Adam Dumont, 18 Timson Street, Claremont, N.H** – Requesting a Use Variance from Section 22-206 of the City Zoning Ordinance in order to keep two horses. Tax Map 129, Lot 18, Zoning District R-1 at **18 Timson Street**.

Project Description:

The Applicant proposes to care for two horses on the subject property. The application materials indicate that the specific nature of the site including the size of the property, surrounding vegetation, and surrounding topography will be conducive to such a use.

Planning Considerations:

The subject property is in the R-1 zoning district, which prohibits agricultural uses such as the care and keeping of horses. Barring new information presented by the Applicant or abutting property owners, this parcel appears to be uniquely suited for this use as compared with a typical parcel on adjacent streets and neighborhoods.

Open Public Hearing

Adam Dumont said a majority of the fences will be electric fencing and he plans to use the 17' x 20' existing shed structure. The previous owner had planted a corn field. The cost to board a single horse would be approximately \$475.00 per month and they would most likely have to sell the horses. The property is fairly secluded and during the summer months nobody would be able to see the horses. The smell is very minimal if the upkeep is done properly.

The area fenced in would be about 1 acre out of three available acres. Mr. Woodman would like to see something other than an electric fence and it will save him some trouble in the future. A cattle fence will hold the horses in a little better.

Mr. Dumont has lived at this property for the last three years.

Andre Wenger, abutter his property is adjacent to Adam's. He is in favor of Mr. Adams placing his horses on the property.

Mr. Alan Grigsby, Manager from Westwood Village and property owner, said the board at the Village is concerned about introducing horses and having this potentially introduce rodents. They are concerned about the layout and the proximity to borders. There is clearly room enough for a one acre corral. It will create a muddy situation over time. Mr. Grigsby feels odors could become a concern for some of the abutters. If animals are introduced into the area he hopes care will be taken to minimize the impact.

Chair Hurd asked about disposal of manure. Adam said currently neighbors come and get the manure. It will most likely be trucked off of the property off site.

Close Public Hearing

This lot is unique in its nature and this doesn't fit the criteria of the neighborhood.

Carolyn Towle stated having horses is a luxury and during these economic times it isn't fair to state this as a hardship. The property is however conducive to the request.

Motion to: Grant the Use Variance from section 22-206 in order to keep up to two horses and a must have a permanent fence rather than an electric fence exclusively. All the following conditions must be met below.

Made by: Mr. Woodman

Second: Jim Hanson

Vote: Unanimous

Conditions

If the ZBA approves the application for a Use Variance, the following **Conditions of Approval** should be considered:

1. The Use shall not be for commercial purposes. There shall be no public or private events that are equestrian in nature. No more than two horses shall be kept on-site at one time.
2. The horses that live on the premises shall be owned by the property owner or individual that lives on the property as a primary residence.
3. Horses shall not be kept on the property if the residence is unoccupied.
4. The property owner shall abide by state and federal environmental and water quality rules and procedures related to the care and keeping of horses on the site. This includes, but is not limited to, keeping and disposal of manure and soiled material from the horse stalls and limiting access to the adjacent wetland areas.
5. Require recording the Area Variance in the chain of title.
6. Must have a permanent fence.

IV. Review Criteria: The application is reviewed as a Use Variance in accordance with New Hampshire statutory criteria. The burden of proof is upon the applicant to demonstrate that each of the following criteria is satisfied. The ZBA must adopt the following **Findings of Fact** for each criterion:

1. The proposed use will not diminish the value of surrounding property; **Consensus**
2. Granting the variance will not be contrary to the public interest; **Consensus**
3. Denial of the variance will result in unnecessary hardship to the applicant because:
 - a. The zoning restriction as applied interferes with the landowner's reasonable use of the property, considering the unique setting of the property in its environment;
4. Is the property so different from the surrounding parcels that the proposed use is "reasonable" in this unique setting (i.e. does the burden arise from the property, not from the individual situation of the landowner)? **Consensus**
 - i. Does the restriction with the proposed use result in any decline in value of the property or diminished return on investment to the owner?
 - ii. Would the proposed use alter the essential character of the neighborhood?

5. There is no fair and substantial relationship between the general purposes of the zoning ordinance and the specific restriction on the property; **Consensus**
 6. Granting of the variance would not injure the public or private rights of others. **Consensus**
 7. Granting the variance will do substantial justice; **Consensus**
 8. The use is not contrary to the spirit of the zoning ordinance. **Consensus**
- **(Z2009-000028) Shawn & Leah Currier, 185 Myrtle Street, Claremont, N.H. –** Requesting a Use Variance from Section 22-206 of the City Zoning Ordinance in order to run a home occupation. Tax Map 119, Lot 204, Zoning District R-1 at **185 Myrtle Street.**

Project Description:

The applicant is requesting a Special Exception under Section 22-207 (1) of the Zoning Ordinance for the purpose of operating a Home Occupation in the R-1 zoning district. The applicant proposes to operate an errand and concierge business.

III. Planning Considerations:

The proposed home-based business meets the definition of a Home Occupation. Based on the application materials presented by the Applicant, the intent is to use the subject property to effectively start the business. The business operations will effectively be off-site conducting pick-ups and drop-offs as requested by clients. The residence will serve as a location to receive requests and maintain the administrative functions of the business. The Applicant does not foresee a substantial increase in the volume or type of traffic generated by the proposed business. Once the business is of a sufficient scale, the Applicant plans to move the business off-site.

Chair Hurd feels this could be more a matter of signifying a physical address.

Open Public Hearing

The applicant stated his business is designed to help people that cannot get around and do their own errands. There wouldn't be any traffic coming to their home. This would be only temporary until the business takes off and eventually they can hire help. They have to have at least one room designated in their home for office space.

Close Public Hearing

Motion to: Grant the special exception under 22-206 for the purpose of operating a home occupation. There will be no changes of incoming or outgoing traffic other than the home owners as well as the two conditions listed below.

Made by: Carolyn Towle **Second:** Mike Hurd **Vote:** Unanimous

Conditions

If the ZBA approves the application for a Special Exception, the following **Conditions of Approval** should be considered:

1. Require a recording in the chain of title of the Special Exception.

2. Limiting the Special Exception for so long as the home business is in continual use for the approved purpose.

IV. Review Criteria:

To approve a Special Exception the ZBA must find favorably to the applicant on all the following **Findings of Fact**:

1. Is the specific site an appropriate location for such a use? **Consensus**
2. Will property values in the district be maintained by such a use? **Consensus**
3. Will the proposed use result in any nuisance or unreasonable hazard? **Consensus**
4. Will there be minimal or non-adverse traffic impact as a result from such a use? **Consensus**
5. Are there adequate and appropriate facilities provided for the proper operation and maintenance of the proposed use, including water, sewer and parking? **Consensus**
6. Will there be minimal or non-adverse impact on the view, light, and air of any abutter as a result of the proposed use? **Consensus**
7. The proposed 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? **Consensus**
8. The proposed use will not be detrimental to the public health, safety and general welfare? **Consensus**
9. Will granting the special exception be in harmony with the general purpose and intent of the zoning ordinance? **Consensus**

V. Other

Training will most likely be in December for the Planning Board and Zoning Board jointly. Maybe this could be done on the evening of the second Planning Board meeting for November.

VI. Adjournment

Motion to: Adjourn

Made by: Carolyn Towle

Second: Mike Hurd

Vote: Unanimous

Meeting adjourned at 9:30p.m.

Respectfully Submitted,

Katrina Spaulding