



Zoning Board of Adjustment Special Meeting

Monday May 3, 2010, 7:00 p.m.

City Hall, Council Chambers, Claremont

Meeting Minutes

Approved June 7, 2010

I. Roll Call

Present: Mike Hurd, Pierre Caouette, Tom Rock, Carolyn Towle, Jim Hanson

Absent:

City Staff: Mike McCrory; Interim City Planner, Jane Taylor, City Solicitor; Kelly LeBlanc, Administrative Assistant

II. Accept Meeting Minutes from April 5, 2010

Motion to: Accept Meeting Minutes from April 5, 2010

Made By: Pierre Caouette **Second:** Jim Hanson **Vote:** Unanimous

III. New Business

- **(ZO2010-00004) 15 West Terrace, Claremont, NH** – Applicant seeks a Variance to construct a second form of egress at **15 West Terrace**. Tax Map: 107, Lot: 191 Zoning District: R2.

Project Description

The applicant is proposing the construction of a second means of egress for the second floor of the multi-family property located at 15 West Terrace Street. The egress is proposed along the western side of the building. The applicant claims that the existing building is approximately 9 feet from the shared parcel boundary with 19 West Terrace Street. The building is within the 10-foot side yard setback. The proposed structure will encroach approximately 5 feet further into the setback as shown in the plans and according to the April 14, 2010, e-mail from the Applicant.

III. Primary Planning Considerations

The building was constructed before the current city code and life safety code were enacted. The egress shall be located so that it can serve the apartment that requires a second means of egress. This egress needs to be maintained year-round. The Applicant has initiated review by the Building Code Enforcement Officer. It is unclear whether the Applicant has reviewed the proposed egress with the Fire Department.

In lieu of providing a property boundary plan surveyed by a licensed surveyor the Applicant located and painted the corner pins along the westerly property boundary. ZBA Board members are encouraged to visit the site and review the site conditions.

Applicant Present: 210 Washington Street, LLC

Mark Limoges

Randy Becker

Greg Belisle

Chair Hurd asked Mr. Limoges if there were any changes. Mr. Limoges stated no; the plans are still accurate given the placement of the pins.

Jim Hanson asked which way the egress was going to be maintained (i.e. in the winter) Mr. Limoges stated it will be maintained through the front of the house. There will be a walkway in the front that will not be considered lawn.

Open Public Hearing

Abutters Present: Scott and Rita Quintey, Father George Micja, St. Joseph's Parish, Gerard Thompson, Orchard Village, LLC.

Ms. Rita Quintey, Abutter, Ward 1, 21 Gold Street. Ms. Quintey's house faces the establishment/St. Joseph's back parking lot. The problem that Ms. Quintey feels is that Mr. Limoges would like egress to come out through the private parking lot. It has been clarified that the egress will be on the opposite site of the lilac trees and will not infringe on the private parking lot.

Mr. McCrory wanted to be clear that this application is for a second floor egress from an apartment. This application does not address any vehicular egress.

Father George Micja, St. Joseph's Church, wanted to go on record to make sure there would be no driveway going into their parking lot.

Mr. Gerard Thompson, 19 West terrace, faces the egress. There is a difference of opinion of the markings (believes it is a bit closer than marked). If there is a concern of the safety, that is fine; but they would hesitate if it is more of a designated second access point. The amount of foot traffic going through the back is the main concern.

Chair Hurd stated that most second means of egress are emergency only and not used as a main entrance. This second means of egress is meant to be an exit only.

Chair Hurd inquired if this can be made of a condition. Mr. McCrory stated the intended purpose for emergencies and it could be clarified with the tenants.

Mr. Thompson stated that the previous tenant had a less than stellar record for trash and property maintenance.

Chair Hurd asked is this could be added as a condition so if/when the property would sell it would be clarified.

Close Public Hearing

IV. Review Criteria: When considering this application, the following Variance criteria should be considered. The burden of proof is upon the applicant to demonstrate that all necessary criteria are met.

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. Would granting the Variance be in accord with the public interest?
Pierre Caouette – Yes, enhances the safety measures of building
Jim Hanson - Yes
Tom Rock – Yes, it is in compliance with Fire Code
Carolyn Towle – Yes, it is part of Fire Code and thus a second form of egress is very important
2. Would granting the Variance consistent to the spirit of the ordinance?
Pierre Caouette – Yes, the spirit is to maintain the setback which this is not encroaching anymore then at present
Jim Hanson – Yes, it does not appear to harm the abutters any more then at present
Tom Rock – Stays within the outlying footprint of the building
Carolyn Towle – Yes, it is consistent with the spirit as we are not significantly changing the overall picture. We are adding to the accessibility of the building
3. Would granting the variance, as requested, do 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?)
Pierre Caouette – Substance justice is done and would not inhibit public safety, health or welfare
Jim Hanson – Yes, it is a natural fit for the configuration of the house which falls in line with public safety.
Tom Rock - Yes
Carolyn Towle – Yes, and adds to the ability to rent the building and adds to the safety of the public
4. Does the proposed use maintain the value of surrounding properties?
Pierre Caouette – Yes, and may enhance the values
Jim Hanson – Does not take away from existing values
Tom Rock – Yes
Carolyn Towle – Yes, maintains values of the surrounding properties

5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?

A. For purposes of this subparagraph, “unnecessary hardship” means owing to special conditions of the property that distinguish it from other properties in the area:

(i) The Applicant has demonstrated that no fair or substantial relationship exists between the general public purposes of the Section(s) of the Ordinance from which relief is sought and the specific application of the Section(s) to the property.

(ii) The Applicant has demonstrated that the proposed use is a reasonable one.

Pierre Caouette – Yes, it would result in an unnecessary hardship because you would not be able to offer the second floor tenants a second means of egress

Jim Hanson – Yes it would result in an unnecessary hardship, you would have to redo the floor to attain a second form of egress, the proposed egress goes with the flow of the property

Mike Hurd – already an apartment house

Tom Rock – The special conditions of the property and having the egress as presented would be reasonable

Carolyn Towle – This is a reasonable use of the second story egress

Alternatively, if and only if the criteria in the above subparagraph cannot established

B. Has the Applicant demonstrated the special conditions of the property that distinguish it from other properties in the area prevent reasonable use in strict conformance with the ordinance and a variance is necessary to enable a reasonable use of the property?

V. Conditions

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

1. Appropriate measures shall be taken to maintain the egress to prevent personal injury to those using the egress, and to ensure year-round access.
2. Require the egress be constructed in compliance with City Building and Fire Safety Codes.
3. This Variance shall be recorded in the chain of title.
4. The egress shall be used for emergency and life safety purposes only. The proposed structure shall not be used as a secondary access to the building.

Motion: to grant the variance for 15 west Terrace Street for the second means of egress with conditions that the appropriate measures shall be taken to maintain the egress to prevent personal injury to those using the egress, and to ensure year-round access. The

egress will meet the requirements constructed in compliance with City Building and Fire Safety Codes. This Variance shall be recorded in the chain of titles and that the egress is only to be used in the case of an emergency or second egress.

Made By: Mike Hurd **Second:** Jim Hanson **Vote:** Unanimous

IV. Correspondence

V. Other

VII. Adjournment

Motion to: Adjourn

Made by: Jim Hanson **Second:** Mike Hurd **Vote:** Unanimous

Meeting adjourned at 7:28 p.m.

Respectfully Submitted,

Kelly LeBlanc

Administrative Assistant