

**Zoning Board of Adjustment**  
Monday August 1, 2005  
Council Chambers, City Hall, Claremont, NH

**MINUTES**  
*Accepted at 9/6/05 Meeting*

Meeting called to order by Chairman, Michael Hurd, at 7:00 PM.

**I. Roll Call:** Michael Hurd, Chair, Robert Woodman, Vice-Chair, Deborah Snelling, Richard Dietz, Tracy Pope, Donald Lavalette, Erwin Caplan

**Present:** Michael Hurd (Chair), Erwin Caplan, Tracy Pope, Richard Dietz, Robert Woodman, Donald Lavalette

**Absent:** Deborah Snelling

**II. Appointment of Alternates**

- Mr. Caplan was appointed for Ms. Snelling.

**III. Report of Secretary - Corrections:**

- A. Page 2, change unanimous vote to 1 against as (Mr. Dietz).
- B. Page 1, add "via the driveway" where there is an incomplete sentence starting "Ms. Pope reminded the board emergency vehicles".

**Motion: To accept the minutes of 7/5/05 as amended.**

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

**Vote:** Unanimous

**IV. New Business and related Public Hearings**

- A. **Joel Waterman, 14 Skinner Street, Claremont, NH** — The applicant seeks relief from Section 22-229 (4) of the Claremont Zoning Ordinance in order to construct a deck approximately 15 feet from the rear of the lot line on 14 Skinner Street. The requirement is 25 feet. Tax Map 107, Lot 155; Zoning District: R2.
  - This is an odd shaped lot with a 15 foot driveway access to Skinner Street.

Staff Opinion: The addition of a 16 foot by 12 foot deck appears to be a reasonable request; the odd shape of the lot makes the request noncompliant with Section 22-229 (4) of the Claremont Zoning Ordinance. It would appear that the applicant can meet the five criteria for an area variance.

**Open Public Hearing:**

- Abutters Roll Call
  - **Present:** Joel Waterman, Applicant

The applicant stated that 6-8 feet of the property will not be affected. He feels the addition of the deck will improve the quality of the neighborhood.

**Close Public Hearing**

The Board made its findings stating the following variance criteria:

1. The proposed use will not diminish surrounding property values.
2. Granting the variance will not be contrary to the public interest.
3. The denial of the variance will result in unnecessary hardship to the owner.
4. Special conditions of the property would otherwise limit the applicant's proposed uses of the property.
5. The benefit sought by the applicant can not be achieved by some other method reasonably feasible for the applicant to pursue without imposing an undue financial burden.

6. The variance will do substantial justice.
7. The use is not contrary to the spirit of the City of Claremont Zoning Ordinance.

**Vote:** Unanimous on **all** findings.

**Motion:** To approve the variance because all five of the criteria for granting a variance have been met and there are no objections.

**Made By:** Ms. Pope                      **Second:** Mr. Dietz

**Vote:** Unanimous

*Chairperson Hurd directed the applicant to the Planning Office.*

- B. Faith Pregno and Tammy Crossley, 14 First Street, Claremont, NH-** The applicant desires to construct a two car garage with an apartment above. Section 22-227 (1) allows special exceptions that are permitted in the R -1 zoning district. Tax Map 121, Lot 56, Zoning District: R-2.

**Open Public Hearing:**

- Abutters Roll Call
  - **Present:** Tammy Crossley, Applicant

Staff Opinion: Approval of the special exception request and area variance will allow Ms. Crossley to care for her mother, Ms. Pregno, which was the intent of the provision when the provision was adopted in 2002.

At present, the use is a single family dwelling along with a one car garage with a shed. It was stated the apartment must be attached to the home and it must share utilities in order to be an "in-law apartment". Mr. Coogan stated the proposed use is non-conforming and does not meet the area requirement, but per Attorney Taylor, the property was a pre-existing lot. It shall not be more than 500 square feet. The proposed space will be 24x24, 576 square feet. A deed addendum with approval conditions can be executed and recorded. (Ord. No. 181, § 3-3.2, 4-12-78; Ord. No. 383, 1-8-97; Ord. No. 383-A, 6-11-97; Ord. No. 401, 11-10-99; Ord. No. 440, 11-19-02).

The parcel has 7,841 square feet. This request requires the following two actions by the Zoning Board of Adjustments:

1. A special exception following the procedure outlined in Section 22-207 (8).
2. An area variance from Section 207 (8) 5.

Chairperson Hurd gave the applicant the option to continue until September, 2005 to allow her to consult with Mr. Coogan as more information is needed due to boundary issues. The applicant, Ms. Crossley, stated she would like to continue the hearing. The exact measurements of the footprint and the lot are needed as this is considered a "change of use". Both parties are listed as owners of record making them co-owners.

Ms. Pope stated the 10,000 square feet per unit ordinance is grandfathered in this case, but the square footage for the proposed apartment is not met. It was suggested that the applicants add onto the main structure, but the applicant was not in favor of this. Mr. Woodman stated if one family or the other moved out and a non-relative moved in, it would be non-useable space.

**Motion:** To continue until September 6, 2005

**Made by:** Mr. Woodman                      **Second:** Mr. Caplan

**Vote:** 5-1

*Mr. Dietz voted against stating his interpretation being the lot must meet the conditions and it doesn't as the lot lacked the square footage and there is not any justification for the Board to grant approval.*

C. **Gregory A. and Karen M. Howe, 165 Maple Avenue:** The applicants are requesting two area variances for two separate construction projects, a porch and a garage. Tax Map 129, Lot 82, Zoning District R-1.

**Application # 1:** Gregory A. and Karen M. Howe, 165 Maple Avenue, Claremont, NH desire to construct a porch with stairs approximately 14'6" from the front of the lot line on 165 Maple Avenue. Section 22-209 (2) of the Claremont Zoning Ordinance has a requirement of 25 feet.

**Application # 2:** Gregory A. and Karen M. Howe also seek an area variance from Section 22-209 (4) of the Claremont Zoning Ordinance to construct a two car garage with storage behind their house and approximately 4' from the rear lot line. Section 22-209 (4) of the Claremont Zoning Ordinance has a requirement of 25 feet. The owners / applicants have a small house and desire additional storage space.

### **Application #1**

#### **Open Public Hearing**

Staff Opinion: This is a small lot (6,800 SF).

Mr. Howe presented his request for a porch, front facing Maple Avenue. He stated that he has written statements from all but 3 abutters stating they are for this application. Chairperson Hurd questioned the hardship issue on the application stating the hardship must be with the land. Other homes in this area have porches on the front. Mr. Woodman questioned if the 14 feet from the property is the sidewalk. The applicant responded that the measurement of 14 feet was taken from the property line. Chairperson Hurd stated that the hardship issue is not being met.

#### **Close Public Hearing**

The Board made its findings stating the following variance criterion:

1. The proposed use will not diminish surrounding property values.
2. Granting the variance will not be contrary to the public interest.
3. The denial of the variance will result in unnecessary hardship to the owner.
4. Special conditions of the property would otherwise limit the applicant's proposed uses of the property.
5. The benefit sought by the applicant can not be achieved by some other method reasonably feasible for the applicant to pursue without imposing an undue financial burden.
7. The variance will do substantial justice.
8. The use is not contrary to the spirit of the City of Claremont Zoning Ordinance.

**Vote:** Unanimous on all findings.

**Vote: 0-5**

Ms. Pope questioned if #2 can be considered a hardship because the front porch cannot be located anywhere else. It is not a necessity, but it is an added feature to the home that will result in an increase in value. Chairperson Hurd stated a hardship issue must be met. Mr. Dietz noted looking at the plan of the lots; the houses on the street in this neighborhood have the same frontages, but feels it would be encroaching on the front yard. The applicant's contractor reiterated that it will increase the value of the home. Chairperson Hurd agreed, but explained the hardship must be on the land.

Chairperson Hurd reviewed the finding of facts with the Board and due not meeting #8, it needed to be denied. Mr. Dietz said if it is granted, it could start precedence.

**Motion:** To deny the application for the reason it is not in the spirit of the ordinance.

**Made by:** Mr. Dietz                      **Second:** Mr. Hurd

**Vote:** 3-2

## **Application # 2:**

### **Open Public Hearing**

▪ **Abutters Roll Call**

The applicant, Mr. Howe, stated that he owns an 18 foot boat and needs room to be able to move it. The applicant would also like a larger back yard. This is why he requests not to have the garage closer to the home. The height to the peak of the roof is 20 feet, making it 1 1/2 stories. Mr. Dietz stated that the applicant has failed to prove a hardship. Chairperson Hurd requested that Mr. Coogan find out the proper way to measure and whether it includes the overhang or not.

### **Close Public Hearing**

Mr. Dietz stated by demolishing the existing garage and replacing with the proposed garage, the minimum front yard requirement is not being met. The applicant, Mr. Howe, then stated he will move the garage to provide the 10 foot setback.

**Motion:** To grant an area variance allowing a 9 foot side setback in order for the applicant to build the proposed garage on the backside of his property. It is to be 24' x 36' and along one of the existing garage walls.

**Made by:** Ms. Pope      **Second:** Mr. Woodman

**Vote:** Unanimous

*Mr. Hurd directed the applicant to the Planning Office.*

## **V. Communications.**

1. Chairperson Hurd requested Mr. Coogan consult with Attorney Taylor regarding measurements.
2. Due to Labor Day, the next meeting will be held on Tuesday, September 6, 2005.

**Motion:** Workshop on 8/15/05 @ 5:30 p.m. to review zoning procedures.

**Made by:** Ms. Pope                      **Second:** Mr. Woodman

**Vote:** Unanimous

## **VI. Adjournment**

**Motion:** To adjourn

**Made by:** Mr. Woodman                      **Second:** Ms. Pope

**Vote:** Unanimous

Meeting adjourned at 8:20 p.m.

Respectfully Submitted,

Tracey Hagerman  
Recording Secretary