



ZONING BOARD OF ADJUSTMENT
Public Hearing
Monday, November 3, 2014
City Hall, Council Chambers at 7:00 PM

Minutes
Approved 12/1/2014

I. Roll Call

Present: Michael Hurd (Chair), David Nichols, Todd Russel, Daniel Worcester

Absent: Richard Collins, Jim Hanson, Carolyn Towle

City Staff: Michael McCrory, Interim City Planner, Jane Taylor, City Solicitor

Mr. Hurd appointed Mr. Worcester to sit in for Mr. Hanson's seat for this meeting.

Mr. Hurd asked the applicant if she was comfortable with a four-member board. He explained the possible effects of a decision being made by four members instead of five. He gave the applicant the option to continue the hearing until five members could be present. The applicant was uncertain as to how to decide. Mr. Hurd said the Board could proceed and she could ask for a continuance at any time thereafter. The hearing would be continued to December 1st if needed or requested.

II. Review Public Meeting Minutes from:

- o October 6, 2014

Motion: To accept

Made by: Mr. Nichols **Second:** Mr. Russel **Vote:** Unanimous in favor.

- o October 20, 2014

Motion: To accept

Made by: Mr. Nichols

Mr. Russel asked that the start time (for the meeting) be changed from 7:00 PM to 6:00 PM.

Motion: To accept with the amendment

Made by: Mr. Worcester **Second:** Mr. Russel **Vote:** Worcester, Nichols and Russel in favor; Hurd abstains – motion carries.

III. Old Business

- o **(ZO2014-00008) Diana Gauthier, 198 Bible Hill Road** – seeks a variance from Section 22-189 of the City Zoning Ordinance for construction of an addition to the house at 198 Bible Hill Road. Tax Map: 166, Lot: 41. Zoning District: RR2. **(Cont. from 10/6/2014)**

The abutters' roll was not called, because this is a continued hearing.

Mr. Hurd asked Mr. McCrory for any new information relative to this application for the Board.

Mr. McCrory said that by ZBA request, copies of building permits that have been approved for this property have been provided. There is also a Notice of Decision from November 6th, 2013. This decision was for an enclosed laundry room addition. He also provided an illustration from the original staff report. He said the illustration shows how the 50-ft. setback encumbers the entire property (except for one corner of the garage). There is a building permit for a 6 ft. x 11 ft. addition. A summary of notes by the Building Inspector, Steve Coombs, following his inspection of the property was also distributed.

(Mr. Hurd asked that it be noted that the “Richard Collins” that appears on the building permits is not the “Richard Collins” that sits on the Zoning Board.)

Mr. McCrory said that the deck that was added to the front, permitted addition, was built without a permit, according to Mr. Coombs.

Mr. McCrory read for the record an email from Mr. Coombs dated October 28, 2014 as follows:

“While inspecting the small laundry room addition, I observed additional work in the kitchen area. They have gutted the kitchen and are remodeling that space. I advised the brother that separate permits would be required for the work in the kitchen area. The addition is complete and approved from the building permit end. The deck on the addition was added without approved permits. The deck is attached to the addition and is not frost protected.

The deck in the rear is over 200 sf and is attached to the house as well and does not appear to be frost protected. The deck did not have permit applications submitted to this office for review. Permits and plans would be required for all of the new decks on site. Steve Coombs, Chief Building Inspector”

Mr. Hurd asked, “Does that count the existing deck that’s in question for the porch that’s being built?” Mr. McCrory replied that it does, that he had asked the building inspector specifically to do that.

Mr. Russel said there are actually three decks – (1) the extension of the old existing deck in the back; (2) the new unpermitted deck off the addition that the ZBA had approved the variance for; and (3) the new 8 ft. x 16 ft. deck. He said all three lack permits and all three sit in the setback.

Mr. Hurd said he didn’t know what the city is going to do about the front deck. Mr. Russel said it’s a 4 x 8 deck that they measured (during the site visit); he said it comes 4 feet more past the front of the house, so it encroaches 4 feet more on the road, past what the house did before. He said it was his understanding that when they approved the addition, that it was not encroaching any further on the roadway. He said that that was why they didn’t want it to come past the house. Now it’s 4 feet past the house. He said the deck was not shown on the building permit packet (he had checked with the building inspector), so it was not something that the board originally agreed to. Mr. McCrory said the building permit 2013-0514 has a sketch and asked if this is the permit Mr. Russel was referring to. Mr. McCrory said it shows the proposed addition.

Mr. Hurd asked Ms. Gauthier if she had had a chance to get the property surveyed. Ms. Gauthier said not yet, but that she has been contacting area surveyors. She said that 30 days was not enough time to get a survey done.

Everyone agreed that the review could not go any further without the survey information. They agreed to continue the hearing to January 5th and told Ms. Gauthier that if she needs more time, they can continue it again.

Motion: To continue this to the January meeting to give the applicant time to gather the requested information – specifically a certified survey map from a licensed surveyor of her property showing lot dimensions, pin locations, edge of roads and existing structures on the property. It should be drawn to scale and show the city’s right-of-way. Mr. Russel asked for a copy of the original application for the addition and the minutes of the meeting at which it was approved.

Made by: Mr. Hurd **Second:** Mr. Russel **Vote:** Unanimous in favor

IV. New Business

- **(ZO 2014-00010) Purita Family Limited Trust, 212 Foisy Hill Road** – for an appeal of an administrative decision under Sect. 22-147 regarding expansion of a use not allowed on a Class 6 Road at 212 Foisy Hill Road. Tax Map: 99, Lot: 1. Zoning District: AR
- **(ZO 2014-00011) Purita Family Limited Trust, 212 Foisy Hill Road** – application for a special exception under Sect. 22-147 to allow the addition of a second dwelling unit at 212 Foisy Hill Road. Tax Map: 99; Lot: 1. Zoning District: AR

Mr. Hurd opened both hearings. Mr. McCrory read the abutters’ roll. There were no abutters present at the hearing. The applicant was not present either. Mr. McCrory said the Planning and Development Department had received an application for a second dwelling unit on the property. The subject property fronts on a Class 6 road (an unmaintained town-owned road). There is a city council policy that prohibits new residential development on Class 6 roads. The Planning and Development Department denied the building permit application. City Solicitor Jane Taylor said that state statute prohibits building on any property that does not have frontage on a class 5 road. This applies to this property. The applicant is appealing the denial of the building permit. Mr. McCrory said that a garage is being built on the property. What’s being appealed is the second dwelling unit that is proposed for over the garage. There is a house on the property already.

Mr. McCrory explained that if the Board grants the appeal (overturns the administrative decision), then the board could go forward with hearing the application for the special exception. A special exception permit is required for this project in the AR zoning district in which the property is located. Attorney Taylor assured the board that she would provide ample information and assistance to them.

Mr. Hurd asked how long the house had been there. Attorney Taylor said the house was built when zoning was in effect, but that it pre-dated the modern version of the law and it pre-dated the City’s policy. The house that is there now was built on the footprint of an earlier house.

Attorney Taylor said the applicant is asking for this to be continued because the applicant is asking to have the Class 6 road reclassified to a Class 5 road, which is something only the city council can do. It will probably go before City Council in December. If the council chooses to reclassify the road to a Class 5, then the appeal becomes moot.

Mr. McCrory read a letter to the Board from the applicant's agent:

*“Re: Foisy Hill Rd and Addition to Dr. Joseph Purita Residence
Zoning Case Numbers: ZO 2014-00010, ZO 2015-00011
Map 99, Lot 1*

Honorable Members of the Zoning Board of Adjustment:

As the agent for the applicant, Dr. Joseph Purita, I request that the referenced cases be tabled until the December 1, 2014 public hearing or subsequent hearing dates as may be required, pending discussions with the city staff. With this request I hereby waive the requirement for these cases to be heard within 30 days of their respective dates of submission to the City of Claremont.

Respectfully,

*Warrenstreet Architects, Inc.
Jonathan Halle, AIA, ASLA”*

Mr. McCrory also noted that the applicant had written a letter formally assigning Mr. Halle to act as his agent in this matter.

Motion: To continue this to the January 5, 2015 meeting in light of the fact that the city council meeting at which this could be discussed will be after the Zoning Board's December meeting.

Made by: Mr. Russel **Second:** Mr Hurd **Vote:** Unanimous in favor

V. Correspondence

There was no correspondence.

VI. Other

There was no other business.

VII. Adjournment

Motion: To adjourn the meeting

Made by: Mr. Russel **Second:** Mr. Hurd **Vote:** Unanimous in favor

Respectfully submitted,
deForest Bearse
Resource Coordinator