



**ZONING BOARD OF ADJUSTMENT  
Public Hearing**

Monday, January 5, 2015  
City Hall, Council Chambers at 7:00 PM

**MINUTES  
Approved 3/2/2015**

**I. Roll Call**

**Present:** Michael Hurd, Jim Hanson, Todd Russel, Daniel Worcester, Amy Richardson, Dave Nichols

**Absent:** Caroline Towle, Richard Collins

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

**II. Elections**

• **Chair**

**Motion:** To elect Michael Hurd as Chair of the Zoning Board.

Made by: Mr. Russel      Second: Mr. Hanson      Vote: Unanimous in favor

• **Vice-Chair**

**Motion:** To elect Jim Hanson as Vice-Chair of the Zoning Board

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

Mr. Hurd asked Mr. Worcester to sit in for Mr. Collins for this meeting. All welcomed Ms. Richardson to the Board.

**III. Review Public Meeting Minutes from:**

- December 1, 2014

**Motion:** To accept the minutes of December 1, 2014

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

**IV. Old Business**

- **(ZO2014-00008) Diana Gauthier, 198 Bible Hill Road** – seeks a variance from Section 22-189 of the City Zoning Ordinance to construct an addition to the house at 198 Bible Hill Road. Tax Map 166; Lot 41. Zoning District: RR2. (Cont. from Nov. 3, 2014)

The applicant requested that the hearing be continued to the February 2<sup>nd</sup> meeting. All were in favor.

- **(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 (Cont. from Nov. 3, 2014)

Chairman Hurd read a letter from Warren Street Architects requesting withdrawal of the appeal as it is no longer necessary. The portion of Foisy Hill Road upon which #212 fronts has been reclassified from a Class 6 to a Class 5 road by the City Council.

- **(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 (Cont. from Nov. 3, 2014)

Mr. McCrory explained that the applicant seeks to build a garage with an apartment above it. This will be the second dwelling unit on the property. Since the garage and apartment will be attached to the main house, the house effectively becomes a duplex. Duplexes are allowed by Special Exception in the AR district. Mr. McCrory directed the Board to go through the special exception criteria during their review of the application.

Jonathan Halle of Warren Street Architects presented the application to the Board. He stated that the shell of the structure is already under construction under a previously approved building permit. The septic system has been approved by the state, but has not been installed. A cistern will be installed in the pond across the road as a condition of the road reclassification. Mr. Halle addressed each of the special exception criteria:

- The house sits on a 55-acre lot.
- A duplex will not have an impact on the character of the AR zone.
- The architecture of the house is consistent with what is there.
- The apartment will be above a 3-car garage.
- The garage, and hence the apartment, is attached to the existing single family home.
- A positive impact to property values should result from the project.
- The property will still be used as residential.
- The upgrade in the road should make the road safer for travel, so there won't be any adverse effect on traffic.
- The apartment will have its own septic system, which has been approved by the state.
- Water will be provided from the existing well.
- It is 1300 feet to the next house, so no adverse impacts will be created for neighbors.
- A municipal impact fee will be paid by the applicant.
- The cistern that will be installed in the pond will be a benefit to the neighborhood.

He asked the Board to approve the application and then answered questions from the Board. Mr. Halle said the applicant has no intention of renting the second dwelling unit - that it is to be used only by visiting colleagues or perhaps by a caretaker.

No abutters were present.

Mr. McCory and Ms. Taylor clarified that no impact fee was being paid. The applicant is paying the full cost of upgrading approximately 1000 feet of the road, which the city will then be maintaining thereafter.

Conditions of the road improvement must be considered in conjunction with the proposed project.

Chairman Hurd closed the public hearing. There was no further discussion among the Board members.

**Motion:** To grant the Special Exception in accordance with Section 22-147 to allow for a duplex on the property at 212 Foisy Hill Road with the following conditions:

1. This special exception is only valid upon effective reclassification of the portion of Foisy Hill Road along the subject property frontage per the December 10, 2014 City Council Motion to Reclassify and Upgrade a Portion of Foisy Hill Road.

2. This special exception is only valid upon conveyance to the City of any easements that may be required for public safety including the layout of a sufficient turn-around area for fire apparatus and access to the dry hydrant and fire pond.
3. The applicant shall obtain and receive all necessary permits and approvals as determined by the Local, State and Federal governments.

**Made by:** Mr. Russel      **Second:** Mr. Hanson

The Board revisited the criteria:

- The lot is sufficiently large for the project.
- The project is located at the end of a dead-end road.
- The project will enhance the properties up to the project site because of the road upgrade.
- The project will have its own septic system.
- Water will be provided from an existing well.
- The turn-around will be improved.
- An easement will be provided for the turn-around.
- The cistern will be a benefit to everyone on the road.

**Vote:** Unanimous in favor

- **(ZO 2014-00014) Lingling Horton, 264 Chestnut Street** – application for a special exception under Sect. 22-207 of the City Zoning Ordinance to allow the addition of a Home Occupation to the duplex at 264 Chestnut Street. Tax Map 145; Lot: 15-2. Zoning District: R-1 (Cont. from Dec. 1, 2014)

Mr. Russel asked to recuse himself from the proceedings.

Mr. McCrory said he had not received any additional information from the applicant before tonight. He recommended that the Board continue the hearing to the February meeting.

**Motion:** To continue the hearing to the February 2<sup>nd</sup> meeting.

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

**Motion:** To take a ten minute recess.

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

The meeting was called back to order after the recess.

## V. New Business

- **(ZO 2014-00015) Jodi Bailey, 394 Hanover Street** – application for a variance from Section 22-169 of the City Zoning Ordinance to construct exterior entry stairs with a roof and carport at 394 Hanover Street. Tax Map 60; Lot 10. Zoning District: RR

The abutters roll was called.

Mr. McCrory explained that this was an after-the-fact application. He said the entryway was demolished and reconstructed and a carport was constructed on the side of the building. Both of the projects are in the front setback. He said most of the house is within the front setback. The projects require a variance. Mr. McCrory showed the Board an aerial photo of the property which shows that the lot is bisected by a stream, which meant the owner of the

lot at the time the house was built didn't have much choice as to where to build the house. Now the current owner is making repairs and improvements to the house.

The applicants answered questions from the Board about the application. They stated that the new steps were no closer to the road than the old ones and the carport is actually 2 feet further back from the road than the front of the house.

No abutters were present at the hearing. Chairman Hurd closed the public hearing.

**Motion:** To grant a variance from Section 22-169 to allow reconstruction of the front entry with roof and carport within the front yard setback with the following conditions:

1. The applicant shall obtain and receive all necessary permits and approvals as determined by the Local, State and Federal governments.
2. This variance shall be recorded in the chain of title.

**Made by:** Mr. Russel      **Second:** Mr. Hanson

**Discussion by the Board:**

1. Granting the variance is in the public interest.
2. What has been built is not any closer to the setback than what was there before.
3. All the work has been done to building code specifications.
4. It will increase the value of the property.
5. Public safety is not affected.
6. It is consistent with the spirit of the ordinance.
7. The unnecessary hardship is the location of the house on the property.

**Vote:** Unanimous in favor.

**VI. Correspondence**

**VII. Other**

**VIII. Adjournment**

**Motion:** To adjourn the meeting

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

The meeting adjourned at 7:42 PM.

Respectfully submitted,  
*deForest Bearse*  
Resource Coordinator