



Zoning Board of Adjustment Meeting
Monday, March 5, 2018 7:00 PM
City Hall Council Chambers

MINUTES
Approved 4/2/2018

I. Call to Order by the Chair

Mr. Hurd called the meeting to order at 7:00 PM and asked for a roll call.

II. Attendance/Roll Call

Present & Participating: Richard Collins, Michael Hurd, James Petrin, Abigail Kier, Tracy Pope

Absent: Carolyn Towle, Patrick Howe

City Staff: Michael McCrory, City Planner

III. Election of Officers

Motion: To re-elect Michael Hurd as Chair and Abigail Kier as Vice-Chair of the Zoning Board for the coming year.

Made by: Mrs. Pope **Second:** Mr. Collins

Vote: Unanimous in favor

IV. Adopt 2018 Meeting Schedule

Motion: To adopt the meeting schedule for 2018 for the Zoning Board.

Made by: Mrs. Kier **Second:** Mrs. Pope

Vote: Unanimous in favor

V. Minutes of Previous Meeting – January 2, 2018

Motion: To accept the minutes from January

Made by: Mr. Collins **Second:** Mr. Petrin

Vote: Mrs. Kier abstained; all others voted in favor

VI. Old Business

- A. (ZO 2017-00022) James & Ellen Feleen, 203 Mulberry Street:** Application for variances to permit construction of an addition to the garage within the front setbacks at **203 Mulberry Street**. Tax Map 143, Lot 33. Zone: R1 (Cont. from 1/2/2018)

Mr. Hurd read the public notice.

Mr. McCrory stated that the Board had previously requested more information on the boundaries of the lot. Mr. Feleen engaged a licensed survey and the plans were submitted to the Board. The plans show the boundaries of the lot and the location of the

proposed garage. Mr. McCrory also had comments from DPW Director, Scott Sweet. Mr. Sweet stated in an email to Mr. McCrory (in November):

- *Snow banks accumulate on corners and may be tricky with this building being so close, it just does not give me a good feeling if an unknown ice chunk from plowing or something may slide against this new structure.*
- *This is a low speed road, but I suspect the building will tend to make it a difficult to see around the corner in a car.*
- *His water and sewer services are going to be under this new structure (they are his responsibility but it is a risk if something should happen to one of them).*

In a subsequent email (in December), Mr. Sweet had said that a driveway permit would be required if the variance is approved by the ZBA and the existing driveway is expanded. Mr. Sweet's concerns did not change when he saw the new survey plan in December.

Mr. Feleen said he was aware of Mr. Sweet's concerns from the November email, but had not been aware of the need for a driveway permit until this meeting.

Mr. Feleen said in the many years he has lived at this address, he had not seen snow pushed to within 3 or 4 feet of where the new garage would be. He said DPW doesn't use the large plow trucks on his street because the street is so narrow. He also said he believed his water and sewer lines would not be under the new garage.

Mr. Feleen said the new garage would probably be a foot or two taller than his existing garage because of design issues he was expecting to get from the building inspector, but he was hoping to keep it as close to the same plane as he could. His existing garage is approximately 13 feet by 22 feet.

There were no further questions from the Board.

Mr. Hurd said that he didn't call for an abutters' roll call as this was a continued hearing. He said, for the record, no abutters were present and there was no one else from the public.

Mr. Hurd called for any additional questions for Mr. McCrory. Mrs. Pope asked if condition #2 of Mr. McCrory's recommended conditions should be changed to read 8.7 feet instead of 9 feet. Mr. McCrory agreed.

Mr. Hurd called for a motion.

Motion: That we approve the Application for a Variance from Section 22-209, Yards in the R1 Zoning District, to permit a garage expansion within the front yard setback and public roadway setbacks at 203 Mulberry Street (Tax Map 143, Lot 33) with the following conditions of approval:

1. The proposed structure shall be constructed substantially in accordance with the information provided by the applicant in the Application for a Variance for ZBA Case No. ZO 2017-00022 and testimony during the public hearing for said case.
2. The garage expansion shall be fully within the subject property. A minimum of 8.7 feet shall be maintained between the westerly property boundary and the westerly wall of the proposed garage expansion. The owner is solely responsible for ensuring this condition is met.
3. The applicant shall obtain and receive all necessary permits and approvals as determined by the Local, State and Federal governments. No work is permitted to commence until such permits, or appropriate statements of compliance with Local, State and Federal regulations, are submitted and approved by the Planning and Development Department.
4. A driveway permit is required from Claremont DPW for the expanded driveway.
5. This variance shall be recorded in the chain of title.

Made by: Mrs. Pope **Second:** Mr. Petrin

Discussion:

Findings of Fact on each criterion

Mr. Hurd said granting the variance wouldn't affect public interest. In this aspect, we've addressed line of site. Mr. Feleen understood our questions. He had the survey plan done up. He didn't see how vehicles wouldn't be able to see cars coming the other way. He said it wouldn't decrease anybody's taxes; if anything, Mr. Feleen's taxes will be increased. There is no extra glare; there won't be any more of public hazard created by the garage.

Mrs. Pope said granting the variance would do substantial justice by allowing Mr. Feleen to build the garage that he wants.

Mr. Hurd said it was a reasonable request; taking something and making it a little more modern.

Mrs. Pope said it will increase the value of surrounding properties, because it will increase the value of Mr. Feleen's property.

Vote on the Motion: Unanimous in favor

B. (ZO 2017-00023) Thomas Hutchins, 2 Stewart Avenue: Application for a variance to permit construction of a garage within the front setback at **2 Stewart Avenue**. Tax Map 159, Lot 10. Zone: RR (Cont. from 1/2/2018)

Mr. Hurd said the applicant was out of town. He also said there were no abutters present. He asked the Board if they wanted to continue without the applicant being present. Mrs. Pope felt the applicant had provided all of the information the Board had requested. The other Board members agreed.

Mr. Hurd read the public notice.

Mr. McCrory said, that like Mr. Feleen, Mr. Hutchins had engaged a surveyor and had the property boundary surveyed.

Mr. Hurd asked for clarification of the variance being requested. It was agreed that the garage could be built within a 25 ft setback as shown on the survey drawing.

Motion: To approve the Application for a Variance from Section 22-169, Yards in the RR Zoning District, to permit a garage within the public roadway setback at 2 Stewart Avenue (Tax Map 159, Lot 10) with the following conditions:

1. The proposed structure shall be constructed substantially in accordance with the information provided by the applicant in the Application for a Variance for ZBA Case No. ZO 2017-00023 and testimony during the public hearing for said case.
2. The garage shall be fully within the subject property. A minimum of 25 feet shall be maintained between the southerly property boundary and the southerly wall of the proposed garage. The owner is solely responsible for ensuring this condition is met.
3. The applicant shall obtain and receive all necessary permits and approvals as determined by the Local, State and Federal governments. No work is permitted to commence until such permits, or appropriate statements of compliance with Local, State and Federal regulations, are submitted and approved by the Planning and Development Department.
4. This variance shall be recorded in the chain of title.

Made by: Mrs. Pope **Second:** Mr. Collins

Discussion:

Mr. Hurd said it would add to the tax base. It won't be a depreciation on the property or surrounding properties.

Mrs. Pope said it wasn't contrary to the public interest. The spirit of the ordinance is being observed because the applicant has gone through the proper procedures to get the variance. One of the setbacks is being shortened but he is on a corner which causes hardship. Mrs. Pope said the surrounding properties aren't going to be diminished. He is adding to the value of his property which enhance the value of the other properties.

Vote on the motion: Unanimous in favor

VII. New Business

There was no new business to discuss.

VIII. Communications

The latest issue of *Town and City* magazine was received.

IX. Other Business

By consensus of the Board, the meeting shifted to a non-televised work session.

A. Rules of Procedure

Mr. McCrory reviewed the background of the Rules of Procedure and references for the current draft including the City's now retired municipal attorney, the current contract municipal attorney, NH Municipal Association, and reference documents. The current draft of the Rules of Procedure follows the same format as the Planning Board Rules of Procedure. The respective rules for the two Boards share a lot of the same information and differ where state laws require special provisions for each Board.

Upon review of each of the major sections Board members asked questions:

Article III: Officers – The Secretary will remain a staff position and there is no need for the Chair to appoint a “secretary pro tem” as written in the Rules. The Rules will be revised to remove this provision and to clarify the Secretary will be a staff position. Mr. Hurd asked if a Secretary needs to be present at the meetings and Mr. McCrory confirmed, after consulting with a municipal attorney, that the Secretary does not need to be present.

Keeping Minutes – Mr. Hurd asked about City policy for retaining recordings of meetings. Mr. McCrory responded that City staff use recordings to aid in developing meeting minutes, but the permanent record for any meeting will always be the approved written minutes of that meeting. Mrs. Pope commented it was her experience that recordings (when audio tapes were used) were kept for approximately 3 months, then the tapes were reused. She also confirmed the minutes of the meeting need to present the substance of the discussions and actions of the Board. Mr. McCrory stated he would follow-up whether there is a specific policy for keeping recordings of meetings.

Article V: Communications Between Meetings – Mr. Hurd commented that this section is important given his experience with past meetings and complaints after meetings when Board members were observed talking outside the City Hall. Scott Pope, attending in the audience, commented that Board members can talk in ‘social settings’ without violating the non-public meeting provisions of state law.

Application Submittals – The Board inquired about applications submitted for review and whether City staff can reject applications. Mr. McCrory confirmed that there are minimum standards like paying the fees and completing the application forms, but the Board is responsible for deciding whether the information submitted is sufficient for the public hearing to proceed. Board members are encouraged to ask questions and require the applicants to prove their case. In the case of supplemental information being provided

to the Board the Rules require the applicant to supply information at least 10 days before the hearing. If new information is provided by the applicant or an abutter the Board can continue the case to review the information.

Mr. McCrory completed review of the Rules and encouraged Board members to review the document. The intent is to adopt the Rules at the next ZBA meeting.

X. Adjournment

Motion: To adjourn the meeting.

Made by: Mrs. Kier **Second:** Mrs. Pope

Vote: Unanimous in favor

Respectfully submitted,

deForest Bearse