



Zoning Board of Adjustment Meeting  
Thursday, July 7, 2016 7:00 PM  
City Hall Council Chambers

**MINUTES**  
**Approved 8/1/2016**

**Call to Order by the Chair**

**I. Attendance/Roll Call**

**Present & Participating:** Michael Hurd, Carolyn Towle, James Petrin, Abigail Carman, Tracy Pope

**Absent:** Richard Collins, Todd Russel,

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

Mr. Hurd asked Ms. Carman to sit in for Mr. Russel and Mrs. Pope to sit in for Mr. Collins.

**II. Minutes of Previous Meeting – June 6, 2016**

**Motion:** To accept the minutes of June 6, 2016.

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

**Vote:** Unanimous in favor

**III. Old Business**

- A. (ZO 2016-00003) Hal Wilkins, Winter Street Commons** – seeks a variance from Section 22-387, Table of Uses, of the City Zoning Ordinance, to construct two self-storage buildings at **Winter Street Commons**. Tax map 108, lot 71. Zoning District CR2. (Cont. from 6/6/2016)

Mr. Hurd read the public notice.

**Planner's Report**

Mr. McCrory gave a brief summary of the application and events that had transpired to this date. He said the applicant had no new information to present.

**Applicant's Presentation**

Mr. Wilkins, who represented the landowner on this application, had a typed summary of his presentation that he asked to distribute to the Board.

**Motion:** To accept into the record the summary of the applicant's presentation.

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

**Vote:** Unanimous in favor

The Board took a few minutes to read the materials they had just received.

Mr. Hurd asked for confirmation that the last two apartment buildings that were originally permitted for this site but never built could not be built now. It was not confirmed.

Mr. Wilkins stated that he had analyzed both density and the lot coverage. In the CR2 zone, 1 dwelling unit is allowed per every 5,000 SF. The Winter Street Commons has 144 units on 750,000 SF (density is 5208 per unit). The ordinance allows 30% lot coverage. The lot coverage with all 8 apartment buildings would be 7%; it would be 6% with 6 apartment buildings and the proposed two storage buildings.

Mr. Wilkins turned to addressing the variance criteria. He stated that granting the variance would not be contrary to the public interest because the storage use will provide the residents in the neighborhood with a service that is both customary and necessary and would not alter the essential character of the neighborhood.

He stated that the variance would not be contrary to the spirit of the ordinance because the proposed use is compatible with a residential setting. In addition, the ordinance is silent regarding self-storage uses.

Granting the variance would do substantial justice because the proposed use will provide a benefit to the general public and to the tenants on the property. He pointed out that there have not been any abutters objecting to the proposal.

He said the proposal will not diminish the values of surrounding properties because there would be no adverse impacts. Lighting will be shielded, traffic will be minimal, it will be kept clean, and the use will increase the value of the Winter Street property without requiring additional services from the City.

Mrs. Pope asked for clarification that these units would be available to the public. Mr. Wilkins said that it is anticipated that most of the units will be rented by the tenants on the property, but that the owner wanted to be able to offer them to the public in case on-site tenants do not fill them. Mr. Thomas (owner) said they anticipated 20% of the tenants would be interested in using the units, which would fill approximately half of the number of units being proposed.

Mr. Wilkins spoke to the hardship criterion. He said the property lies in a mixed use neighborhood and abuts a commercial zone. Other uses that are compatible with and supportive of the residential setting are allowed in the zone, but there are no provisions in the ordinance for self-storage facilities. This is a hardship because it denies the owner a reasonable use of the property and deprives the residents of Claremont of a necessary service. Winter Street Commons is the only multi-family residential development of its type and scope in the area. Adjacent properties are being used for commercial and industrial uses. There is no land available in the neighborhood that could serve as an appropriate site for self-storage use by local residents. He said the requested variance is the least possible deviation from the ordinance; that the use is not only a reasonable one, but one that will fulfill a real need of apartment tenants.

Mrs. Towle asked how long this development had been in existence. It was stated that it was built in 1973. The Board had no further questions.

**Open/Close Public Hearing**

Mr. Hurd asked if any abutters were present who wished to comment. No one wished to speak. Mr. Hurd closed the public hearing.

**Motion:** To grant a variance from Section 22-387, Table of Uses, to allow construction of two 3,600 square-foot self-storage structures in the CR-2 Zoning District 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. Such approvals include Site Plan Approval from the Claremont Planning Board.
2. This Variance shall be recorded in the chain of title.

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

**Discussion on the motion:**

Mr. Hurd said he leaned more toward criterion 5(b), that there are special conditions of the property and the area. He felt the Board had discussed the first four criteria thoroughly at earlier meetings. Mrs. Towle agreed, but said there needed to be more conditions. Ms. Carman agreed and added that she was convinced by the fact that the ordinance is silent on this use while other uses that are compatible and supportive are allowed; that this proposal is the only way to provide storage at this point; and that a fair number of tenants have demonstrated they will use it.

Attorney Taylor clarified for the Board that when a use is not specifically mentioned in the ordinance, it is by default prohibited.

Mr. Hurd said he hoped the owner would retain the trees along Winter Street to provide a visual buffer of the units.

Mrs. Towle said she was concerned when Mr. Wilkins said someone may want to store a car in one of the units. She said she did not want to see any outside storage. Mr. Hurd mentioned concern about possible auto repairs taking place in one of the units.

Mrs. Pope said would amend her motion to read:

1. The applicant shall obtain and receive all necessary permits and approvals as determined by the Local, State and Federal governments. Such approvals include Site Plan Approval from the Claremont Planning Board.
2. No outside storage is allowed.
3. This Variance shall be recorded in the chain of title.

Ms. Taylor asked if the Board was still concerned about auto repairs. Mrs. Pope amended the motion once again to read:

1. The applicant shall obtain and receive all necessary permits and approvals as determined by the Local, State and Federal governments. Such approvals include Site Plan Approval from the Claremont Planning Board.
2. No outside storage and no use other than storage are allowed.
3. This Variance shall be recorded in the chain of title.

Mr. Petrin agreed to the amendment.

**Vote on the motion:** Unanimous in favor.

- B. (ZO 2016-00011) Gertrud Holl Revocable Trust, 28 Monument Hill, Springfield, VT-** seeks a variance from Section 22-533 of the City Zoning Ordinance to reduce the required number of parking spaces for a restaurant at **214 Washington Street**. Tax map 121, lot 46. Zoning District B2. (Cont. from 6/6/2016)

Mr. McCrory said the applicant has requested a continuance to August 1<sup>st</sup>.

**Motion:** To continue the public hearing to the August 1<sup>st</sup> meeting.

**Made by:** Mrs. Pope      **Second:** Ms. Carman

**Vote:** Unanimous in favor.

#### IV. New Business

- A. (ZO 2016-00014) Elizabeth Starr, 76 Ridge Ave** – seeks a variance from Sect. 22-209, R1 District Yards, of the City Zoning Ordinance, to permit construction of a 40 ft x 14 ft garage within the rear yard setback at **76 Ridge Ave**. Tax map 155, lot 34. Zoning district: R1.

Mr. Hurd read the public notice and asked for an abutters' roll call. No abutters were present.

##### **Planner's Report**

Mr. McCrory said the applicant wants to place an accessory structure on the property for storage. The applicant claims there needs to be a level pad on which to place the structure and the most reasonable place is along Whitcomb Avenue, toward the back of the property (the property has frontage on both Whitcomb and Ridge Avenues). The house faces Ridge Avenue. The topography of the site makes this project challenging, and the most reasonable location is within the rear yard (the house at the front of the property is 12 feet higher than the back part of the lot). Mr. McCrory said the property boundaries are fairly well defined by a fence, so a boundary survey was not requested.

Mrs. Pope asked how/where the garage would be accessed. Mr. McCrory said he understood it would be from Whitcomb Lane.

Mr. Hurd challenged the label "garage" because of the size of the building and lack of an overhead door. It was agreed to call it an accessory structure. It will be used for storage. There were no other questions for Mr. McCrory.

### **Applicant's Presentation**

Ms. Starr appointed Everett Williams as her spokesperson. Mr. Williams said the structure would be accessed from Whitcomb Lane. He said he had consulted with Scott Sweet at DPW, and it was determined that a curb cut would not be necessary. There will be a barred, locked opening in the fence to allow limited access. The proposed garage will be exactly the same distance from the rear property line (7 feet) as the existing shed. The building will be painted white with green trim and a green roof. He said the building would be used for storage of personal property.

The Board noted that the building seemed quite large for storage of personal property.

Mr. Hurd asked about conditioning the approval to prevent conversion of the building to living quarters and to require a curb cut onto Whitcomb Lane. Ms. Taylor said the Board was within its rights to require a curb cut. Mr. Hurd was also concerned about the building being used for other uses besides storage. Ms. Taylor said the Board could limit the building to not being used for living quarters. The zoning ordinance will limit its conversion to a commercial use, so that would not have to be specified in the conditions.

### **Public Hearing Opened/Closed**

Mr. Hurd noted there were no abutters present and called the public hearing closed.

**Motion:** That the applicant be granted a variance from section 22-209, Yards, to permit an accessory structure within the rear yard at 76 Ridge Avenue (Map 155, Lot 34) 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 2016-00014 and testimony during the public hearing for said case.
2. The structure shall be placed no closer than 7 ft to the rear property boundary.
3. The structure shall be used for storage and not for living quarters.
4. The applicant shall obtain a curb cut from Whitcomb Lane.
5. 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.
6. This variance shall be recorded in the chain of title.

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

### **Fact Finding**

Mr. Hurd said it will obviously not affect the public – no abutters are present. The two additional conditions cover the Board's concerns. It will add a little money to the tax base. It won't diminish anyone's property values. It will not be a site issue affecting anyone's health or anyone's line of site.

Mrs. Pope said it was within the spirit of the ordinance. Mrs. Towle said it would be an unnecessary hardship due to the conditions of the site and the topography of the land.

**Vote on the motion:** Unanimous in favor.

**Motion:** To take a five-minute recess.

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

**Vote:** Unanimous in favor

Mr. Hurd reconvened the meeting at 8:11 PM.

**B. (ZO 2016-00015) Claremont Speedway LLC, 425 Washington St** – seeks a variance from Sect.22-166, RR District Permitted Uses, of the City Zoning Ordinance, to permit development of a seasonal campground as a second principal use at **282 Thrasher Road**. Tax map 71, lot 4. Zoning district: R1.

Mr. Hurd read the public notice and called for an abutter's roll call.

#### **Planner's Report**

Mr. McCrory stated that the application is for a seasonal campground in a zoning district that does not allow it. Secondly, the application is requesting establishment of a campground on a property that already has a principal use (the race track) - the campground would be a second principal use.

The racetrack is considered a pre-existing nonconforming use. There is an inter-relationship between the campground use and the racetrack use. The campground is not for exclusive use of the racetrack patrons – it is open to the public – but there will be an overlap in the clientele.

There will be an amended site plan going to the Planning Board for the entire property (if the variance is granted). This variance proceeding is focused on the campground only, while the site plan amendment will examine all of the uses on the property.

149 campsites are proposed, as well as two comfort stations, a swimming pool, a recreation hall, and other accessory buildings. Areas for storm water management and leach fields are identified on the plan submitted.

There are state statutes (RSA 216I) for recreational campgrounds which address health and safety, sanitation, water supply, campfires, etc. The Board can require that this proposal meet these standards at a minimum.

There are water and sewer connections for every campsite proposed and a proposed well on the site. It is unknown if the campground water usage will have an impact on surrounding properties and their water supplies. There are also electric and cable connections at each site.

Site access is to be shared between the campground and the racetrack. The application contains a report from a traffic engineer to address these issues.

The campsites are to be for seasonal rental only. It is unknown if people are free to come and go with their RVs.

It is unclear whether dump stations would be required when each campsite has on-site septic hook-up.

Mr. McCrory directed the Board to examine the cumulative effects of the campground with the racetrack. He also asked them to determine if other amenities would be stored at the campground during the off season.

According to the USDA, the soils on the site are a bit dusty for campground use, but are good for leach fields. It may be challenging to establishing vegetation.

The application does not provide any information regarding special events that may be held at the campground.

The Board had no questions.

### **Applicant's Presentation**

**Richard Uchida**, attorney representing the applicant, introduced the design team and the property owners.

The application is for a variance to allow a seasonal campground with 149 sites. There are two seasons – May to October and November 1<sup>st</sup> to March 31<sup>st</sup>. The park will be closed between April 1<sup>st</sup> and April 31<sup>st</sup> for maintenance. The campsites will be in two areas – one 850 feet back from Thrasher Road and 25 feet below the road grade. The second site is 1200 feet from the road and 30 feet below grade. Both sites are behind the racetrack and are not visible from the road.

There are 66.5 acres on the property. It is in the RR zoning district. The track has been in existence since 1947. The track was mainly a summer attraction. The new owners are trying to revive interest in the track and make the property more profitable. The owners felt that a seasonal campground would complement the existing track and cause the least impact to neighboring properties.

James Ambrose introduced himself, his wife, and Phil Hayes as co-owners of the property. A third owner, Joe Purita, was unable to attend the hearing. He said they bought the property in 2014 and have spent \$100k on upgrades so far. He said that the track has been a big part of Claremont's economy since 1947 and that he didn't want to see it lay idle. He said they needed to make the track financially more successful. Racing has changed dramatically in the past 15-20 years – its popularity has diminished. None of the uses that are allowed in this district made sense for the track and most require a lot of city services. Seasonal camping seemed the most benign use. The campers will spend money in the city. They don't plan to use city services other than police, fire and highway – no schools, water or sewer. Many of the campers would be retirees who

come north for the summer and use their campers as a sort of second home. The campground will be quiet all week except for one night of racing on Fridays. In response to neighbors' concerns, the size and type of campground was changed and a team of professionals to design it was hired. He said this demonstrated the owners' commitment to the project and to Claremont. The estimated cost of the campground is \$500k - \$750k. He asked everyone to keep an open mind about the project and asked the Board to approve it.

**Jonathan Halle** of Warren Street Architects gave a PowerPoint presentation that provided additional information about the proposed campground and providing visuals of the site. He had hardcopies of the presentation to give to the Board.

**Motion:** To accept the PowerPoint hand out from Mr. Halle.

**Made by:** Mr. Hurd      **Second:** Mrs. Towle

**Vote:** Unanimous in favor

Mr. Halle said the property could be divided into two separate lots with conforming frontage for each lot and with the campground and racetrack on separate lots. This would eliminate the need for the variance. However the owners have chosen not to do that.

Mr. Halle said the access to the site has been changed. The original design called for a separate access for the campground. There will now be a shared access to the west of the existing main entrance. The existing main entrance will be eliminated.

He said they will erect a 6-ft deer fence along the southern boundary of the property at the top of the steep bank for both security and safety. A 10-ft solid fence will be erected along the Thrasher Road frontage to provide both visual and acoustical screening. The racetrack will be completely fenced. Gates will control traffic flow on the internal road. There will be no additional lighting for the racetrack and only the bath houses in the campground will have external lighting – 3 wall-mounted down light fixtures on each building. They will be on timers.

Mr. Halle provided a copy of the campground rules and regulations and reviewed them with the Board. He said dumping stations will not be needed. All campsites comply with the state statutes. The drainage plans for the project direct all storm water to remain on the site – there will be no off-site discharge.

**Steve Pernaw**, traffic engineer, presented a study of the traffic associated with the 149-site proposal. He said the main entrance will be moved slightly to the west and will be shared by the racetrack and the campground. The new access has much improved site distances in both directions (500 ft). Traffic flows have been studied for weekday PM peak hour, speedway peak arrival time (Fridays from 6 PM to 7 PM), and speedway peak departure time (10 PM to 11 PM) for both the build and no-build scenarios. Based on the data, the Level of Service projections for the build scenario are LOS A for typical peak weekday, LOS B for Friday peak arrival time, and LOS E during Friday peak departure time with the campground added. Mr. Pernaw concluded that a dedicated left turn lane is not warranted.

There was some discussion regarding crash data used in the analysis. Mr. Pernaw said there had been only 1 crash recorded in 3 years, and that it had been due to icy road conditions. Abutters claimed there had been many more accidents than that. The difference in data seems to be in where and if the accidents are reported.

**Tammy Bergeron**, local realtor, was called upon to speak to the possible impacts of the project on neighboring property values. She said there is very little turn-over in that neighborhood because everyone appears to love living there. She said she has never had anyone tell her they would not buy a house there because of the racetrack. She stated that, in her opinion, the campground project would not have any impact on property values.

Mr. Uchida addressed the variance criteria. He said that the area would not be impacted by the campground because the sites are in the rear of the property. The added traffic will be minimal and seasonal. The rear and sides of the property are heavily wooded. The property sits on a plateau high and above many of the surrounding uses and then drops off sharply to a state highway. Public health and safety should not be affected because of the site design and fencing. There will be no major changes in topography. The state will have to approve the septic and water supply. The site will be fully compliant with RSA 216I. Campgrounds have to be well-maintained and managed or campers will not come, so it is in the applicants' best interest to run it well.

Mr. Uchida said it is in the public interest to make this property economically viable. Adding the second use will help make this happen. The tax base will be enhanced. The campground will have a lower impact in terms of lighting and traffic than many of the other uses that are allowed in this district. The campers will contribute to the local economy. The campground will not affect the character of the area nor pose any threat to the public health and safety.

The proposed seasonal campground use is less intensive than the transient lodging uses that are allowed in the RR zone and more closely resembles a residential use. The proposal is in accord with the Master Plan's recommendation for infilling of existing uses. The benefits to the applicants of the proposal outweigh the impacts of it on the neighborhood; there will be no diminishing of surrounding property values due to the presence of the campground.

The unnecessary hardship is due to the special conditions of the property – it is the largest property in the RR zone in this area; it already contains an existing recreational use; it sits on a high plateau surrounded on three sides by heavily wooded areas and steep slopes. (He assured the Conservation Commission that no drainage or storm water discharge would be allowed to run toward or into the conservation area. All drainage will be contained on the site.) There are suitable buffers. The open land that is available for development is not near the street.

A strict interpretation of the ordinance would not allow this use. None of the allowed uses make sense for this property given the existence of the speedway, yet half of the property is not being put to productive use. The proposal would put the open land to

productive use in a way that is better than the uses that are allowed. This proposal is also the smallest deviation from the ordinance and is a reasonable one.

Mrs. Towle asked how many employees would be needed for managing the campground. Mr. Ambrose said there would be people to maintain the grounds, the restrooms, and the swimming pool and to plow snow in the winter. There will also be a campground manager who will live on one of the sites. Altogether, there may be 4-5 new employees. There will be people on site all of the time. (There are currently 35 employees for the racetrack.)

There are no plans for a store on site – the applicants prefer that the campers shop locally instead. There are no plans for a children’s playground at this time.

Mrs. Towle asked if the applicants would be willing to add landscaping trees along the deer fencing to reduce noise. Mr. Ambrose said there are already a lot of trees there and that the campground will generate very little noise.

Mrs. Pope asked about storage of the RVs. Mr. Ambrose said people will not be allowed to store their campers on their sites, but there may be a storage area provided on the property that would be kept neat and clean. Then Mr. Ambrose said the campers could be winterized and stored on their site.

There will be fencing around the swimming pool, although it is not shown on the plan.

Mr. Hurd asked about how permanent construction within the campground (decks, 3-season rooms, etc.) would be handled. Mr. Ambrose said anything that is built would require a City building permit and would be taxable. This could be added to the campground rules and regulations.

Mrs. Towle complimented the team for an excellent presentation.

### **Public Hearing**

Chuck Egbert said that water is already being drained into the conservation area, that there is pavement buried in the area designated for a leach field, that drainage from the track area is being directed toward the proposed well site, that there is debris buried in the mud bog area, that there is underground drainage that dumps into Stevens Brook, and that a 10-ft fence cannot take the place of 150 years worth of forest growth for buffering noise. He added there are major dust and noise problems from this property already. Mr. McCrory said that if the variance is granted, the project will be subject to a full site plan review and these issues could be addressed there.

Mrs. Pope said she had received a telephone call from Alan Chamberlain. Mr. Chamberlain is not an abutter, but does live in the area. He said he was looking for Board members’ phone numbers and wanted to comment on the application. Mrs. Pope said she told him he had to get his comments to her in writing either by email or letter. She told him she could not discuss it with him.

Jean Ransom said that noise levels have increased since the trees were cut. She said she was worried about possible fires starting from campfires at the campground. She dislikes having campers right on the property line and felt it would adversely affect her property values.

Don Thompson, speaking for Rose Maley, said that surrounding properties would be adversely affected by what he described as a major change to the site. He claimed that this area was not appropriate for this expansion, that traffic safety would be an issue, and that it would affect property values. He said there could be a major impact on surrounding water supplies and pointed out that the application did not contain a study of water usage. He said campers have fires and make noise and that race cars would be stored on the property.

John and Grace Horvath said they were worried about the effect of the campground water usage on their well.

Heather McNamara said the fencing won't work to curb trespassing as trespassing happens now with the fencing that's already there. She sees the campground as an expansion of a nonconforming (the racetrack), which is not permitted by the zoning ordinance. Ms. McNamara presented to the Board a petition, signed by 28 people, asking that the campground not be allowed.

**Motion:** To accept the petition.

**Made by:** Mrs. Towle      **Second:** Ms. Carman

**Vote:** Unanimous in favor

Reverdy Ford said he is concerned that the campground water usage would change the aquifer that supplies all of the neighboring wells. He also challenged the crash data cited by the traffic study. He felt the road should be widened to enhance public safety.

Rebecca Ford said she was worried about fire and more lighting. Lighting already shines onto her property from the racetrack. She said that while racing may only occur one night a week, there are multiple other activities that occur at the track throughout the week.

Dianne Harlow, chair of the Claremont Conservation Commission, said that the Commission is concerned about drainage into the Conservation area and trash being thrown over the fence.

The consensus of the Board was that a site visit was necessary. They also asked for more information about water usage and requested an estimate of water demand for the campground. The Board also requested comments from Fire Chief Bergeron regarding campfires being in the proximity of the race track, and more information on drainage issues, particularly drainage into Stevens Brook.

A site visit was set for July 25<sup>th</sup> at 6PM for both the Zoning Board and the Conservation Commission.

**Motion:** To continue the hearing to August 1, 2016 and to conduct a site visit on July 25<sup>th</sup> at 6PM.

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

**Vote:** Unanimous in favor

**V. Communications**

**VI. Other Business**

Mrs. Towle asked for a training session for the Board on the variance criteria.

**VII. Adjournment**

**Motion:** To adjourn the meeting

**Made by:** Ms. Carman      **Second:** Mrs. Pope

**Vote:** Unanimous in favor

The meeting adjourned at 11:20 PM.

**Respectfully submitted,**

*deForest Bearse*