



Zoning Board of Adjustment Meeting
Monday, March 19, 2012 at 7:00 p.m.
City Hall, Council Chambers

Minutes
Approved May 7, 2012

I. Roll Call

Present: Mike Hurd, Carolyn Towle, Todd Russel, Jim Hanson, Dan Worcester (alt), Pierre Caouette (alt)

Absent: Tom Rock, Ed Friedman (alt)

City Staff: Tracey Hutton; City Planner; Jane Taylor, City Attorney, Kelly LeBlanc, Administrative Assistant

II. Review Public Meeting Minutes from February 6, 2012

Motion: to approve meeting minutes from February 6, 2012

Made By: Mr. Hanson

Second: Ms. Towle

Vote: Unanimous

Dan Worcester will sit in for Tom Rock.

III. Old Business

- **(ZO2012-0004) Donald Chabot, Claremont, NH-** The applicant is seeking a variance from Section 22-266, Permitted Uses, to allow for the establishment of an animal adoption facility. Property Location: **8 Tremont Street**, Tax Map 120, Lot 47, Zoning District B-1.

The applicant is seeking a variance from Section 22-266, Permitted Uses, to allow for the establishment of an animal adoption facility. The Sullivan County Humane Society would like to establish a feline animal shelter facility. This facility would also include accessory office and educational outreach components.

At the February 6, 2012 meeting, The Zoning Board of Adjustment requested additional information. Attached you will find photos of the existing space, the mission statement of the Sullivan County Humane Society, their 501(c)3 certification, proposed floor plans, and photos of the proposed cages. In addition, the Planning and Development Department has a copy of the Sullivan County Humane Society Policies, Procedures, and Operations, the Association of Shelter Veterinarians Guidelines for Standards of Care in Animal Shelters, and the applicable RSAs if any board member would like to come in and review them prior to the meeting.

Ms. Hutton stated that since the last meeting, the Planning Board has approved the Site Plan contingent on Zoning Board approval.

Motion: to approve material submitted by the applicant at the meeting

Made By: Ms. Towle

Second: Mr. Hanson

Vote: Unanimous

Cheryl Bromley, President of the Sullivan County Humane Society, spoke to the application and business proposed. Currently 91 cats have been fixed in the last two clinics in Claremont. They are looking for national recognition and have been recognized as a Best Friends (Utah) national partner and are considered a Pet Smart charity. An office space and area to hold the cats are necessities. This would provide a central location. There are agricultural laws that are feline specific. They would be inspected by the Department of Agriculture every 6 months and all animals must be vaccinated, have health certificates and be at least 8 weeks of age. All

cats will be fixed. The guidelines for Animal Shelters will be followed. A mission statement and operations manual will be kept. Cleaning, space, enclosures, environment and the like are included in these documents.

Daniele Morse, Vice President of the Sullivan County Humane Society, spoke to the manuals. The floor plan was submitted. There will be a two level shelter. The upstairs will contain the large community space (10-12 cats). Smaller cages will contain 2-3 cats. Most shelters have open community rooms but due to restrictions set by the land lord they will utilize a community cage made up of 3' by 4' panels. Cats will be held 7-14 days to make certain they are healthy. Sick animals will be held separately from incoming animals. The maximum total of cats would be approximately 30-35 but 20 is the limit they plan to keep.

Mr. Worcester asked about the traditional time line of cats going in and out of this type of facility. Ms. Morse stated that they don't have a time frame. Some cats are adopted within weeks and others years. The Claremont shelter will be a low kill shelter. An animal will be euthanized only for illness or injury.

Open Public Hearing

The Variance applied for is for the building only.

Close Public Hearing

IV. Review Criteria

When considering this application, the following Variance criteria should be considered. The burden of proof is upon the applicant to demonstrate that all necessary criteria are met.

Variance To review a Variance in accordance with New Hampshire statutory criteria the ZBA must adopt the following **Findings of Fact** for each criterion:

1. Would granting the Variance be in accord with the public interest?

Yes, the tenants have not been present to contest the application.

2. Would granting the Variance be consistent to the spirit of the ordinance?

Yes, the City needs this type of service.

3. Would granting the variance, as requested, do substantial justice? (Is the loss to the applicant outweighed by the benefit to the public if the variance were denied; would granting the variance threaten the public health, safety or welfare?)

Yes, the state will address health and safety.

4. Does the proposed use maintain the value of surrounding properties?

Yes, it will fill up another space and be more inviting. This space used to be a pet store.

5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?

Yes, the realtor supported this application and it is a unique situation. This is a reasonable use.

- A. For purposes of this subparagraph, "unnecessary hardship" means owing to special conditions of the property that distinguish it from other properties in the area:

- (i) The Applicant has demonstrated that no fair or substantial relationship exists between the general public purposes of the Section(s) of the Ordinance from which relief is sought and the specific application of the Section(s) to the property.
- (ii) The Applicant has demonstrated that the proposed use is a reasonable one.

Alternatively, if and only if the criteria in the above subparagraph cannot established

- B. Has the Applicant demonstrated the special conditions of the property that distinguish it from other properties in the area prevent reasonable use in strict conformance with the ordinance and a variance is necessary to enable a reasonable use of the property?

Motion: to grant the Variance from Section 22-266, Permitted Uses, to allow for the establishment of an animal adoption facility 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 and (2) Variance shall be recorded in the chain of title.

Made By: Mr. Hanson

Second: Ms. Towle

Vote: Unanimous

IV. New Business

- **(ZO2012-0005) Jean and Albert Minckler, Claremont, NH-** The applicant is seeking a variance from Section 22-246, Permitted Uses, to allow for the establishment of automobile sales establishment. Property Location: **50 West Pleasant Street**, Tax Map 131, Lot 219, Zoning District PR.

Chair Hurd and Mr. Hanson both have a business relationship with Mr. Osgood. There is no need for recusal per the board and Mr. Osgood.

Ms. Hutton reported that the Planning Board has approved the Site Plan. The northern most drive will be the entrance and southern the exit. It will be signed at all times.

The applicant is seeking a variance from Section 22-246, Permitted Uses, to allow for the establishment of automobile sales establishment.

This site was the home of a gas station and convenience store. The proposed site would house an automobile sales lot as well as a future office and car wash.

Mr. Osgood, applicant, stated that the repair shop will be on Summer Street and the sales lot on Pleasant Street. This lot is for selling cars and not repairing them. Wayne McCutcheon was responsible for the site plan. He stated approximately 30 cars could be on site. The driveway is in its current location on the plan because that was its original location. There are existing curb cuts. Mr. Osgood stated that his business would be more for display versus a source of traffic.

Chair Hurd clarified that there would be ‘no repair’ if the Variance was granted. Mr. Osgood agreed. It is written on the site plan that this is for sales of cars and phase II would be the constructions of the building (4 or 5 years down the line). There are 2 designated detailing bays in the proposed building.

Open Public Hearing

Matthew Makela and Roger Allen Burns were present for the hearing.

Mr. Burns, abutter, would like to address a few concerns. Chair Hurd stated that this is a professional residential zone (anything but retail). The history of the area has retail use. Mr. Burns asked why the applicant

has chosen this lot. Chair Hurd stated there aren't small lots available for this service. Mr. Burns asked about any research showing that this would be a viable business. How will it compare/compete with larger sales outfits and will it be well funded. Chair Hurd stated that many of these concerns are on the planning level. Mr. Osgood is a very well established businessman in town. Conditions will be stipulated to protect the abutters for future businesses.

Chair Hurd stated that a large majority of the questions have been answered at the planning level/at the Planning Board. Mr. Osgood stated that the lighting was addressed at the Planning Board. The power company will provide stand alone down lighting that will shine towards the business. The vehicles on the lot will state what is wrong with them. Cars that are parked on the lot will not be in obvious disrepair. Mr. Osgood reiterated that cars/a car lot would be quieter then people going in and out of a store. No building or electric meter, the power company will provide stand alone down lighting that will shine towards the business.

Close Public Hearing

IV. Review Criteria

When considering this application, the following Variance criteria should be considered. The burden of proof is upon the applicant to demonstrate that all necessary criteria are met.

Variance To review a Variance in accordance with New Hampshire statutory criteria the ZBA must adopt the following **Findings of Fact** for each criterion:

1. Would granting the Variance be in accord with the public interest?

Yes, public safety and concerns have been addressed.

2. Would granting the Variance be consistent to the spirit of the ordinance?

Yes, this is a reasonable use and the property will be used.

3. Would granting the variance, as requested, do substantial justice? (Is the loss to the applicant outweighed by the benefit to the public if the variance were denied; would granting the variance threaten the public health, safety or welfare?)

No public loss or threat to health safety or welfare.

4. Does the proposed use maintain the value of surrounding properties?

Yes, surrounding properties will be maintained.

5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?

Yes, this is an unusual lot but a reasonable use. There is no public loss.

- A. For purposes of this subparagraph, "unnecessary hardship" means owing to special conditions of the property that distinguish it from other properties in the area:
 - (i) The Applicant has demonstrated that no fair or substantial relationship exists between the general public purposes of the Section(s) of the Ordinance from which relief is sought and the specific application of the Section(s) to the property.

Variance To review a Variance in accordance with New Hampshire statutory criteria the ZBA must adopt the following **Findings of Fact** for each criterion:

1. Would granting the Variance be in accord with the public interest?

Yes, will not add to any public safety issues

2. Would granting the Variance be consistent to the spirit of the ordinance?

Yes, standards change with the times.

3. Would granting the variance, as requested, do substantial justice? (Is the loss to the applicant outweighed by the benefit to the public if the variance were denied; would granting the variance threaten the public health, safety or welfare?)

Yes, the sign will fill in an advertising gap and aid the business.

4. Does the proposed use maintain the value of surrounding properties?

Yes, there is no decrease.

5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?

Reasonable use, advertising product, same frame, willing to restrict reader banner for public safety

- A. For purposes of this subparagraph, “unnecessary hardship” means owing to special conditions of the property that distinguish it from other properties in the area:

- (i) The Applicant has demonstrated that no fair or substantial relationship exists between the general public purposes of the Section(s) of the Ordinance from which relief is sought and the specific application of the Section(s) to the property.
- (ii) The Applicant has demonstrated that the proposed use is a reasonable one.

Alternatively, if and only if the criteria in the above subparagraph cannot established

- B. Has the Applicant demonstrated the special conditions of the property that distinguish it from other properties in the area prevent reasonable use in strict conformance with the ordinance and a variance is necessary to enable a reasonable use of the property?

Ms. Taylor stated that if ‘3 sign changes’ are chosen it needs to be solidified why. The board stated that ever 20 minutes is reasonable. Ms. Towle reiterated that the company clarified three times per hour for potential changes. Chair Hurd summarized that there will be 1 sign and 1 ‘saying’ that can change every 20 minutes (20 minutes cycles).

Motion: to grant the variance from Section 22-604 (5) c, Signs, to allow for the replacement of an existing freestanding sign with one that is 154 square feet 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) Variance shall be recorded in the chain of title and (3) sign can will not change more then every 20 minutes and not to exceed more than 3x an hour.

Made By: Mr. Russel

Second: Hanson

Vote: Unanimous

- **(ZO2012-0007) Cheshire Oil Company, Keene, NH-** The applicant is seeking a variance from Section 22-604 (5) c, Signs, to allow for the replacement of an existing freestanding sign with one that is 154 square feet. Property Location: **225 Washington Street**, Tax Map 121, Lot 1, Zoning District B-2.

The applicant is seeking a variance from Section 22-604 (5) c, Signs, to allow for the replacement of an existing freestanding sign with one that is 154 square feet. This is a replacement sign, and does not represent additional freestanding signage on the property, only new faces to the existing pylon

Ms. Hutton stated the current sign is approximately 120 SF so the new sign would be a 30 SF increase.

Chair Hurd asked of the ‘welcome to T-Bird’ signs are included. The applicant agreed to take down these signs.

Mr. Frasier stated that the sign will be 27 ft high, no pole increase. This sign has to be redesigned.

Open Public Hearing

No abutters present

Close Public Hearing

IV. Review Criteria

When considering this application, the following Variance criteria should be considered. The burden of proof is upon the applicant to demonstrate that all necessary criteria are met.

Variance To review a Variance in accordance with New Hampshire statutory criteria the ZBA must adopt the following **Findings of Fact** for each criterion:

1. Would granting the Variance be in accord with the public interest?

Yes

2. Would granting the Variance be consistent to the spirit of the ordinance?

Yes

3. Would granting the variance, as requested, do substantial justice? (Is the loss to the applicant outweighed by the benefit to the public if the variance were denied; would granting the variance threaten the public health, safety or welfare?)

Yes, no visibility issues

4. Does the proposed use maintain the value of surrounding properties?

Yes

5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?

Yes, this is the branding if CITGO and the current signs are not in conformance.

- A. For purposes of this subparagraph, “unnecessary hardship” means owing to special conditions of the property that distinguish it from other properties in the area:
- (i) The Applicant has demonstrated that no fair or substantial relationship exists between the general public purposes of the Section(s) of the Ordinance from which relief is sought and the specific application of the Section(s) to the property.
 - (ii) The Applicant has demonstrated that the proposed use is a reasonable one.

Alternatively, if and only if the criteria in the above subparagraph cannot established

- B. Has the Applicant demonstrated the special conditions of the property that distinguish it from other properties in the area prevent reasonable use in strict conformance with the ordinance and a variance is necessary to enable a reasonable use of the property?

Motion: to approve the Variance from Section 22-604 (5) c, Signs, to allow for the replacement of an existing freestanding sign with one that is 154 square feet 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) Variance shall be recorded in the chain of title and (3) sign can will not change more then every 20 minutes and not to exceed more than 3x an hour.

Made By: Mr. Russel

Second: Ms. Towle

Vote: Unanimous

- **(ZO2012-0008) Chris A Thompson, Claremont, NH-** The applicant is seeking a Special Exception pursuant to Section 22-246, Permitted Uses, to allow for the establishment of Home Occupation. Property Location: **203 Broad Street**, Tax Map 132, Lot 37, Zoning District PR.

Ms. Hutton reviewed the application for the board. The applicant is seeking a Special Exception pursuant to Section 22-246, Permitted Uses, to allow for the establishment of Home Occupation. This construction business uses the barn as a work shop and would like to construct a permitted 16 square foot sign advertising the establishment. The sign will be 5’ behind the public sidewalk which is in conformity to the sign regulations in the district.

Chair Hurd asked the applicant about the details. Chris Thompson, applicant, stated that there is a pole barn out back to store material that arrives before the site is ready. The barn could be possible future office space for an architect or engineer if the business goes to that point. Mr. Hanson has a concern about notice and setting up equipment. Mr. Thompson stated that the second floor of the workshop is normal carpentry equipment that any homeowner could possess. Originally a three family unit out back but it is unclear if the house or barn would be converted into office space. Deliveries will be kept to a minimum and there will be no outside storage.

Chair Hurd asked if it needs to be confirmed that the property will stay as a multi-family. Ms Hutton stated that this is a SE for his Home Occupation. Home Occupations go with the owner and not the land.

Most abutters to this property are commercial businesses. The applicant’s yard is fenced in with an 8ft fence.

The proposed sign size is allowed. The SE is for the Home Occupation.

Open Public Hearing

No Abutters Present

Close Public Hearing

IV. Review Criteria

To approve a Special Exception the ZBA shall find favorably to the applicant on **all** the following Findings of Fact. The burden of proof is upon the applicant to demonstrate that the proposal meets the following criteria.

(1) The specific site is an appropriate location for such a use;

Yes, appropriate for the use.

(2) Property values in the district will not be reduced by such a use;

Property values will not be reduced; the sign is aesthetically acceptable.

(3) No nuisance or unreasonable hazard shall result;

There will be no traffic or noise concerns.

(4) No adverse traffic impact will result from such a use;

No adverse traffic concerns.

(5) Adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use, including water, sewer and parking;

Yes, there will be no increase to water or sewer.

(6) No adverse impact on the view, light and air of any abutter will result; and

No public safety issues. The Home Occupation will be between two existing businesses

(7) The use will not place a disproportional burden on the city's operational services in comparison to the anticipated tax revenue associated with the property/use in question.

There will be no view or lighting issues.

(8) Such a use would not be detrimental to the public health, safety and general welfare.

No detriment to public health, safety or general welfare.

(9) Such a use would be in harmony with the general purpose and intent of the zoning ordinance

Yes, harmony with the zoning ordinance would be maintained.

Motion: to grant a special exception with conditions (1) The applicant shall obtain and receive approval for all necessary permits as determined by the Local, State and Federal governments.

Made By: Mr. Russel

Second: Mr. Worcester

Vote: Unanimous

V. Adjournment

Motion: to adjourn

Made By: Mr. Russel

Second: Mr. Worcester

Vote: Unanimous

Meeting adjourned at 8:55 PM

Respectfully Submitted by, Kelly LeBlanc