



TOWN OF WEARE
PLANNING BOARD
ZONING BOARD OF ADJUSTMENT
15 Flanders Memorial Road
P.O. Box 190
Weare, NH 03281
Phone: (603) 529-2250
Fax: (603) 529-4554

Naomi L. Bolton
Land Use Coordinator

Office Hours:
Monday
thru
Friday
8 AM – 4:30 PM

**ZONING BOARD OF ADJUSTMENT
MINUTES
MARCH 6, 2007
(Approved 4/3/07 as amended)**

PRESENT: David Ruoff, Chairman; Forrest Esenwine; Jack Dearborn; Elwood Stagakis, Alternate; Naomi L. Bolton, Land Use Coordinator.

GUESTS: Scott Hogan, Attorney; Art Siciliano, LLS; Justin Fitzgerald; John C. Morse; Donna A. Morse; Ginger Esenwine; Rob Timpson

I. INTRODUCTION:

Chairman David Ruoff called this meeting to order at 8:00 PM and asked the board members present to introduce themselves. Chairman Ruoff explained to those present the way by which the board conducts business. Chairman Ruoff also explained that the board consists of a total of four members this evening, two are missing. The applicant must get three votes in the affirmative in order to be granted any request. Chairman Ruoff indicated that if any of tonight's applicants would like to continue the case to April to see if there is a full board it would be their choice. Mr. Stagakis will be stepping down for the first hearing, leaving three for that hearing, meaning all three must be in the affirmative.

II. ADMINISTRATIVE ITEMS:

There were no administrative items for this evening and the board went right to the hearings.

III. PUBLIC HEARINGS:

Case #0407 Justin Fitzgerald (Continued Hearing)
Variance, Article 3, Section 3.5.1
Applicant is requesting permission to construct a deck within the building setback.
Tax Map 409-146 Chuck Street

Attorney Scott Hogan was present with Justin Fitzgerald and Art Siciliano. Attorney Hogan stated that Chip Meany, the building inspector was out on the property today and it appears that the front steps may be in the front setback, so they will be filing an amended application to be heard at the April 3, 2007 meeting along with this request. Naomi informed Attorney Hogan that the deadline for April's meeting is Monday, March 12, 2007.

Chairman Ruoff appointed Elwood Stagakis to sit as a voting member for the next case.

Case #0807 Robert W. Timpson, Jr.
Variance, Article 3, Section 3.5.1
Applicant is requesting permission to construct a garage within the rear setback.
Tax Map 403-134 1133 Concord Stage Road

Mr. Timpson was present and explained that he is looking to build a garage within 10' from the back property line, versus 15' as required. Mr. Timpson then went through the five points of hardship as follows:

1. That there **will not** be a diminution of value surrounding properties as a result of the granting of this variance because: The proposed construction is incidental to the existing residential use permitted by the zoning ordinance. The neighbor's house, whose property, borders the setback I'm seeking relief from, would be 48 feet from the proposed garage. The neighbor, Payson Cameron is in favor of the construction as he cites it will act as a sound buffer from Route 77.
2. That the granting of the variance will not be contrary to the public interest because: The proposed construction will be on private property. There will be no increased traffic flow. No increase in public services. No detriment to public health, safety or welfare and assessed property value will increase, not decrease.
3. That enforcement of the zoning ordinance will create an unnecessary hardship in that the zoning restriction:
 - aa. An area variance is needed to enable the applicants proposed use of the property given the special conditions of the property because: The south side of the property exist the leach field. The east side has 20' from house to the common driveway and to build there would block the whole front of the house. The west side has features including a large boulder, slope that would require significant grading and tree cutting and would present awkward entry to garage. The north side is the most sensible.
 - bb. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance because: Granting a variance would allow the applicant to build a heated and secure structure for his equipment and material. To deny would force him to maintain the status quo or buy or rent a commercial bay which is beyond his means financially.
4. That through the granting of relief by variance substantial justice will be done because: There is no public benefit or detriment resting on this decision. On the other hand the board's decision weighs heavily on the applicant. To deny would do injustice to him with no public gain.

Allowing the applicant to go forward with construction would allow him to keep his equipment and material in a neat, accessible, secured and heated space behind the house.

5. The use, for which the variance is requested, will not be contrary to the spirit of the ordinance because: Building a garage on one's private property is not contrary to the spirit of the ordinance.

Forrest Esenwine asked why the location for citing the garage was chosen versus moving it slightly out of the setback, closer to the house. Mr. Timpson explained that if it is moved closer to the house the well becomes an issue as far as entry to the garage.

Chairman Ruoff asked if he would be running a business out of this garage, as the answer alluded to house tools, etc for the business. Mr. Timpson explained that he is a subcontractor and by the workers compensation law he is required to supply his own tools to do the job. He is looking to just keep his tools in out of the weather. Chairman Ruoff further asked if he would be storing oils, chemicals, etc. or running a business from that. Mr. Timpson again responded no.

Approving Abutters: John Morse is concerned because the material/wall could be compromised. He is concerned that if something happens it will slide down on to his lot.

Mr. Morse asked if his friends will be working in the garage. Mr. Timpson said no it will be only storage for his use. The concern being is that his bedroom is close to the structure.

Disapproving Abutters: None

Public At Large: None

Other Boards: None

Chairman Ruoff closed this hearing at 8:20 PM.

CASE DECISIONS: Jack Dearborn moved to accept all five points together, Forrest Esenwine seconded the motion. Unanimous vote in favor: Dearborn, Ruoff, Esenwine and Stagakis. Jack Dearborn moved to approve Case #0807 with the condition that the building is to be no closer than 10 feet from the northern most boundary; Forrest Esenwine seconded the motion. Unanimous vote in favor: Dearborn, Ruoff, Esenwine and Stagakis.

IV: OTHER BUSINESS:

FEBRUARY 6, 2007 MINUTES: Chairman Ruoff moved to accept the February 6, 2007 minutes as amended, Elwood Stagakis seconded the motion. Vote: Unanimous in favor (Dearborn, Ruoff, Esenwine, and Stagakis).

V. ADJOURNMENT:

As there was no further business to come before the board, Jack Dearborn moved to adjourn the meeting at 8:30 PM, Chairman Ruoff seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton
Land Use Coordinator