

**TOWN OF CHESTERFIELD, NH  
ZONING BOARD OF ADJUSTMENT**

**MINUTES  
December 12, 2006**

**Present:** Chairman Burt Riendeau, Andy Cay, Harriet Davenport, John Perkowski, Alternates Lucius Evans, Tony Souza and Carol Ross, Select Board representative Dan Cotter and Code Enforcement Officer Chet Greenwood.

The Zoning Board of Adjustment met at the Chesterfield Town Office on December 12, 2006 at 7:30 PM. Riendeau introduced the Board and explained the evening's procedures. The following agenda items were heard.

**1. Christopher and Deborah Minkler** request a variance from Article 503.1, Expansion of Non-Conforming Building to enclose the existing deck. The structure is within the road and side setbacks. The property is located at 818 Route 63, Spofford (Map 5A A3) Spofford Lake District. Continued from site visit on 11/19/06.

The Minklers presented their drawings for the proposed structure. The proposed room is 12 x 16 ft with a 4 ft walkway deck. This proposal does not increase the footprint but the living space is increased by 192 sq ft making the total living space 864 sq ft. The minimum sq ft requirement for a dwelling is 750 sq ft. This proposal would remove that non-conformity.

The existing house peak is 13 ft from the deck height and the proposed addition would be 12 ft high from the decking. The roof would overhang and cover the deck on the front entrance but the gable end and lakeside roof would not.

It was noted that this had been conditionally approved at the November 19<sup>th</sup> site visit with the submittal of drawings showing the elevation and room size specifics.

There were no abutters present.

*Perkowski moved to grant final approval of the Minkler's plan as they have laid it out to the Board in detail this evening. The Board finds hardship being that the dwelling does not meet the minimum sq ft requirement and this living space increase corrects that non-conformity without increasing the footprint of the structure.*

*Criteria for approval:*

*A. Denial of the variance would result in unnecessary hardship for the property owner seeking it. Boccia analysis for hardship:*

*➤ The special conditions of the property make an area variance necessary in order to allow the development as designed. Yes*

*And;*

*➤ The same benefit cannot be achieved by some other reasonable feasible method that would not impose an undue financial burden. Yes*

*B. The granting of the variance would not be contrary to the spirit and intent of the ordinance. Yes*

- C. The variance is in the public interest. Yes*
- D. Denial of the variance would result in injustice. Yes*
- E. The variance will not diminish the values of surrounding properties. Yes*

*Evans seconded the motion, which carried unanimously.*

**2. Edward & Mary Girroir** request a Variance from Article 503.1, Expansion of Non-Conforming Structures, to permit changing the roof pitch on an existing structure. The property is located on South Shore Rd, Spofford (Map 5A Lot A56) Spofford Lake District.

Girroir advised the 18 x 12 ft open sided structure was originally built in the 1950's and had a one-pitch roof. He was unaware that he could not change the roof pitch and was advised by the Code Enforcement Officer that he needed to seek a Variance for the height expansion. The footprint remains the same. Girroir stated that they had removed the roof every winter, as it would not carry the snow load.

The height is increased by approximately 5 ft due to the pitch. The original roof was approximately 7 ft 10 in high. The structure is 32 ft from the black top edge and 47 ft from the high water pins. He owns Lots A56 & A57. The structure is approximately 12 ft from the property line of A57. He also owns across the road, Lot B18. He advised that he had to cut trees on Lot B18 because the trees did not have a good root system and came down with the wind. The trees were removed to protect Tuckers property. There are approximately 75% of the trees left along the road and the trees that were cut were outside the 150 ft lake setback area. They plan on replanting small maples and will stump the area and seed it for grass.

Girroir advised the snow load was the hardship issue. The 2-pitch roof fits in with the neighborhood and is better constructed. He noted that the Tuckers have a similar structure and roof on the next lot. The structure would remain open. Cay stated it is a reasonable use for the grandfathered structure.

William Tucker, abutter, was present and stated it is a nice looking building. The height is not an objectionable height and he can see over it.

*Cay moved to close the public portion. Davenport seconded the motion, which carried unanimously.*

*Perkowski moved to approve the application as presented. It is a reasonable request to have a double pitch roof for NH winters.*

*Criteria for approval:*

*A. Denial of the variance would result in unnecessary hardship for the property owner seeking it. Boccia analysis for hardship:*

- *The special conditions of the property make an area variance necessary in order to allow the development as designed. Yes*

*And;*

- *The same benefit cannot be achieved by some other reasonable feasible method that would not impose an undue financial burden. Yes*

- B. The granting of the variance would not be contrary to the spirit and intent of the ordinance. Yes*
- C. The variance is in the public interest. Yes*
- D. Denial of the variance would result in injustice. Yes*
- E. The variance will not diminish the values of surrounding properties. Yes*

*The motion was seconded and carried unanimously.*

**3. First Universalist Church of West Chesterfield** requests a Special Exception for Article 300.4 Section C to permit the temporary use of a mobile home unit as a Sunday school classroom. The property is located at 10 Main St, W Chesterfield (Map 13C Lot A4) Residential Zone

Nancy Brooks and Shannon McNamara were present representing the Church. They presented packets of information with a time line. Brooks advised that there had been an L shaped horse shed and the plan would be to construct a building in a similar design. The mobile home would be located in the site of the future permanent structure. They anticipate that the fund raising may take up to 2 years. The mobile home would be used for the Sunday school class until construction begins.

It was noted that the Church is open from Easter to Christmas. There is a partial basement that contains the furnace. Currently they have an outhouse on the property but plan to have a holding tank installed at some point. They would be conforming to all setbacks.

They advised that they are looking into getting funding from the Historical Preservation Society and possibly the Universalist Church Association.

The mobile home is being donated to the Church and is currently used as a home. It will be available in April 2007. Pictures were presented. It was noted that if the new structure doesn't occur, the mobile home would be removed. Brooks advised they hope to start building in 1-½ years.

Greenwood advised this is a unique situation. Riendeau asked if there were requirements for septic due to public use of the structure. Greenwood stated it would have to meet code for egress, ingress and safety issues. Cay asked if it is not occupied overnight could it just be parked there. The Board discussed what article might better cover this situation and thought that 408, temporary structures, with no overnight occupancy would be a closer fit than 300.4.

Rua Bickford, Elder, advised that the church is growing and the younger people were doing a good job. She advised that they hope to have the Church registered as an historical site. Paul Copeland, abutter, stated that his concern is that the trailer would be there for a long period of time. Neil Jenness, Ladies Benevolent Society representative, had no objection to the proposal.

Perkowski thought this might be more a Code Enforcement issue than a ZBA one.

*Perkowski moved to close the public portion. Cay seconded the motion, which carried unanimously.*

The Board discussed if this would require conformity to commercial codes and if it would require a septic. It was discussed whether to get more information and have Greenwood inspect the mobile home for safety issues and if it were up to code and had they looked at other alternatives like using a home nearby owned by a member of the congregation or request the use of the Ladies Benevolent Society.

Greenwood advised that under the Day Care portion of the Life Safety Codes the mobile home would have to comply to specific codes, however, if the mobile home were in use during Church session these would not apply but would be considered a Church function and would need to meet Standard Life Safety codes. It was noted that the Church wouldn't be getting the trailer until April 2007 and should the Board request more information and should the application be continued.

*Perkowski moved to reserve judgment until the Code Enforcement Officer had the opportunity to inspect the trailer for safety issues and also have the applicant look into alternate sites.*

The motion died for lack of a second.

*Cay moved to grant the use of a temporary placement of a mobile home/manufactured type structure at the side of the church not in the side yard setback for a 180-day period starting April 1, 2007. We do this recognizing several things; 1) that there is no provision in our ordinance that we find addresses this situation where there is no overnight occupancy; there is no on site septic and is used for 2 hours or less each Sunday from Easter to Christmas. 2) Considering that #1 is the case then we are looking to the spirit and intent of the ordinance as it addresses in Section 300.4, Temporary Use of a manufactured house while another home is being constructed for 180 days renewable by coming back before the Board. We recognize the Section 408, Restrictions on Intermittent and Casual Use, which is for those properties in Town with structures, recreational vehicles, trailers that would be used on a seasonal basis. This situation does not fit either of those but the spirit and intent does. Therefore this approval is crafted with those in mind.*

*We are expecting that before those 180 days expires, the applicant will come back to the Board if they wish an extension given their fund raising time frame to build a permanent structure. There will be an opportunity for the Board to review it once again at that time. There should be consideration for the aesthetics of the placement of the trailer so that it is not objectionable or unsightly from the street or from a neighbor's property, although we will not specify any particular planting or fencing approaches.*

*We further add that the manufactured mobile home would have to be compliant with all code requirements within the State and Town.*

*Davenport seconded the motion, which carried unanimously.*

**4. James Barnes & Elana Houpis Barnes** appeal the decision of the Code Enforcement Officer that the tree removal exceeded previously approved site plan of granted variance for Articles 203.4 Section C and 203.6b Section B. The property is located at 112 North Shore Rd, Spofford (Map 5D B5) Spofford Lake District.

Jim Barnes and Walt Cudnohufsky, Landscape Architect, were present. Barnes advised they have made every effort to conform. They have moved the house out of the lake setback area. They met with the Conservation Commission and reviewed the plans with them. They are putting in a Clean Solution septic system, as it is a smaller and more efficient system. They used a salvage company to remove the cottage and recycle the materials even though it was more costly. They planned a water catchment basin system to protect the lake and the Smith property, as this was a concern of the Smiths as well as increased the number of hay bales prior to an expected heavy rain. The Plourdes expressed concerns with blasting and Barnes obtained seismic readings.

Cay stated that the Town's concern was that it looked like excessive cutting. Cudnohufsky reviewed the replacement plantings to be done. He explained why trees were taken down that were noted on the plans as staying. He stated that it wasn't until they were working on the site did it become evident that trees would not survive. He noted that replacement of the basil amount could not be achieved but the new plantings would have fuller foliage and would better mask the house. The Plourdes agreed that overtime the plantings would grow and it would fit well.

Perkowski asked how long it would be expected to achieve good cover. Cudnohufsky stated from 10 to 15 years.

*Cay moved to close the public portion. Evans seconded the motion, which carried unanimously.*

*Cay made a motion that the Board overrules the decision of the Code Enforcement Officer regarding excess tree removal from the site. We are thankful to Greenwood for bringing to the Board's attention this matter at the Barnes' property. We have reviewed it in detail once again and Mr. Barnes has given the detail of his tree removal, what was necessary during the construction process and what will be done for new plantings. The Board is satisfied that they are conscientious in their efforts and it is their full intent to meet the original intent of the site plan. That is to say that while it won't be the same trees there will be significant additional plantings and the Board finds that they are responsibly dealing with their site plan.*

*Davenport seconded the motion, which carried unanimously. (Voting: Riendeau, Cay, Davenport, Evans and Ross)*

#### **5. Review 11/14/06 and 11/19/06 Meeting Minutes**

*Cay moved to approve the November 14<sup>th</sup> and the November 19<sup>th</sup> meeting minutes. Perkowski seconded the motion, which carried unanimously.*

**6. Variance limitations ordinance**

The Board reviewed the proposed amendment to be added under Article 601.2, Variances. The Board agreed that this limitation would put the control in the hands of the Code Enforcement Officer. The applicant would still have the opportunity to come before the Board for relief.

This amendment would protect the rights of abutters who were not owners at the time of the variance and would have no idea that a variance had been issued.

*Ross moves to request that the following amendment be sent to the Planning Board for their review and approval for inclusion on the 2007 Town Meeting ballot. The request will be sent with all documentation noting the reasoning behind this request.*

*Riendeau seconded the motion, which carried unanimously.*

The amendment would be the last paragraph under Article 601.2, Variances.

***“Substantial completion (90%) of any construction work involved with the variance must be completed within 2 years of the time of variance authorization or such variance will lapse. Satisfaction of the requirements for such substantial completion shall be determined by the code enforcement officer.”***

**7. Adjournment:** The Board adjourned at 10:20 PM.

Respectfully submitted,

Carol Ross  
Secretary

Approved:

\_\_\_\_\_  
Burton Riendeau  
Chairman  
Zoning Board of Adjustment

Date:\_\_\_\_\_