

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

**MINUTES  
February 12, 2008**

**Present:** Chairman Burt Riendeau, Harriet Davenport, Alternates Charles Reilly, Lucius Evans and Jim Larkin and Select Board representative Bob Brockmann.

The Zoning Board of Adjustment met at the Chesterfield Town Office on February 12, 2008 at 7:30 pm. The meeting was called to order at 7:45 pm. Riendeau introduced the Board and explained the evening's procedures. The following agenda items were heard.

**1. Michael Lacroix** requests a Variance from Building Ordinance Article 13.03, Height of New Buildings, to permit a 39.5 ft high single family home. The property is located at 182 Mountain Rd, W Chesterfield (Map 25A Lot A1) Rural Agricultural/Protected Shoreland District.

Lacroix advised he intends to remove the existing apartment building and replace it with a single family home. The proposed house is a modular with a truss system. He was asked about the topography of the land at the location of the house and Lacroix stated it was virtually flat.

The proposed house would be 4,700 sq ft and the existing house living area is 3,221 sq ft. The proposed house will be located in the general location of the existing building. This lot also has 5 cabins that are rentals.

The Board reviewed the plot plan, the pictures of the proposed house and Larkin reviewed the building plans.

Riendeau advised Lacroix that he needs to meet hardship to qualify for a variance. Lacroix stated that this is a half million dollar property. He wants to build a house with the resale value in mind. He stated that is what he paid for the property. It was noted that the land is assessed at \$122,400 with a total assessment of \$334,300. He purchased the property for \$475,000.

Eric and Sherry Selmer, abutters, were present. They advised they were in favor of the project but wanted to make sure that the deeded ROW for the surrounding lots to the river was not impeded. Ann Trzasko had a similar concern expressed in an e-mail. The ROW is at the northern end of the property and would not be impeded by the project.

Lacroix advised that the site of the house is surrounded by sugar maples and he plans to keep the trees. He stated this would help with the visual appearance of the height.

Davenport asked about the septic. Lacroix advised that he has a new state approved 4-bedroom septic to be replacing the apartment house system.

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

Davenport has a concern with the 39 ½ ft height being 9 ½ ft above the allowed height limit. It was noted that this is over a 30% increase from the allowed height. She sees no hardship in the land.

Reilly stated that the hardship is strictly financial. Evans stated that the Board's decision is a matter of consistency. Reilly noted that this single family house may be less of a problem than the apartment building but it is still a much larger building. Davenport stated that the Board has denied others for height and the applicants redesigned to comply.

Riendeau reviewed the Boccia analysis for hardship. Hardship would be a special condition of the property that would make an area variance necessary in order to allow the development as designed and the same benefit cannot be achieved by some other reasonable feasible method that would not impose an undue financial burden. He does not see that this application meets either of these criteria to warrant a variance. The other 4 criteria were discussed.

It was noted by the Board that this would be new construction and could be made compliant. Larkin stated that there are design changes that could be made to bring it closer to compliance.

*Reilly moved to deny the application using the Boccia analysis for hardship. There are no special conditions on the property making the variance necessary and the benefit sought could be achieved by some other reasonable feasible means that would not impose an undue financial burden.*

*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. No*

*And;*

➤ *The same benefit cannot be achieved by some other reasonable feasible method that would not impose an undue financial burden. No*

B. *The granting of the variance would not be contrary to the spirit and intent of the ordinance. No*

C. *The variance is in the public interest. Yes, this could be true in improving the neighborhood.*

D. *Denial of the variance would result in injustice. No*

E. *The variance will not diminish the values of surrounding properties. Yes*

*Evans seconded the motion, which carried unanimously.*

**2. Request for rehearing Alex Kwader's application for a Variance from Article 204.4 Section B, Lot Frontage, to permit a residential lot with 55 ft of frontage where 400 ft is**

required. The property is located on Poocham Rd and Pinnacle Springs Ext (Map 4 Lot B1) Rural/Agricultural zone. The application was denied at the January 8<sup>th</sup> meeting.

Larkin had to recuse himself as he is an abutter to this property. Riendeau asked Kwader and Bragdon if they wanted to proceed with a 4 member Board. Bragdon agreed to go with the 4 members knowing 3 affirmative votes were necessary to grant the request.

Riendeau gave an overview of the application to Davenport as she was not present at the application hearing on January 8<sup>th</sup>. He summarized Kwader’s request to rehear noting that the Board did not rule on the 5 points of a variance Bragdon argues they should have.

Riendeau stated this is a complicated issue and he recommends that the Board grant the rehearing giving the Board opportunity to talk with Town counsel. He noted that the applicant is still responsible to bring a viable application before the Board.

*Davenport moves to rehear the application for the Variance from Article 204.4 Section B to permit a residential lot with 55 ft of frontage. Evans seconded the motion, which carried unanimously. (Voting: Riendeau, Davenport, Evans and Reilly)*

**3. Review 1/8/08 Meeting Minutes**

*Riendeau moved to accept the January 8, 2008 meeting minutes. Ross seconded the motion, which carried. (Yes: Riendeau, Evans & Ross)*

**4. Other**

- **Greenwood’s letter re: Kowal’s building permit revocation.**
- **Annual Spring Planning & Zoning Conference – April 26, 2008, Manchester, NH**
- **The Board reviewed Mike Bentley’s letter to Greenwood regarding Saba’s 2 properties – They recommend that Greenwood contact Town Counsel.**

**5. Adjournment:** The Board adjourned at 9:00 pm.

Respectfully submitted,

Carol Ross  
Secretary

Approved:

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Burton Riendeau  
Chairman, Zoning Board of Adjustment

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