

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

**MINUTES  
October 6, 2009**

**Present:** Chairman Burt Riendeau, Andy Cay, John Perkowski, Harriet Davenport, Renee Fales and Alternates Jim Larkin and Lucky Evans and Selectman Cliff Emery.

The Zoning Board of Adjustment met at the Chesterfield Town Office on October 6, 2009 at 7:30 pm. Riendeau called the meeting to order at 7:30 pm. The voting members will be Riendeau, Cay, Perkowski, Davenport and Fales. The following agenda items were discussed.

**1. Leon & Kim Wyman** request a Special Exception under Article 204.3 Section E to permit an attached 2 family dwelling. The property is located at 219 Stage Rd, Chesterfield (Map 15A Lot A9) Rural/Agricultural zone.

Wyman advised they currently have a single family 3-bedroom home and would like to create 2 separate dwelling units. They would be reducing the bedrooms to one for each apartment. The owner's apartment will be on the first floor. The other 1 bedroom apartment would have the kitchen on the first floor and the living room, bath and bedroom on the second floor. The existing 3<sup>rd</sup> bedroom will be turned into the living room for the 2<sup>nd</sup> apartment.

The property is on 4.7 acres of land and abuts Stage Rd in 2 locations. Fales asked about the septic. It was noted to be 8 years old with a 1,000 gallon tank and leach field.

Riendeau stated the Special Exceptions must comply with Article II and this lot does not have the required 5 acres as minimum lot size.

Davenport asked about the driveway accessibility. Wyman advised the driveway wraps around behind the house to the garage. The apartment occupant would be given the right bay of the garage to use.

Riendeau asked about the sq footage for the apartments. The existing living space square footage is 1,391 for the entire house.

Susan Leahy, abutter, advised she was present in support of the Wyman's application.

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

Riendeau stated the sq ft requirement was a concern and also the lot does not conform to the acreage minimum. He stated the acreage requirement is there for density purposes in that zone. Fales read Article 13.05 from the Building Ordinance which states "all one and two

family dwelling units to be erected or converted from an existing structure must have a minimum of 750 sq ft of living area...”

*Perkowski moved to approve the request as applied for; looking at the square footage and realizing it is a little under the required sq footage but it is an existing dwelling. The apartment will be a single bedroom apartment and the owner's apartment will be above the required sq foot requirement. Requiring them to comply with sq footage would mean they would need to put on an addition to the house. The 4.7 acre lot existed prior to the required 5 acre minimum.*

*In evaluating this Special Exception we find that it is authorized under Article 2 of Section 601.3.*

- A. The special exception is specifically authorized by Article II of this ordinance.*
- B. The proposed use will not be injurious or detrimental to the neighborhood.*
- C. Any special conditions required by Article II, Article III or Article V will be complied with; with the exception of the sq footage of one apartment and the lot acreage requirement.*
- D. The proposed use will not make an excessive demand on municipal services.*
- E. The proposed use will not generate traffic volumes that will overburden existing roads and streets.*
- F. The proposed use will not have an adverse impact on the natural environment.*

Davenport seconded the motion, which carried by majority vote. (Yes: Fales, Perkowski, Davenport No: Cay)

**2. Thomas & Leslie Burns** request a variance from Article 503.1 to permit an addition to the rear of the non-conforming house, a portion of the addition is within the front setback. The property is located at 161 Twin Brook Rd, Chesterfield (Map 12 Lot B5.1) Residential zone.

Burns advised they wish to put an addition on the back of the house and move a bedroom to the rear of the house. He advised they have 4 children and home school them and need the additional space. They had explored other options; going up or moving the house back. Neither of the options was practical due to the age of the building.

The proposed addition is 16 x 16 2-stories with a full walkout basement. The entire house is within the front setback. 9 x 16 ft of the addition would be in the setback and 7 x 16 ft would be conforming.

Larkin advised they would have an independent 4 wall foundation with a full basement for storage to be accessed from the outside. A bedroom would be expanded on the second floor and the first floor would be a den. The number of bedrooms would remain the same.

Currently they have 1,383 sq ft of living space. It was noted that the elevation of the addition would be lower than the existing house and won't be seen from the road. The addition is not close to any neighbors and won't be seen except when the foliage is gone.

The Board reviewed the Laskowskis' letter of support as abutters to the project. Burns had also submitted additional information.

Larkin advised there would be perimeter drainage and there would be no change in the water patterns. The land slopes away from the house on the side of the proposed addition.

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

It was noted that this is an area variance and would be considered using the Boccia analysis.

*Davenport moves to approve the request as applied for, a variance from Article 503.1. This is an area variance and the Boccia analysis will be used.*

*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, the house was built in the 1800's prior to any zoning and does not allow for any other reasonable way to expand.*

*And;*

- The same benefit sought cannot be achieved by some other reasonably feasible method for the applicant to pursue. Yes, only way to increase the size is to approve a variance. The only other way would be to rebuild the house in a conforming location.*

*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, as it will not be readily seen by abutters.*

*There is no increase in the number of bedrooms and will meet all the necessary requirements.*

Fales seconded the motion, which carried unanimously.

**3. Tammy & Gordon Rudolph** request a variance from Article 503.1 to permit a 4 x 6 ft extension to cover stairs at entryway. The property is located at 60 Spring St, Spofford (Map 10B Lot A12) Residential zone.

Rudolph advised they would like to extend the roofline 4 X 6 ft over the south side entrance to the house. The access they have used is on the north side of the house but there is no parking available on that side. The parking on that side was actually on Emery's property. Currently they park on the south side and then have to walk into the street to access the north entrance. This is a safety concern in the winter.

Rudolph stated she would just like a cover over the entry steps to protect from snow coming down. The area would not be enclosed at all, just a roof over the steps. The Rudolphs presented pictures of the house and parking area. There were no abutters present.

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

The Board noted that this was a safety issue.

*Perkowski moves to approve the application based on the 5 points of Boccia and after reviewing the 5 points moves to approve the request as applied for.*

*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, the house was built in the 1800's prior to any zoning.*

*And;*

- The same benefit sought cannot be achieved by some other reasonably feasible method for the applicant to pursue. Yes, allowing for a covered entrance by the driveway is a safety issue and a reasonable request.*

*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*

Davenport seconded the motion, which carried unanimously.

#### **4. Review August 11, 2009 Meeting Minutes and August 17, 2009 Site visit Minutes.**

- **August 11, 2009**

*Perkowski moved to approve the August 11, 2009 meeting minutes. Evans seconded the motion, which carried.*

- **August 17, 2009**

*Perkowski moved to approve the August 17, 2009 Site visit minutes. Davenport seconded the motion, which carried.*

#### **5. “Unnecessary Hardship” criteria changed with new law effective 1/1/10.**

Davenport, Perkowski, Fales and Larkin requested to be registered for the Municipal Law Lecture series on October 21<sup>st</sup> in Hanover. The hope is that the new criteria will be discussed.

**6. Other**

- Ross advised that Charlie Reilly has submitted his resignation from the Board as an alternate due to his business obligations.
- The Kwader v Town of Chesterfield ZBA court case will be heard on December 9<sup>th</sup> at the Cheshire Superior Court.
- Eric Schmidt had submitted a letter advising of his compliance to all conditions required by the Board for his Special Exception approval for a home business.

**7. Adjournment:** The Board adjourned at 8:50 pm.

Respectfully submitted,

Carol Ross  
Secretary

Approved:

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Burt Riendeau  
Chairman, Zoning Board of Adjustment

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