

**SWANZEY ZONING BOARD OF ADJUSTMENT MEETING
JULY 18, 2011**

Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.

ATTENDANCE

Bob Mitchell, Jerry Walker. Alternates Bryan Rudgers and Sarah Tatro. Town Planner Sara Carbonneau also was present.

Acting chairman Mitchell called the meeting to order at 7:06.

MINUTES

Mitchell determined that a quorum of those who had been present at the June 20, 2011 meeting were present. **Motion** by Rudgers to approve the minutes of the June 20, 2011 meeting. Second by Walker. Walker, Rudgers and Tatro in favor; Mitchell abstained. Motion passes.

1. (Public Hearing) Special Exception

Applicant: Hayley Hill

Property owner: Hayley Hill

Property location: 36 South Winchester St Tax Map 72, Lot 32

Zoning District(s): Village Business District I

Request: Special exception pursuant to Section V.A.2.a. to operate a day care facility.

Members seated: Mitchell, Walker. Rudgers was seated for Hutwelker, Tatro was seated for Thibault.

Representing the application: Hayley Hill

Abutters present: none

Mitchell opened the public hearing at 7:10 and explained that the Board prefers to seat five members, because an application requires three positive votes to prevail. With only four members present, Mitchell offered the applicant the option of requesting a continuation to the next regular meeting, on August 15, 2011. Hill chose to have her application heard on July 18.

Members received a copy of the application summary. The property is served by private water and public sewer. Carbonneau reviewed meeting notice posting dates and locations.

Hill stated that she would like to operate a day care facility out of her home. Hill said that she is pursuing State licensing; per State regulations, the number of children would be limited to a maximum of 6 preschool-aged (including her own child) and 3 children who would attend before and after school. Depending

on the success of the business, Hill said that she may look for another employee so that capacity could increase to 7-8 children. Hill said that her yard is fenced with a 4' chain link fence that will have a self-locking gate. Board members reviewed the site plan, particularly in reference to the fence location. Hill said that she is careful and cautious, and likes a neat yard and a quiet lifestyle. Hill said that the only neighbor who has expressed an opinion regarding her proposal is supportive.

In response to questions from Board members, Hill said that she does not intend to operate an unlicensed facility, and will keep enrollment to 3 children until her license is processed (which, due to backlogs, could take as long as six months, Hill said). Hill said that in August she will obtain State-required certification in infant CPR and first aid. Hill and Board members discussed the driveway, which can hold three cars and is located on the side of the lot opposite from the fenced area. Hill said that State licensing requires fire inspection, health inspection, CPR certification, and immunization records for herself and her pets (three cats and a golden retriever). Hill explained that State licensing requirements permit dogs to interact with children within the house.

Hearing no further questions or comments, Mitchell closed the public hearing at 7:22.

DISCUSSION

Members reviewed the criteria for granting the requested special exception.

1. Is the exception allowed by the ordinance?

Members agreed in the affirmative.

2. Are specific conditions present under which the exception may be granted?

a. Is the proposed use similar to one or more of the uses already authorized in that District and is it an appropriate location for such use?

Members agreed that the location is appropriate. Although lacking knowledge of similar uses in the immediate neighborhood, members agreed that day care facilities exist throughout Swanzey.

b. Will such approval reduce the value of any property within the District, or otherwise be injurious, obnoxious or offensive to the neighborhood?

Noting that Cutler Elementary School is located across the street, members agreed that they had heard no testimony that the proposed use would be deleterious to the neighborhood, nor reduce property values.

c. Will there be a nuisance or serious hazard to vehicles or pedestrians?

Members agreed that the proposal would not create a nuisance or hazard. Members felt that traffic generated by elementary school student drop off and pickup would likely not be at its heaviest during drop off and pick up of day care children.

d. Will adequate and appropriate facilities be provided for the operation of the proposed use?

Members agreed that the fence, parking, and utilities were adequate and appropriate.

Motion by Tatro to approve the special exception pursuant to Section V.A.2.a. to operate a day care facility. Second by Walker. All in favor.

2. Update regarding time limits on variances and special exceptions—discussion with Planning Board

Carbonneau said that the Planning Board (at its July 14, 2011 meeting) had been generally supportive of the ZBA's proposed time limits on variances and special exceptions, and had requested language to address holding the time limit in abeyance should an application go to litigation. Carbonneau said that the Planning Board's public hearings will take place during the period between mid November to late December, and encouraged ZBA members to attend.

Carbonneau advised Board members that there is still time to propose other zoning amendments. Concerning density, Carbonneau recommended that members visit the MGJ Realty, LLC multifamily housing development (the Tasoulas project at Tax Map 81 Lot 7-1; 62-64 West Street) to view an example of an effective layout on a small lot.

3. Other matters as may be required.

August 15, 2011 ZBA meeting will be held at the (air conditioned) Police Station, 34 Eaton Road.

Request for re-hearing of Mian Swanzey Realty LLC application (Tax Map 19, Lot 68): Carbonneau advised Board members that a re-hearing request will be on August agenda, and recommended that members review the relevant Section IV of the NH Office of Energy and Planning handbook, *The Board of Adjustment in New Hampshire*. Carbonneau said that Beauregard, Sr. likely would chair the public meeting as he had chaired the public hearing in June (Hutwelker and Thibault had stepped down due to potential conflicts of interest); Beauregard, Sr., Walker, Rudgers, Vitous and Arnone had been seated members for the June public hearing, but another member could be seated.

ADJOURNMENT

Motion by Tatro to adjourn. Second by Rudgers. All in favor. The meeting adjourned at 7:40 p.m.

Respectfully submitted,

Victoria Reck Barlow
Recording Secretary