Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment
Meeting Minutes – September 16, 2013

Note: Draft Minutes are subject to review, correction and approval by the Board. Review and approval of Minutes generally takes place at the next regularly scheduled meeting of the Board.

The regular meeting of the Swanzey Zoning Board of Adjustment (ZBA) was called to order at 7:00 p.m. by Chairman William Hutwelker. Present were Chairman Hutwelker, Vice Chair Keith Thibault, Jerry Walker, Bob Mitchell, alternates Bryan Rudgers and Charles Beauregard, Jr., and Beverly Bernard, Recording Secretary. The Recording Secretary called the roll and read the Agenda for the meeting.

Absent: Charles Beauregard, Sr., and Alternate members Sarah Tatro,and Jim Vitous

Others Present: Town Planner Sara Carbonneau, Dale FreihoferJr., Daniel Jarvis, Holley Allen & Jacques Blanchet,Michael Petrovick, David Cairns,Chad Branon, Robert Rountree.

MinutesMotion by Mitchellto approve the Minutes for the meeting of July 22, 2013, seconded by Walkerand all in favor with one abstention by Charles Beauregard, Jr., ***motion passed***.

1. **Public Hearing (Application for Variances) –Public Hearing opened at 7:05 p.m.**
   Dale Freihofer requested variances from Section V.B.3. and XI.B.1. to permit the construction of a mudroom and porch that does not meet required setbacks. The property is located at 429 Massey Hill Road and is situated in the Business District. The property is shown at Tax Map 3, Lot 33 and is owned by Cynda & Dale Freihofer, Jr. Seated for this hearing was Hutwelker, Mitchell, Thibault, Walker, Beauregard Jr. for Beauregard Sr.

   Carbonneau provided the appropriate documentation (Tax map and assessing card), and confirmed public notice posted dates and certified notices to abutters. She stated she received no feedback from Swanzey Department Heads.

   It was noted that in 2004 the Freihofers received a special exception for a two-family home on the site. Daniel Jarvis representing the owners of the property showed the Board an updated plan for the addition. Entire house is within 75 feet of the road and thereby entirely within the setback area. A discussion was held regarding the physical building and the members of the Board asked several questions about the plan. Sections will be torn down and newly built. A question was asked about the other homes in the neighborhood as to their closeness to the

road, which response was that they are similar to the Freihofer home. Neighborhood is zoned business, but is predominately residential.

Hutwelker said the struggle will be for the Board to accept a porch that encroaches; response by Dale Freihofer Jr. was that the aesthetics of the building require the porch to be rebuilt to be parallel to the rest of the building. Freihofer also said that the design of the old porch allowed water to come in, which meant he had to replace areas damaged by rot. It was also noted that the design of the porch will allow the driveway to be widened, allowing for additional parking. Hutwelker asked for questions from the rest of the Board. Regarding evidence of a previous porch, Town Planner Carbonneau said that in response to question about what may have been there 40-50 years ago is a moot issue, as any grandfathered rights would have lapsed. When asked if the porch might be moved further back from the road, Freihofer said the structure at the back end is all glass and therefore makes it difficult to push back proposed porch. No abutters were present.
Public Hearing closed at 7:23 p.m.

Chair Hutwelker reviewed the Checklist for Granting a Variance with the members of the Board.

1. *Could the variance be granted without being contrary to the public interest?*
   All said "no"
2. *Would the spirit of the ordinance be observed if the variance were granted?*
   Rudgers said yes, Mitchell said yes, Walker said yes, Thibault – passed
3. *Would the granting the variance do substantial justice?*
   All said "yes"
4. *Could the variance be granted without diminishing surrounding property values?*
   All said "no"
5. *Do special conditions of the property exist that distinguish it from other properties in the area?* **All said yes – depth of property is different from the others in the neighborhood**
   Necessary hardship: all said "yes"
   a. *Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?*
   All said yes – depth of property is different from the others in the neighborhood
   b. *Is the proposed use a reasonable one?*
   All four responded "yes"

Motion by Beauregard to grant a variance to Cynda &Dale Freihofer Jr. from Section V.B.3. and XI.B.1 to permit the construction of a mudroom and porch that does not meet required setbacks on property located at 429 Massey Hill Road and which is situated in the Business District and shown at Tax Map 3, Lot 33, second by Rudgers, all were in favor. No one was opposed. ***Motion passed.***

2. **Public Hearing (Application for Variances) - Public Hearing opened at 7:28 p.m.**
   Holley Allen & Jacques Blanchet requested variances from Sections VIII.C. and XI.B.1. to permit the construction of a mudroom that does not meet required setbacks. The property is located at 220 East Shore Road and is situated in the Rural/Agricultural & Shoreland Protection District. The property is shown at Tax Map 44, Lot5.Seated for this hearing were Hutwelker, Mitchell, Thibault, Walker and Beauregard Jr. for Beauregard Sr.

Carbonneau provided the appropriate documentation (Tax map and assessing card), and confirmed public notice posted dates and certified notices to abutters. She stated she received no feedback from Swanzey Department Heads.

Jacques Blanchet presented the proposal for a mudroom and bathroom to the first floor. He said he is proposing a stand-up shower for people with decreased mobility who may be visiting the house. In addition, he said that the original entrance goes directly into the kitchen such that there is no place to hang coats or remove wet boots and shoes. The combination mudroom and bathroom will address that problem. He also noted that the addition will be at the opposite side of the house from the lake. It will have a foundation without a basement.

Carbonneau noted that there are two structures on the property and the addition will go onto the main house. Hutwelker asked if there were questions from the Board. There were none. David Cairns, representing abutting property owner Pilgrim Pines, spoke in approval for the variance.
Public Hearing closed at 7:35 p.m.

Chair Hutwelker reviewed the Checklist for Granting a Variance with the members of the Board.

1. *Could the variance be granted without being contrary to the public interest?*
   All four responded "yes"
2. *Would the spirit of the ordinance be observed if the variance were granted?*
   All four responded "yes"
3. *Would the granting the variance do substantial justice?*
   All four responded "yes"
4. *Could the variance be granted without diminishing surrounding property values?*
   All four responded "yes"
5. *Do special conditions of the property exist that distinguish it from other properties in the area?*
   The area to be built on is U-shaped with paved area already in place. All were in agreement that made the property unique. Thibault noted that the shape of the property is much bigger than anything else on East Shore Rd. The neighboring properties are all smaller.

a. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?
All four responded "yes"

b. Is the proposed use a reasonable one?
All four responded "yes"

Motion by Walker to grant a variance to Holley Allen & Jacques Blanchet from Sections VIII.C. and XI.B.1 to permit the construction of a mudroom with bathroom on property located at 220 East Shore Road situated in the Rural/Agricultural & Shoreland Protection District shown at Tax Map 44, Lot 5. The motion was seconded by Thibault, and all were in favor. No one was opposed. ***Motion passed.***

3. **Public Hearing (Special Exception Application) –Public Hearing opened at 7:38 p.m.**
   Michael Petrovick, agent on behalf of Robert & Michelle Colbert, requested a special exception from Section III-AA. to permit the construction of an accessory dwelling unit in the residence

situated at 68 Centerview Drive. The property is situated in the Residence District and is shown at Tax Map 35, Lot 51. Seated for this hearing were Hutwelker, Thibault, Mitchell, Walker, and Beauregard Jr. for Beauregard Sr.

Carbonneau provided the appropriate documentation (Tax map and assessing card), and confirmed public notice posted dates and certified notices to abutters. She stated she received no feedback from Swanzey Department Heads.

Michael Petrovick, architect of the building, presented the plans for the 675 square foot accessory building (one bedroom apartment with garage under). A discussion was held regarding the Town of Swanzey 2013 Zoning Ordinance Section III-AAA Requirements/Limitations #8 whereby it is stated that the "gross living area of an ADU shall not be less than 300 square feet or be greater than 25% of the total floor area of the principal dwelling and ADU."Hutwelker was concerned that the applicants are seeking an increase by more than one third. Carbonneau said that she had reviewed the square footage of the principal dwelling and the entire square footage includesporches which make the 675 square feet less than 25% of the existing structure. Carbonneau also pointed out approval for the septic system for 4 ½ bedrooms was included in the documentation provided with the application.

Hutwelker asked for questions or comments from the Board. No further questions were asked but Thibault pointed out that he is in support of ADUs (Accessory Dwelling Units) but this one is unusual for its large size. He said he liked it and it is a good thing and Beauregard Jr. said he agreed. No abutters were present.
Public Hearing closed at 7:48 p.m.

Chair Hutwelker reviewed the ZBA Checklist for a Request for Special Exception

1. *Is the exception allowed by the ordinance?*
   All responded "yes"
2. *Are the specified 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?* – **all responded "yes"**
   b. *Will such approval reduce the value of any property within the district, or otherwise be injurious, obnoxious, or offensive to the neighborhood?* **All responded "no"**
   c. *Will there be a nuisance or serious hazard to vehicles or pedestrians?* **All responded "no"**
   d. *Will adequate and appropriate facilities be provided for the proper operation of the proposed use?*
   All responded "yes"

The Chair asked for a motion since the Request for Special Exception successfully met all conditions. Thibault **moved**to grant to Robert & Michelle Colbert a special exception from Section III-AA to permit the construction of an accessory dwelling unit in the residence situated at 68 Centerview Drive in the Residence District and shown at Tax Map 35, Lot 51.Beauregard seconded the motion, and all were in favor. No one opposed.***Motion passed.***

3. **Public Hearing (Variance Application) –Public Hearing opened at 7:50 p.m.**
Rountree Real Estate, LLC requested a variance from Sections V.B.3. to permit the construction of an addition that does not meet required setbacks. The property is located at 119 Monadnock Highway and is situated in the Business District. The property is shown at Tax Map 18, Lot 87-2.Seated for this hearing were Hutwelker, Thibault, Mitchell, Rudgers for Walker (who excused himself for personal reasons) and Beauregard Jr. for Beauregard Sr.

Carbonneau provided the appropriate documentation (Tax map and assessing card), and confirmed public notice posted dates and certified notices to abutters. No feedback from abutters nor Department Heads. Carbonneau said Mr. Rountree owns two lots and an abutter to a prior application is not an abutter for this application.

Chad Branon presented for the applicant, reviewing with the Board revised plans for a 136 foot addition. Branon stated that the business needs the extra space for storage. A variance is needed because the addition will encroach into the 20 foot rear setback. Part of old foundation will be used partially for the new addition. Buffer to abutting property is vegetation. Site plan review is going to be needed with the Planning Board. No impact on existing storm water basin. There is currently a box trailer in back of the building which will be gone, according to Branon.

Branon addressed the Variance Application Checklist with the Board as follows: 1.The addition will allow the dealership to better service the public. 2. Access to the addition will be internal. Existing door will be transferred to end of addition where the addition is in compliance due to the geometry of the property. No significant noise generated by the addition. No negative impacts to existing buffer. 3. Allows the business to better serve the public and grow their business. 4. Buffer is in place and not extending further than existing building lines. 5. Unnecessary hardship – no other logical place to build the addition. a. dealership is located in business district, and homes in back are protected by the existing vegetation. Hutwelker asked about deliveries in back. Intention is to access from the interior of the building. b. proposal does not change the use, just an extension of existing use.

Hutwelker asked the Board for questions. Rudgers asked about the trailer, andRobert Rountree said he intends to remove the trailer. He said the trailer currently holds materials that will be stored in the addition, once it is built, and therefore will not be needed after that.
Public hearing closed at 8:08 p.m.

Chair Hutwelker reviewed the Checklist for Granting a Variance with the members of the Board.

1. *Could the variance be granted without being contrary to the public interest?*
All four responded "yes"
2. *Would the spirit of the ordinance be observed if the variance were granted?*
Four responded "yes" – Thibault said "no"
Thibault said his reasoning is that regardless of whether it is in back or front of the building, the spirit of the ordinance is intended to prevent a building coming this close to another property. In this case since the business abuts a residential property, the spirit of the ordinance is to keep business use away from residential use.

3. *Would the granting the variance do substantial justice?*
   All four responded "yes"
4. *Could the variance be granted without diminishing surrounding property values?*
   All four responded "yes"
5. *Do special conditions of the property exist that distinguish it from other properties in the area?* -
   Beauregard said "yes" because it is a car dealership. He noted that there are no other dealerships around there; the dealership is surrounded by residences. Rudgers, Mitchell and Thibault all agreed that enforcement of the ordinance would be an unnecessary hardship.

a. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?
   Four responded "yes" – Thibault said "no"

b. Is the proposed use a reasonable one?
   All four responded "yes"

Motion by Beauregard to grant to Rountree Real Estate, LLC a variance from Sections V.B.3 to permit the construction of an addition that does not meet required setbacks on property that is located at 119 Monadnock Highway and is situated in the Business District and shown at Tax Map 18, Lot 87-2. The motions was seconded by Mitchell, four were in favor and one (Thibault) voted "no". ***Motion passed.***

6. Other matters as may be required.

Rudgers complimented the Chair on the re-wording of the ordinance verbiage.

Carbonneau updated the Board on a number of issues.

She said that on Tuesday, October 1, 2013 the State of New Hampshire Department of Transportation (DOT) is going to meet with the Swanzey Board of Selectmen and Swanzey Planning Board to discuss the Route 32/Sawyers Crossing Road Safety Audit. She encouraged ZBA members to attend and spread the word to others in the community who might have an interest. Carbonneau pointed out that some of the signs have been revised at the intersection which makes it easier for non-residents to navigate the intersection. Folks with kids might be interested in being there since there are two schools served by the intersection. Carbonneau mentioned that the number of curb cuts may be addressed. The meeting is at 6 p.m.

Regarding the State of New Hampshire's plans for a roundabout on Route 12, she said that the plan is to go out to bid in January or February 2014.

She also noted that the Southwest Region Planning Commission is doing a Route 12 planning study, looking at the capacity of Route 12, including access issues, and stress placed on the highway for large events such as the Cheshire Fair. Route 119 and Route 12 intersection is also problematic and needs study.

Thibault asked about Safford Drive extension. Carbonneau said that Town Administrator Shane O'Keefe and Economic Development Advisory Committee (EDAC) Chair Steve Bittel met with folks at Clearwater Pool & Spa to discuss an agreement to get the project moving. Carbonneau said it was hopefully going out to bid in November 2013.

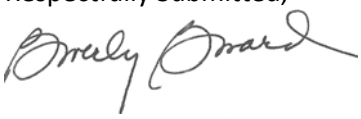
Carbonneau reported that the Whitcomb Hall renovation is moving ahead. Application for LCHIP grant money is being done.

Carbonneau also updated the Board on the Cobble Hill bridge work. Cobble Hill was under water for a while with heavy rain last week. Cobble Hill was closed.

Motion to adjourn made by Thibault, seconded by Beauregard, Jr. and all were in favor. ***Motion passed.*** Adjournment at 8:33 p.m.

Next meeting is October 21, 2013

Respectfully Submitted,



Beverly Bernard, Recording Secretary