

frank_benesh@roadrunner.com

April 1, 2013 12:09 PM



To: claudep.arccc@ne.rr.com, Andy Chalmers <andy@chalmersbuildingservices.com>

Cc: Scott Badger <scott@lupinepet.com>, "lynnklockard@gmail.com" <lynnklockard@gmail.com>, Bob Thompson <bthompson@nchcnh.org>, John Allen <j_allen@sau9.org>, Joan Aubrey <jraubrey@yahoo.com>

Reply-To: Frank H Benesh <frank_benesh@alum.mit.edu>

Fwd: Wentworth Resort

The Board of Adjustment cannot offer advisory opinions. Rather we are a quasi-judicial body that must act on specific applications for variances from the Zoning Ordinance. Once we receive a complete application, we must provide public notice (including certified letters to abutters), hold a public hearing to hear testimony from the applicant and abutters, consider the request for a variance, deliberate, and then deny or grant the variance. Including the time an applicant will spend preparing a variance application, the time necessary to prepare and provide public notice, the specified notice periods, holding the public hearing and make a decision, one should expect at least a month. There is a statutory requirement to have a hearing within 30 days of receipt of a completed application. Our ZBA meetings are generally on the third Wednesday of the month, but we sometimes can reschedule if there is only one issue on the agenda.

To grant a variance, we must find that an applicant has meet 5 specific criteria (which are to be addressed in the application).

- (1) The variance will not be contrary to the public interest;
- (2) The spirit of the ordinance is observed;
- (3) Substantial justice is done;
- (4) The values of surrounding properties are not diminished; and
- (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area: (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (ii) The proposed use is a reasonable one. (B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

More information on precisely what each of these tests mean can be found beginning on page II-9 at

http://www.jacksonvillage.net/Public_Documents/JacksonNH_BComm/zbahandbook.pdf

As a guide, prior applications for variances can be found at

http://www.jacksonvillage.net/public_documents/JacksonNH_ZBAMinutes/Applications/ and our decision can be found at http://www.jacksonvillage.net/public_documents/JacksonNH_ZBAMinutes/Decisions/

The general process is to discuss your project with the Building Inspector and identify all issues in advance. We typically act on variance applications from which a building permit has already been denied. That way, we can address all the issues at once. Proceeding in advance of a building permit denial runs the risk that a second problem (in addition to building height) is identified (or the building height itself is modified) - requiring a second trip the ZBA. It is possible to proceed without first having a denied building permit but it is not recommended.

Regards,

Begin forwarded message:

From: "Claude Pigeon" <claudep.arccc@ne.rr.com>
Subject: **Wentworth Resort**
Date: April 1, 2013 9:47:06 AM EDT
To: <frank_benesh@roadrunner.com>

Good morning, Frank,

I have prepared plans and elevations for an addition to the Wentworth. What I have so far will require waivers to at least one of the town ordinances (building height). I would like to present what I have to the ZBA before I proceed any further. Could you arrange that? I will make myself available at your convenience. Thank you for your assistance.

Claude Pigeon
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