

**TOWN OF WEBSTER, New Hampshire**  
***Zoning Board of Adjustment***  
**945 Battle Street/Rte 127**  
**Webster, NH 03303**  
**Tel. (603) 648-2272**

**MINUTES FROM ZBA HEARING 08/12/2008**

Members present: Chairman Marty Bender, Secretary Pat Inman, Members Robert Drown, Don Koberski, Linda Hook, Chris Vary and Shawn Smith.

7:06 PM Chairman Bender opened the hearing. Secretary Inman took attendance and read the notice for the hearing. Chairman Bender explained the hearing procedure and invited the applicant to begin.

Attorney Greg Ahlgren spoke for the applicants, Don and Brenda Lemay, the owners of Webster Auto Recycling. The junkyard has been in business since the 1950's. Since the Lemay's have bought the property, they have improved the quality of the property and even won awards from Governor Lynch. Attorney Ahlgren responded to the five (5) conditions for the granting of a variance as follows:

1. Since the property is already a junkyard, there would be no diminution of the value of surrounding properties;
2. Having a "caretaker's" apartment would serve the public interest by making the area safer.
3. Zoning Board restriction would present a hardship by interfering with the owner's reasonable use of the property.
4. Substantial justice would be done by the owners being able to protect their property from theft.
5. Part of the spirit of the Zoning Ordinance is to preserve the current density of the Town.  
This business is located on a 17 acre lot so would not be detrimental to the Town..

Chairman Bender asked if anyone had any questions. There were none at this time. No one else spoke in favor of the application. Tom Mullins stated that he does not agree that the spirit of the law pertains to density but to the Town's desire that we allow only one (1) residence on each lot.

In rebuttal, the applicant's attorney said that this apartment would place the same burden on the Town as that of an accessory apartment which is allowed by Special Exception.

Member Drown questioned whether or not the property could be split, but there is not enough frontage. Member Hook asked about the possibility of putting a fence around the whole property. The applicant responded that the cost would be prohibitive.

7:28PM Chairman Bender closed the testimony and opened the discussion to the Board. Chairman Bender referred to a US Supreme Court Case in 1982, Uhaul v Concord, that was almost exactly the same. The Supreme Court decided that Concord had to allow the variance.

Member Inman brought up the issue of life safety codes and the size of the apartment. It is a 1 bedroom apartment approximately 800 sq ft.

Chairman Bender asked questions about the well and septic. It is a shared well with a separate septic.

Member Don Koberski made a motion to take a vote to approve the Variance with the following conditions:

1. The resident of the apartment must be an employee of the junkyard.
2. Occupancy of the apartment cannot exceed two (2) persons.
3. The apartment shall contain no more than 800 square feet of gross floor area (not including garage or basement) and shall contain no more than two rooms in addition to the kitchen and bathroom.
4. Only one such apartment shall be permitted on a lot.
5. The apartment must meet all relevant life safety and sanitary codes.
6. The apartment's septic system must be certified by the New Hampshire Water Division (or its successor) as adequate for the proposed use.

Motion was seconded by Member Drown. The vote was taken and unanimously approved.

Resident Pat Hannon was in attendance as an observer. She was introduced to the Board by Member Drown. She is a candidate for one of the Alternate positions on the Board.

Chairman Bender adjourned the meeting at 8:10 PM.

Respectfully submitted,

Patricia Inman  
Secretary

PI/ms