

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

**Zoning Board of Adjustment Minutes May 8, 2012**

**Case No.: 12-01 Special Exception/Home Business**

**Dianne Pratt**

**1607 Battle Street, Map 3 Lot 80**

Members present: Chairman Marty Bender, Robert Drown, Jr., David Barnes, and Barbara Corliss; Alternates – Secretary, Jaye Bowe, Normandie Blake, Guy LaRochelle and Paul Silberman.

**7:05 pm:** Chairman Bender opened the meeting by having Secretary Jaye Bowe take attendance. After attendance, the meeting proceeded with the election of officers. Member Drown nominated Marty Bender to continue as Chairman, seconded by Member Corliss and approved by the Board unanimously. Chairman Bender nominated Alternate Jaye Bowe to continue as Secretary, seconded by Barbara Corliss and approved by the Board unanimously. At this time the Board looked over the minutes from the last meeting of November 8, 2011. Member Drown made a motion to accept the minutes as written, seconded by Member Blake and approved by the Board unanimously.

**7:10 pm:** Chairman Bender opened the first hearing and asked Secretary Bowe to take attendance of the Board for this first hearing. Chairman Bender explained the procedure for the public hearing and then invited Mrs. Pratt to make her presentation. Mrs. Pratt, daughter of David and Carol Batchelder, stated that she and her husband plan to buy her parent's house at 1607 Battle Street in the near future and open a home business for a small child care service. Mrs. Pratt stated her daughter will be going into kindergarten which is only 2.5 hours long. She will need more income so she would like to babysit three additional children. It will be a small, family, non-licensed day care. Mrs. Pratt stated that she had been an early childhood education teacher for 13 years, 5 of which were as a kindergarten teacher.

At this time, Chairman Bender asked Mrs. Pratt about the size of the area for this home business. She stated the area would be 950 square feet (the finished basement), approximately 25% of the gross floor area. Chairman Bender then referred to the sketch of the property. Mrs. Pratt assured the Board that she would not be building any additions to the home. The basement would be the part of the house she would be using. She explained that it is a finished, walk-out basement which gives the children easy access to the backyard. Mrs. Pratt would be the only other person running the business.

Chairman Bender asked if the Board had any other questions for the applicant. Alternate member LaRochelle inquired about several safety issues such as smoke detectors, easy access to stairs for the children and bathroom facilities. Mrs. Pratt assured the Board that smoke detectors were in place and there was easy access to an egress in addition to having a full bathroom which can accommodate children. Alternate LaRochelle also inquired about what the ages of the children would be. Mrs. Pratt stated that she did not have any children enrolled yet but she is considering infants up to kindergarten or first grade. Alternate LaRochelle continued with a brief discussion about safety issues. He also wanted to know if there was any lead paint. Mrs. Pratt was very much aware of state requirements and guidelines. Her father, David Batchelder, answered Alternate LaRochelle's specific questions regarding the actual construction of the home. Mr. Batchelder built the house himself in 1965 and assured the Board that there was no lead paint used. Member Drown suggested that basing approval of the application contingent upon compliance with Life Safety Code requirements would cover the safety issues Alternate LaRochelle was concerned about. Alternate LaRochelle was most agreeable to that solution. He explained his concern stemmed from his work in the building trades and wanted to be sure of the safety of the children. Member Corliss asked Mrs. Pratt as to why would she not want to be licensed. Mrs. Pratt stated she did not want to take care of that many children. Questions arose regarding insurance. Mrs. Pratt stated there would be a separate policy that would cover each child in the event of an accident or injury.

Chairman Bender asked if anyone would like to speak in favor of the application. David & Carol Batchelder, parents of the applicant, addressed the Board. They both offered more details about the layout of the house; the presence of a full kitchen in the finished basement; a phone; television set and easy access to two sets of finished stairs. At this time Therese Larson, an abutter across Battle Street, spoke in support of the home business. She and her husband have no problems with Mrs. Pratt's plans. Alternate LaRochelle asked about the lighting around the house. Mrs. Pratt responded that there flood lights on the outside of the house. Member Drown pointed out that the house is setback a long distance from the road. Mrs. Pratt added that the children would be playing behind the house not near the road. Alternate Silberman inquired of the Board the number of unlicensed daycare businesses in Webster. Member Drown responded, "Unknown." Alternate Silberman also wanted to know if people are required to apply to the ZBA in order to run an unlicensed daycare. Chairman Bender stated that people are supposed to apply to the ZBA for a special exception for a home business; however, there are people who do not. Alternate Silberman then posed the question as to whether or not there would be a property tax change from home to business; how would personal use and business use be differentiated? The Town of Webster does not differentiate at this time. A question arose regarding the hours of operation. Mrs. Pratt stated they would be approximately 6:30 am to 5 pm Monday through Friday.

**7:31 pm:** Chairman Bender closed the testimony and the Board discussion began. Member Drown stated he felt that the application was cut and dried. There is a lot of open space and the children would be a long way from the road. Member Drown stated that other than a Life Safety Code inspection he did not have any problem with the application. Alternate LaRochelle was in support of the application and agreed with Member Drown regarding having a Life Safety Code inspection. Member Corliss stated that she had no further questions as the application addressed all pertinent information.

Chairman Bender called for a vote from the Board regarding the exception. All members, including Alternate Jaye Bowe who replaced Don Koberski due to his absence, were in favor of Mrs. Pratt's special exception for a home business, contingent upon having a Fire/Life Safety Code inspection. Adam Pouliot, Fire/Life Safety Code Officer for the Town of Webster, will be contacted to go to 1607 Battle Street for an inspection. Member Drown asked Mrs. Pratt as to when she expected to start her business. She hopes to start July 1<sup>st</sup>. The next step for the applicant is to apply to the Planning Board for a Site Plan Review.

7:36 pm the first public hearing was adjourned.

**Case No. 12-02**

**Edward and Mary Cloues represented by their agent, Douglas Gamsby,  
Of CLD Consulting Engineers of White River Junction, VT**

**Special Exception and Variance**

**121 Lake Avenue, Map 1 Lot 43**

**7:38 pm:** Chairman Bender opened the second hearing. Secretary Jaye Bowe took attendance and read the application. Member Drown recused himself due to his family's business relationship with the Cloues family. Chairman Bender again explained the procedure to the applicant and invited him to proceed. Douglas Gamsby of CLD Consulting Engineers, represented Mr. & Mrs. Cloues and spoke on their behalf.

Mr. Gamsby began his presentation by referring to a detailed drawing of the proposed construction of a new residence on almost the same footprint of the present building. He proposed that the current house would be demolished down to the existing foundation. An existing porch on one side of the home would become living area and a new porch would be added on the opposite side of the house but not extend beyond the current footprint. Alternate Member Blake, who replaced Member Drown due to his recusal, asked if that was okay with D.E.S. Mr. Gamsby answered in the affirmative as the construction was outside of the 50 foot Shoreland setback. A question arose about the number of stories of the new house. Mr. Gamsby explained that the current house is 2

stories. The new house would be 2.5 or 3 stories. Alternate Silberman inquired as to what the finished square footage would be. Mr. Gamsby responded that the existing square footage for one level is 1,480 square feet; the proposed would be 1,570 square feet. Discussion continued regarding the physical surroundings of the property and what impact the new house would have on the abutters. Mr. Gamsby explained that the Cloues' property is right across from the intersection of Lake Road and Hollings Drive, with a very good tree buffer right across the Cloues' front yard. Secretary Bowe asked if the Cloues' would be seasonal residents. Mr. Gamsby believed that was their plan at this time. Member Corliss referred to the drawing, specifically the "bump out" at the front of the house. She said if that part of the house already exists, why is the Board being asked for a variance? Chairman Bender said there should not be a variance because the house is a pre-existing non-conforming building as described in the Zoning Ordinance Article VI section 4: "Any and all non-conforming property which is partially or totally destroyed by reason of obsolescence,...maybe restored, remodeled and operated, if done within two (2) years, providing, however, that proximity to a lot line or right-of-way may be no nearer than the lesser of the original building and the setbacks defined in this ordinance." Chairman Bender stated the Board would drop the variance because it falls under Article VI section 4. The house was built in 1940, which was clearly before zoning. A brief discussion ensued.

Chairman Bender asked if anyone wished to speak in favor of the application. Mr. Ron Finlayson, an abutter familiar with the property, stated that the hemlocks on the property's front yard basically block the view of the property. He felt that the height of the building was inconsequential. Mr. Finlayson did not have any issues. He also stated that the town would increase its tax base after the new house was completed. Ms. Barbara Maki of Hollings Drive stated she lived across from the property and it does not obstruct her view. The new house would be a far better building than what is there now. Mrs. Cilley was next to speak in favor. She and her husband own a house on Lake Road. They have known the Cloues family for many years. They absolutely support the building of the new house. Mr. Jere Buckley, a lake neighbor, stated that the Cloues' are good citizens and respectful of the environment. He had no objection to the proposal.

Chairman Bender asked if anyone wished to speak in opposition to the application. Mr. Richard Mueller, an abutter across the street from the property, did not have an objection to the building, but suggested that maybe taking down a couple of small trees would make him very happy.

**8:12 pm:** Chairman Bender closed the testimony and the Board discussion began. Chairman Bender stated that the variance was unnecessary. He suggested the Board drop the variance out of the application because there is no change; it is clearly a non-conforming use. Chairman Bender moved on to the special exception. He believed that the exceptions were very close to non-conforming use because the proposed construction

is almost on the same foundation. Member Corliss observed that the applicant had ample room to bump out the section of the construction of the new living space on the side with regards to the setbacks. Member Corliss wondered what else the Board should be concerned with. Alternate LaRoche asked what was going to happen with the septic tank. Mr. Gramsby stated he was in the process of designing a new system. The old septic tank would be pumped out and crushed in place and used as fill or it could be taken away. He would also be applying to D.E.S. for a Shoreland Permit because of the excavation that will be taking place. Member Corliss asked if a building permit would be required to build the new house. Chairman Bender believed it would require one.

Chairman Bender asked for any additional comments or questions; there were none.

Chairman Bender called for a vote from Board members as to whether or not to grant the special exception. The Board voted unanimously in favor of granting the special exception.

**8:20 pm** the second public hearing and the ZBA meeting were adjourned.

Respectfully submitted,



Jaye Bowe  
Zoning Board Secretary

**POSTED May 15, 2012**