

## ZONING BOARD OF ADJUSTMENT

Wednesday, June 27, 2007  
Belmont Corner Meeting House  
Belmont, N.H.03220

Members Present: Chairman P. Harris; N. Patten, P. Oberhausen, L. Couture and J. Bennett.  
Alternates Absent: E. Hawkins (E).  
Staff: C. Daigle and E. Murphy.

The chairman opened the meeting at 7p.m.

**Abutters' Hearing – Robert & Rebecca Mulley:** Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to allow a pool closer (35.5') to the front property line (Seavey Road) than allowed (50'). Property is located at 96 Church Street in an "RM" Zone, Tax Lot 237-013, ZBA # 0507.

Mr. & Mrs. Robert Mulley presented the application.

Mrs. Mulley explained that two years ago they hired a contractor to install a pool. They picked the most appropriate spot to place it so it didn't interfere with the driveway and garage. They had a permit out for the garage and no one ever questioned the pool during those inspections. She stated that it is a side setback in question not a front setback. When she did apply for the pool permit she was told that she needs a variance. She had Mr. Paul Darbyshire do a survey which cost her \$3,000. There is a 6' fence around the pool and a line of trees that keeps the pool out of sight. They have received consent from all the abutters. It cost them \$6,000 to install the pool and it will cost them \$4,000 to have it moved because of the grades and excavation that will have to be done. They have worked with the town to get all the permits necessary for work on their property but were unaware they needed one for a pool. Their contractor never told them they needed one. They have already invested \$9,000 on this pool.

Mrs. Gloria Hamel, an abutter, stated that she lives directly across the street and she has no objection to the Mulley's leaving the pool where it is.

P. Oberhausen stated that the hardship is the cost of moving the pool even if the applicant should have known that they needed a permit. P. Harris stated that the setback requirements are for safety reason and the pool is 35.5' to the street. Fire apparatus can get around it. They can move the pool but there are wet areas on that lot. J. Bennett stated that the hardship is moving the pool. L. Couture stated that the pool is in a contained area and fenced in. N. Patten stated that it is too bad that people don't check with the Town to see if they need a permit.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – ROBERT & REBECCA MULLEY:**

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to allow a pool closer (35.5') to the front property line (Seavey Road) than allowed (50') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it due to the cost of moving the pool:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by N. Patten and carried. (5-0)

**Abutters' Hearing – Keith Bujeaud:** Request for a Special Exception of Article 5 Table 1 and Article 7.G. of the Zoning Ordinance to allow an accessory apartment in the “RS” zone. Property is located at 77 Mile Hill Road, Tax Lot 205-10, ZBA # 2407.

At least three members have viewed the site.

Mr. Keith Bujeaud presented the application.

Mr. Bujeaud stated that this is the first house he bought and the Realtor advertised it with an in-law apartment. He has had people living in the apartment for three months and about one and half months ago during an inspection the Town found the apartment. He has been working with C. Daigle to obtain the proper permits. There will be no physical changes to the building except for the window. They have to get another septic design and have it on file in case the current system fails. It is a small one bedroom apartment that will have no negative affect on the community.

P. Harris wanted to know if it meets all the requirements for an accessory apartment. C. Daigle stated that it does. P. Oberhausen wanted to know if Mr. Bujeaud knows that all the smoke detectors have to be hardwired. Mr. Bujeaud stated that he knows that and he has thirteen of them in his house.

His tenant had unplugged one and it has been replaced so that it cannot happen again.

J. Bennett wanted to know the difference between an in-law apartment and an accessory apartment. C. Daigle stated that they don't have in-law apartments anymore. Accessory apartments are not restricted to relatives and can be rented by anyone. Mr. Bujeaud said he has met the standard at this time or will at the time the building permit is issued.

Mr. Bujeaud stated that originally the apartment was for his grandmother but because of her health she cannot rent it. Now they plan on renting it until his mother needs it.

P. Harris wanted to know if the apartment could be expanded. C. Daigle stated that it can't be more than 25% of the primary building and it is almost at that point now. The only way they could do it would be to expand the primary dwelling then expand the apartment. Mr. Bujeaud stated the apartment already takes up the entire full basement. He will be getting a certified septic design.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – KEITH BUJEAUD:**

**MOTION:** N. Patten moved to grant a Special Exception of Article 5 Table 1 and Article 7.G. of the Zoning Ordinance to allow an accessory apartment in the "RS" zone as it meets all the criteria.

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.
9. Submit Licensed Septic Designers Certification of septic loading capacity.

The motion was seconded by P. Oberhausen and carried. (5-0)

**Abutters' Hearing – Albert Donohue:** Request for a Special Exception of Article 10.A.3.d. of the Zoning Ordinance to construct a deck closer (42') to the front property line than allowed (50') but not closer than the existing structure. Property is located at 342 Bean Hill Road in an "R & RS" Zones, Tax Lot 224-002, ZBA #2507.

At least three members have viewed the site.

Mr. Albert Donohue presented the application.

Mr. Donohue explained that he wants to put a 12' x 20' deck behind his house. The existing house is not 50' from the front property line. The deck will be further back than the house.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – ALBERT DONOHUE:**

**MOTION:** P. Oberhausen moved to grant a Special Exception of Article 10.A.3.d.of the Zoning Ordinance to construct a deck closer (42') to the front property line than allowed (50') but not closer than the existing structure as it meets all the criteria.

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.
9. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by L. Couture and carried. (5-0)

**Abutters' Hearing – Robert J. and Joann L. Skowrya For Mallards Landing:** Request for:

- a. A Special Exception of Article 10.A.3.d.of the Zoning Ordinance to reconstruct a two-story seasonal single family residence closer (9.7') to the interior road than allowed (15') but not closer than the existing structure.
- b. A Variance of Article 5 Table 2 of the Zoning Ordinance to reconstruct a two-story seasonal single family residence closer (7') to the rear property line than allowed (12.5').
- c. A Variance of Article 5 Table 2 of the Zoning Ordinance to reconstruct a two-story seasonal single family residence closer (7.5') to an unrelated structure (shed) than allowed (20').

Property is located at 69 Mallards Landing Road in an "RS" Zone, Tax Lot 110-002-000-602, ZBA #2607, 2707 & 2807

Mr. Bryan Bailey and Mrs. Skowrya presented the application.

At least three members have viewed the site.

**MOTION:** P. Oberhausen made a motion to hear this application as a new application as the there has been significant changes to the application.

The motion was seconded by L. Couture and carried. (5-0)

Mr. Bailey explained that the previous plan was denied there have been modifications to the plan but the use is the same. The front setback for the old manufactured unit was 8.7' to the interior road and the new setback would be 9.7'. The setback to the adjacent unit to the south was 14.1' and now will be 20.5'. The setback to the adjacent building to the northeast was 25.8' now it will be 21.7'. The unit has been there for 50 years and is dilapidated and they want to bring the unit up to standards that would allow them to inhabit the unit. The old shed is removed and the setback to the railroad will now be 7'. The new proposal shows the structure being reduced and the shed eliminated but they need two variances and a special exception to replace the unit. The new unit will be parallel with the road and be 9.7' rather than 8' to the interior road.

Mr. Bailey addressed the variance criteria. It will not be contrary to the public interest because the previous unit with add-ons was approximately 50 years old and will be replaced by a wood- frame 2-story dwelling. It will remove a potential hazard, and improve the value of the area. It will also remove all structures from the State railroad property. The unit will meet and/or exceed State and local building codes. It will enhance the surrounding area increasing property values within and adjacent to Mallard's Landing.

Mr. Bailey explained that an area variance is needed because the previous unit was a non-conforming unit. They shortened the length of the new unit to accommodate the zoning regulations. Even making the unit smaller they still cannot successfully place a unit on the property without violating the distance from the neighbor's shed to the edge of the unit. The Association is in the process of identifying units that fall into the State's railroad property to have owners remove units that can be removed. The abutter's shed is one of those units. The new proposed unit will be designed to best fit the existing constraints of the railroad and abutting neighbors.

The benefit sought by the applicant cannot be achieved by some other method because even if they rebuild in the same footprint they will still be nonconforming to the abutting shed. By repositioning the unit it is safer, more efficient and less costly to construct. The existing unit was unreasonable to recreate and would have created a situation where they are closer to both the road and the abutter on the south side. Literal enforcement would make it difficult or impossible to construct a unit that would meet all zoning requirements.

The spirit of the ordinance is observed because the new 2-story unit will be situated completely off the State's railroad property and there will be more than 20' between abutters. Every effort is being made to insure the property is not infringing on abutters or road access. It has been designed for minimum impact on other properties in the area.

Substantial justice will be done because they will be able to build a permanent structure that will add value to the neighborhood. It will meet or exceed all building requirements, eliminate a potential hazard by removing an uninhabitable unit, will remove all structures from the railroad ROW and protect

their investment. The proposal will benefit both the Town and the applicant. The benefit to the public is equal or exceeds the benefit to the applicant by adding value to the neighborhood, increasing safety by increasing the distance between abutters and the main road and creating a safer unit.

The variance would not diminish the value of surrounding properties because they would be replacing a dilapidated, uninhabitable, dangerous property with a new wood built structure similar to others in the area. Property values would increase and surrounding areas will benefit.

Mr. Bailey addressed the criteria for the special exception by explaining that the site is appropriate because the previous unit has been there for 50 years. The new unit will be completely off the railroad ROW. It is shorter than the previous unit. The site can accommodate the new unit and has ample parking on the south side of the unit. The site has a view of the beach and lake and blends in with surrounding units. The second story will not impair views of the neighbors. The unit is an existing seasonal residential use being physically upgraded.

Property values for the surrounding properties will not be negatively impacted because the new unit will replace an uninhabitable, dated mobile home with add-ons. It will make the site more compatible to others in the area which are not trailers. The new unit will increase in value and have a positive impact on real estate taxes for the town and county. The ZBA has granted such reasonable property improvement at Mallards Landing in the past.

There is no nuisance or hazard involved because the length of the unit will decrease and the unit will be completely off the State's railroad ROW. The unit will remain single family and meet building codes.

Adequate and appropriate facilities and utilities will be provided. Mallards Landing provides community water and is on town sewer. The use will not change and utilities will be connected to the new unit. There is adequate area for safe and sanitary sewage disposal.

The proposed structures will meet all dimensional requirements of Table 2 of the Zoning Ordinance or is specifically allowed under the proposed special exception.

Mr. Bailey explained that DOT has received updated information on 69 Mallard Landing about the encroaching shed and that it has been removed and they have no objections.

P. Oberhausen stated that since last month when the applicant was denied they have made improvements to the setbacks and have removed the shed.

Mr. Jerry Skaza, an abutter, stated that he has no objections. Mr. Kevin Parziale, an abutter, stated that he has no objections.

Mr. Roland Therien, an abutter, stated that he has concerns about parking. There have been issues over parking in the past and he is not convinced there will be ample parking for the new unit. He

explained the reason the old unit was placed at an angle was because when it was bought the trailer company just dropped it off and the owners decided to leave it where it was. He stated that they need 8'-10' to park a car and they have to take into consideration the shed when determining where they are going to park. Mr. Bailey explained that they will be parking between the two units in the area where the old unit was. Mr. Therien stated that the old unit was at an angle and the proposed parking is their private area and they don't want anyone parking in that space. Mr. Bailey stated that they plan for a 10' x 20' parking area over where the old unit was. Mr. Therien stated that they have had use of that area and doesn't think there is enough room for two vehicles. Mr. Bailey stated that it is a congested area but they will be parking where the old unit was so it isn't the Therien's private area.

Mr. Therien wanted to know where the front entrance would be. This is a old private yard and they don't want the main entrance facing them. L. Couture asked where the stairs and landing would be. Mr. Bailey stated that they would be where the old front porch was. Mr. Skowyra stated that she is not sure where the entrance will be because they haven't completed the design until they get the approvals from the Zoning Board. Mr. Therien stated this is a private yard and he doesn't want to give up his privacy by having them use the door closest to them or to park in that area. Mr. Bailey reiterated the fact that there is ample parking for a single vehicle where the old unit was located. Mr. Therien stated that he has requested that Mallard's Landing Board not allow egress from the unit on their side but he has not been able to view the plans. Mr. Parziale, Mallard's president, stated that they will be able to review the plans once the plans are approved by the Zoning Board. Mr. Bailey stated that it is an issue between Mallard's' Board and them not the Town. Mr. Therien stated that his use is grandfathered and they plan to continue to use it but they may want to rebuild at a later date and don't want this proposal to limit them. Mr. Bailey stated that they are using what was there. They are not asking for two or three cars parking.

P. Harris stated that the setbacks are in line with others in Mallards. Each site in Mallard's is unique. Mr. Therien stated that he wants the entrance on the opposite side of him. P. Oberhausen stated that he would have to go to Mallards with his concerns about that. Mr. Parziale stated that they would have an opportunity to come to the next Mallard's meeting to discuss their concerns. He stated that the original proposal was turned down and Mallards requires two parking spaces.

L. Couture wanted to know where the stairs would be located. Mr. Bailey stated on the left side of the unit in the flat area. There will be one step only. P. Harris stated that a 4' x 4' landing for access to the unit is allowed in the setback as long as it is uncovered and unsided. L. Couture stated that they need a second form of egress. Mr. Therien stated that could be on his side as long as it is not the main entrance.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – ROBERT J. AND JOANN L. SKOWYRA FOR MALLARDS LANDING:**

**MOTION:** P. Oberhausen moved to grant a Special Exception of Article 10.A.3.d.of the Zoning

Ordinance to reconstruct a two-story seasonal single family residence closer (9.7') to the interior road than allowed (15') but not closer than the existing structure as it meets the criteria.

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.
9. All property bounds/existing footprint certified during construction as required.
10. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by N. Patten and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to reconstruct a two-story seasonal single family residence closer (7') to the rear property line than allowed (12.5') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. All property bounds/existing footprint certified during construction as required.
7. No structures or additions that do not meet setback, except for those approved herein are allowed.
8. Adequate parking for one vehicle to be provided

The motion was seconded by N. Patten and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to reconstruct a two-story seasonal single family residence closer (7.5') to an unrelated structure (shed) than allowed (20') as it meets all criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property

- given the special conditions of the property;
- B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
- 3. The spirit of the ordinance is observed.
  - 4. Substantial justice will be done.
  - 5. The variance would not diminish the value of surrounding properties.

The following conditions apply:

- 6. Structure must be staked out and footprint inspected before concrete is poured.
- 7. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by N. Patten and carried. (5-0)

**Abutters' Hearing – Robert Benwell & Donna Mauzy:** Request for:

- a. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition to a single family home(garage & deck)closer (24.9') to the front property line than allowed (50').
- b. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition to a single family home (garage & deck) closer (10.5') to the side property line than allowed (12.5').

Property is located at 24 Mountain View Terrace in an "RM" Zone, Tax Lot 121-073, ZBA #2907 & 3007.

Mr. Robert Benwell presented the application.

Mr. Benwell stated that the proposal will be further back than any other unit around them. They have owned the house since 2006 and the garage will be in line with house and the deck will be behind the house.

P. Oberhausen wanted to know how close to the southeast abutter's garage is. Mr. Benwell stated it is about 2' from the property line. N. Patten wanted to know if the deck and garage are connected. Mr. Benwell stated they are connected to both the house and garage. He explained that the land is all uphill and he needs a fourwheel drive vehicle to access. P. Oberhausen stated that the property behind it is wooded. Ms. Donna Mauzy stated that it is a hill. P. Harris wanted to know if there is anywhere else to locate the garage. Mr. Benwell stated to put garage there they have to put a 6' retaining wall to make it level with house. The retaining wall will be on the left side of Mountain View Terrace because of the hill. P. Harris stated that there are others units in the neighborhood with 25' setback Mr. Benwell stated that everyone else is closer than they are. The proposal is within 2' of what is allowed.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – ROBERT BENWELL & DONNA MAUZY:**

**MOTION:** P. Oberhausen moved to grant Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition to a single family home(garage & deck)closer (24.9') to the front property line than allowed (50') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance. Due to the slopes on the property the garage & deck cannot be located any where else.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by L. Couture and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition to a single family home (garage & deck) closer (10.5') to the side property line than allowed (12.5') as it meets the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance. Due to the slopes on the property the garage & deck cannot be located any where else.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by L. Couture and carried. (5-0)

**Abutters' Hearing – Stephen Senick:** Request for:

- a. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a two-story garage closer (5.67') to the south side property line than allowed (12.5').
- b. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a two-story garage closer (29.63') to the front property line than allowed (50').
- c. A Special Exception of Article 10.A.3.c. of the Zoning Ordinance to add useable space, a 4' foundation, within a nonconforming structure.
- d. A Special Exception of Article 10.A.3.d. of the Zoning Ordinance to construct a front porch closer (37.7') to the highwater mark than allowed (50') but not closer than the existing structure.

Property is located at 102 Elaine Drive in an "RS" Zone, Tax Lot 107-102, ZBA # 3107,3207, 3307 & 3407.

At least three members have viewed the site.

Atty. Regina Nadeau presented the application.

Atty. Nadeau stated that she wants to clarify that originally they needed a special exception for to add useable space, a 4' foundation, within a nonconforming structure but it is not necessary because the space will not be in excess of 4' in height so they are withdrawing that application.

Atty. Nadeau stated that because it is a shorefront property they have to meet both State and Town regulations. Mr. Brian Crocket surveyed the small property which is under 440 square feet. The size of the lot is characteristic of the subdivisions in that area. The westerly and northerly property lines abut public water which requires a 50' setback. This limits the buildable area. Mr. Senick has an existing house and deck and is asking to raise the house 4'. This won't require any State waivers. He also wants to construct a garage for two cars which takes up a lot of the buildable area. He will be removing the paved driveway and moving it further back from the water. Mr. Senick also wants to add on a deck.

Atty. Nadeau used the pictures submitted with the application to show the how they are trying to meet the setback requirements. The pictures also showed that they will not be going closer to the front property line than the existing house. The property across Elaine Drive is the railroad property. Property to the north is the water and on the side is property owned by the Town of Belmont. They also measured the distance from the back of the garage to the neighbor's structure and it meets the 25' requirement and exceeds in the front.

The hardship is the size of the lot. If they relocated the structures they would be closer to the lake. They will meet the building codes and it is not uncommon to have a garage as an accessory building for storage. The spirit of the ordinance is observed because they meet the 25' distance and the Board has approved less than that tonight.

Atty. Nadeau stated that the special exception for the porch it was noticed for a State Shoreline permit but it is less than 12' wide and State approval is not necessary. C. Daigle agreed that no waiver

was required. Atty. Nadeau stated that they are trying to move through the process because the State is enacting a new law concerning impervious surfaces. They will be removing the driveway and moving away from the water to clear up any drainage problems.

P. Oberhausen wanted to know if there are going to be any rooms above the garage. Mr. Senick stated that the garage will have a gambrel roof which will attach to the attic in the house to allow for additional storage. P. Oberhausen stated that there will be a 9' ceiling and he wanted to make sure there would be no office in the upstairs. Mr. Senick stated that the upstairs is for storage and if he finishes it off he will have to come back to the Board. The reason he is doing it now is he wants to get his approvals before the new waterfront restrictions are enacted.

P. Harris wanted to know if Mr. Senick plans on removing the small shed when the garage is built. Mr. Senick stated that he stores lawn mower and boating supplies in the shed and doesn't want to store those in the garage. P. Harris stated he is concerned that hazard material is stored in close proximity to the water. Mr. Senick stated that the gas will be stored in the garage.

Atty. Nadeau stated that the proposal is for a garage and the approval can include the condition that it not be used as a bedroom or office without coming to the Board.

P. Harris stated that the proposal is positive in nature. By moving the driveway it will help protect the wetlands. The proposal is similar in nature to others in the area. P. Harris wanted to know if the shed is in violation of setbacks. C. Daigle stated that she would have to research the situation it can either be in violation or grandfathered depending on when it was constructed. P. Harris stated that removal of shed would make it easier to access the building. The hardship is the concern for safety. L. Couture wanted to know if there are any changes to the house. Mr. Senick stated that it will remain the same. L. Couture agreed with P. Harris that the shed should be removed. Mr. Senick wanted to know if he could move it. Atty. Nadeau stated that the State requires accessory structures to be 20' from the water. C. Daigle stated that the Town does not differentiate for accessory structures and they have to be 50' from the highwater mark. P. Harris wanted to know if there could be storage under the deck. Mr. Senick stated that it is dirt under the deck and no room for storage.

P. Harris stated that most of the house is in the buildable area and the driveway will be eliminated from the west side,

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – STEPHEN SENICK:**

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a two-story garage closer (5.67') to the south side property line than allowed (12.5') as it meets the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance. It cannot be located in a different area.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. All required floodplain/Shoreland Protection documents to be submitted.
7. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by N. Patten and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a two-story garage closer (29.63') to the front property line than allowed (50') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance. It cannot be located on the other side of the property because of the bay.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. All required floodplain/Shoreland Protection documents to be submitted.
7. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by N. Patten and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Special Exception of Article 10.A.3.d. of the Zoning Ordinance to construct a front porch closer (37.7') to the highwater mark than allowed (50') but not closer than the existing structure as it meets the criteria.

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.

4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.
9. All property bounds/existing footprint certified during construction as required.
10. All required floodplain/Shoreland Protection documents to be submitted.
11. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by J. Bennett and carried. (5-0)

**Abutters' Hearing – John Fairhurst/Jackie McQuarrie:** Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow an auto restoration shop in the rural zone. Property is located at 182 Hoadley Road, Tax Lot 215-027, ZBA # 3507.

At least three members have viewed the site.

Mr. John Fairhurst presented the application.

Mr. Fairhurst explained that he has been doing body work for 25 years and he has the opportunity to do work for someone from Maine. The gentleman from Maine would supply him with the vehicles and he would do the restoration work at his home. There would be no vehicles in the yard, no flags advertising the business, no steel structure just a garage tucked back in trees. He has his EPA disposal number which allows the State to keep track of the hazardous waste. When he ran a full shop he would only produce five gallons of waste a month. He has talked to the Town Planner, C. Daigle, Code Enforcement Officer, G. Boisvert and the Fire Department to find out what the requirements are to have a restoration shop. He has also talked to abutters about this proposal. The building would be a state of the art building that has a trap system that takes chemical out of air. There will be a EPA approved spray booth. No oils will be stored in the shop and he would only work on one vehicle at a time. There will be no employees. This is a high end nuts and bolts restoration shop. He disassembles the vehicle and the motor is restored in Maine not on site. The average restoration cost would be around \$100,000. A security system will be installed even though the Fire Department doesn't require one. The garage will be a wooden structure 2 x 6 construction, insulated and air conditioned. The shop doors will be closed. The shop is not open to the public and will not be detected from the street.

P. Oberhausen stated that there are a lot of vehicles in the yard already and if he moves this could create a problem. The next owner could have additional cars in the yard. This is a rural area and he has seen it happen when a small repair shop increases its business. C. Daigle stated that the Board has the opportunity to put conditions on the approval. Mr. Fairhurst stated that there will be no signage because he doesn't want people coming in from the street. The vehicles that are on site are his. He has a mustang that he is restoring, his personal vehicles and recreational vehicles. His RV has been removed from the property. He stated that there will be no vehicles outside the building; he doesn't want a production

shop. What he does is like art work restoring thirty and forty year old cars.

J. Bennett wanted to know if the garage will have a foundation or on a slab. Mr. Fairhurst stated he wants footing with a short frost wall. The garage will be built to code. He stated that without employees he doesn't need sanitary facilities because the house is 108' away. He has walked the site with surveyor Mr. Fred Wheeler and there are no wetlands on the property so there will be no drainage issues. He also doubles the setback requirements. He doesn't want to decrease the value of neighboring properties. Ms. McQuarrie stated that she has been there for 23 years and no one knows where her property is. You have to look for it as it sits back from the street. She explained that Mr. Fairhurst is very involved in conservation and there are deer that cross their property.

Mr. Fairhurst submitted two letters supporting his application. One was from his abutter Mr. Leigh Stephenson and the other is from Alan Auto who will be supplying him the vehicles for restoration. P. Harris stated that his concern is allowing the commercial use in the rural area. The Board will have little control over the commercial use. He believes what the applicant is presenting is true but what about the future. Mr. Fairhurst is stating it is being done on a hobby shop level and maybe he should consider buying the vehicles and then selling them back to the owners when the work is completed. He then could buy and restore the vehicles.

N. Patten stated they could restrict them from operating outside the building. They could restrict the business owner to be a resident of the primary dwelling. If the new owner wants to change the conditions then he has to come back. P. Harris stated that he is concerned that if they grant approval and they can't make a living at the business with the conditions placed on them then they go to court and the court will allow it. C. Daigle stated that this is a valid opportunity to put conditions on. The applicants will have to go to the Planning Board for approval. L. Couture stated the main concern is that the work be done in the garage. Mr. Fairhurst stated that he has been guaranteed work for 7 years.

P. Harris stated it is an allowed use. The specific site is appropriate because it is out of the way. The work will be done inside in a clean environment. There is no factual evidence the property values will be reduced. Property value in future may be an issue if the shop is enlarged. No nuisance or hazard is involved. There are adequate facilities and they meet setbacks. The applicant has to go to the Planning Board for site plan approval. He was concerned about the appropriate use but it is out of way on a large tract of land.

P. Oberhausen stated that he would like to table the application until they can see the types of restrictions they can put on the property to keep it from becoming a commercial use. He is concerned about the future and would like to do further research so it will not be converted into a commercial shop if the property transfers. P. Harris stated that staff has worked with the applicant to bring the proposal forward and they still have to go to the Planning Board for site plan approval. Mr. Fairhurst stated that there are more than a half dozen businesses within 1/2 mile of the site. P. Oberhausen stated that is why he wants to do more research to determine what restrictions they can put on the approval. N. Patten stated that the restrictions go with the property. P. Oberhausen stated that he wants to do more research. Mr. Fairhurst stated they could restrict the approval so that there are no outside storage of vehicles.

Mr. Fairhurst agreed to get his mustang registered so it can remain on site. J. Bennett suggested one restriction could be no noise and the site be aesthetically pleasing. P. Harris stated that if the restrictions are not followed it would become a code enforcement issue. N. Patten stated that the neighbors would not allow the site to become an eyesore. Mr. Fairhurst stated that conservation is important and appearance is more important to him. That is why he sent every abutter a letter before he even applied to the Zoning Board. L. Couture stated that the conditions cannot be against the rights of people. P. Harris stated that the applicant has to go to the Planning Board for site plan approval and there are safeguards in place to control the scope of the operation.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – JOHN FAIRHURST/JACKIE MCOUARRIE :**

**MOTION:** N. Patten moved to grant a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow an auto restoration shop in the rural zone as it meets all the criteria.

The following conditions apply:

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.
9. The proposal also requires Site Plan approval from the Planning Board.
10. No outside storage of restoring material, equipment or vehicles.
11. No outside restoration work.
12. No employees.
13. No outside noise.
14. No unregistered vehicles on site.
15. Operator of the business must be resident of primary dwelling.

The motion was seconded by J. Bennett and carried. (4-0-1) P. Oberhausen abstained.

**Abutters' Hearing – L & J Dupont Lmt Partnership:** Request for:

- a. A Variance of Article 5 Table 1 of the Zoning Ordinance to allow an on-site advertising billboard in an "RM" zone.
- b. A Special Exception of Article 10A.3.c.of the Zoning Ordinance to expand the size of a preexisting nonconforming sign closer (.30') to the property line than allowed (50') but not closer than the existing structure.

Property is located at 6 Scenic Drive in an "RM" Zone, Tax Lot 236-004, ZBA # 3607 & 3707.

At least three members have viewed the site.

Mr. Don Reed from Barlo Signs presented the application.

The proposal is to add a changeable copy sign to the preexisting nonconforming sign. The existing sign is on masonry pillars. The zoning ordinance allows for a 49 square feet sign and anything bigger is considered a billboard. They are asking for 10 square feet more than the allowed 49 square feet. The existing sign doesn't meet the 50' setback requirement but it is not a typical billboard. A billboard is usually 10' x 20' and off of a highway. The hardship is the existing sign already has power to it and they want to add to the sign rather than add a second sign. The sign will advertise manufactured homes that they sell. By adding to the existing sign it makes it a billboard.

N. Patten wants to know if it is a blinking sign. Mr. Reed stated that it is a display copy sign that is not animated or flashing. P. Oberhausen stated that 49 square are allowed in the "RM" zone. Mr. Reed stated that it becomes a billboard and they are 0' to the property line. The scope of the project is not a typical billboard. P. Harris stated that it is in close proximity to the road but it is grandfathered. He stated that the State is scheduled to widen the road and he would have to move it. He also stated that the sign could be a distraction as it is the only light in a dark corner of the road. Mr. Reed stated that it is a monochrome sign. N. Patten stated that when the message changes people may be distracted wanting to see the new message. She doesn't think it goes with the rest of the sign. Mr. Reed stated that even though they are expanding a nonconforming use they are not any closer than the existing sign. The existing sign is already lighted and the additional lighting may add to the safety in the area. P. Harris stated that he has concerns that down the road the State would have the applicant remove the sign. Mr. Reed stated that if that happens then they at least got the use of it for that amount of time. If he moves the sign it will still be a billboard. The stone column that holds the existing sign is part of the aesthetic of the park. It is a landmark. The sign is an important way to sell the applicant's products. They want something that will efficiently advertise their product. It is not their intent to run a carnival sign. The Board can condition how often the sign changes. C. Daigle stated that she received a call about the brightness of the illumination. Mr. Reed stated that there is a brightness control on sign that can be adjusted so not to impact abutters. J. Bennett wanted to know if both the top and bottom signs would be illuminated the same. C. Daigle wanted to know what the brightness level was to have it run sufficiently. Is there a normal setting? Mr. Reed stated that he is not aware of a normal setting. The sign has the ability to adjust to night and day time so it is not as bright at night.

P. Harris stated that he is concerned about setting a precedent. C. Daigle stated there is a disconnect in the ordinance they are allowed 100 square feet of signage but there is no way to get there without becoming a billboard as they are only allowed one sign.

P. Harris suggested tabling the application until they can determine the illuminating factors because it will be placed on an existing sign. Mr. Reed suggested having a condition that new portion of the sign would not exceed the brightness of the sign beneath. The two signs would work together so one

would not overpower the other one. The amber sign light is more contained than the existing one. J. Bennett wants to know how they can make it more compatible. P. Harris would like the applicant to provide more information on the illuminating factors of the sign. Mr. Reed stated that he can provide a work sheet with that information. He also will provide a list of businesses in the area that use the amber signs as opposed to the red ones. More commercial businesses are using the amber signs. P. Oberhausen stated that every changing message sign is a distraction to drivers and can cause accidents. C. Daigle stated that they are a permitted use. Mr. Reed stated that the Nation DOT has done a study and the changing signs do not cause as many accidents as people think.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – L & J DUPONT LMT PARTNERSHIP:**

**MOTION:** P. Harris moved to Table the public hearing on a Variance of Article 5 Table 1 of the Zoning Ordinance to allow an on-site advertising billboard in an “RM” zone to the July 25<sup>th</sup> to allow the applicant to provide additional lighting information on the sign to include local examples, brightness specifications and other data related to the appropriateness of the proposal given the specific characteristics of the site.

The motion was seconded by J. Bennett and carried. (5-0)

**OTHER BUSINESS:**

**BOARD'S ACTION - MINUTES:**

P. Oberhausen made a motion to approve the minutes of May 23, 2007. N. Patten seconded. Carried (4-0-1)P. Harris abstained.

**STAFF REPORT:**

**WORKSESSION:**

The Board discussed having a worksession on motions and what conditions can be placed on them. It was the consensus of the Board to have a worksession in the fall to discuss motion and procedures.

**ADJOURNMENT:**

**MOTION:** On a motion by P. Oberhausen, seconded by L. Couture, it was voted unanimously to adjourn at 10:07p.m. (5-0).

Respectfully submitted,

Elaine M. Murphy

