

ZONING BOARD OF ADJUSTMENT

Wednesday, May 25, 2005
Belmont Corner Meeting House
Belmont, N.H.03220

Members Present: Chairman J. Olmstead; N. Patten, B. Paquette and B. Arey.
Members Absent P. Harris (E).
Alternates Present: P. Oberhausen.
Alternates Absent: E. Hawkins (E)
Staff: G. Boisvert and E. Murphy.

The chairman opened the meeting at 7p.m. and appointed P. Oberhausen as a voting member for tonight's meeting.

Abutters' Hearing – Ronald & Elaina Shuten: Continuation of a request for a Variance of Article 5 Table 2 of the Zoning Ordinance to allow a garage closer (43.2') to the front property line than allowed (50'). Property is located at 663 Union Road in an "RS" Zone, Tax Lot 222-045, ZBA # 1005.

J. Olmstead read a letter from the applicant asking to be tabled until the June 22, 2005 meeting to give the surveyor time to complete the wetland survey.

BOARD ACTION –RONALD & ELAINA SHUTEN:

MOTION: P. Oberhausen moved to table the application until the June 22, 2005 meeting.

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

Abutters' Hearing – David Guyer Sr.: Request for:

- Variance of Article 14- Lot of the Zoning Ordinance to allow two detached single-family homes on one lot;
- Variance of Article 5 Table 2 of the Zoning Ordinance to allow two dwelling units without the minimum required acreage.

Property located at 65 Jefferson Road in an "RS" Zone, Tax Lot 116-010, ZBA # 0505 & 6104.

The chairman explained that J. Olmstead, B. Paquette E. Hawkins, and P. Oberhausen were voting members on this original application. E. Hawkins is unable to attend this meeting. Atty. Philpot who is presenting the application stated that it is sufficient that there are five members even though they are not the original voting members. G. Boisvert stated that if it is a rehearing they need the original voting members. J. Olmstead stated that because it is a rehearing only the original Board members need to vote on it. The three

members that are here tonight are the only ones who could vote on it and he would have to have an affirmative vote of all three original members for the application to be approved. The chairman gave Mr. Philpot the option again if he wanted a continuance to the June meeting. Mr. Philpot wanted to know what authority the Board has to allow only the original members to sit on this application. G. Boisvert stated that he has never seen a rehearing done with any except the original voting members. He referred to C. Daigle's email indicating that at last month's meeting Atty. Philpot requested the original four sit on the application. Atty. Philpot stated that he was confused and he thought there were not five members. There were four members at that time. A fifth member came in after he indicated that he wanted a continuance. He is just looking for a full Board. Mr. Dave Guyer stated the original time he came before the Board it was a short Board with four people. Does that mean he could only sit before a four member Board again? Atty. Philpot stated that they are entitled to a five member Board and he never varies from that. The applicant is entitled to a five member Board. G. Boisvert stated that he wants to be confident that the applicant gets what he is entitled to. He stated that he is looking in statute RSA 677 and he cannot find anything that refers to the original members of a rehearing have to be the ones to sit again. He also is looking at case law. Atty. Philpot stated that if the Board is concerned about him raising this as an objection later on he will not. He will waive that right. He stated, as a point of reference, some of the Board members have been on the Board for some time and some are new to the Board. There have been situations where the original Board members have left the Board therefore the original voting members can not be retained but the case can go forward. There is case law that states that the applicant is not entitled to the same members for the duration of the application. The applicant may have to explain it to the new members. Many times you make a presentation and an individual goes off the Board and you can't make them rejoin the Board. G. Boisvert stated that he hasn't found anything stating that the original Board members have to sit. If the Town Planner knows something more specific we may have to address it then. J. Olmstead stated that they would go forth with the presentation with the present five members. If a point of law is brought up at a later date, they may have to address that. Atty. Philpot stated that if the Board is concerned that the applicant could raise that issue upon appeal, he waives that right on behalf of the applicant.

Atty. Philpot gave the Board an overview of the application. He used a subdivision plan to show the subject lot, which is lot 1. Lot 1 depicts the improvements, which have been built out. He stated that it is his opinion that the description of the home occupation use is not commercial but is essentially commercial. He submitted pictures of the site. He explained that Mr. Guyer represents the home occupation is a 7 day operation. He explained that they have letters from abutters and non abutters that are close neighbors. There was one renter that they could not get in contact with. They have affirmative responses from all abutters except the one he couldn't contact. He stated that the narrative from the Planning Director indicated that there are two variances, one is a use variance and the other is a dimensional variance. The Board should address the use variance first.

Atty. Philpot stated the use variance is not contrary to public interest because the lots are configured such that there is a separation of the lots. The subject lot is wider than the one adjacent to it. The adjacent lot is a long lot that does not permit building because of the width of the lot. The buildings are separated and have sufficient parking and capacity for sewer and water. The buildings have separate facilities. Mr. Guyer stated that the water is an artesian well that supplies both uses. The sewer has separate lines to the main sewer line. The well has been used for manufacturing ice twenty four hours a day, seven days a week for years. It has also been supplying a commercial sink and supplying the back lot with water. This will remain in affect until 90

days after the back lot is sold. It supplies three places more than sufficiently. Atty. Philpot stated that there is no increase in traffic as a result of this proposal. Mr. Guyer explained that he operates two canteen trucks that go in and out five days a week. They leave in the morning and come back in the afternoon. The sandwich business makes daily deliveries to stores in the summer. He has deliveries from bread trucks twice a week and beverage deliveries and food supplies once a week from different companies. The dumpster is emptied once a week with a semi-truck.

Atty. Philpot stated that if the variances are approved the applicant is agreeable to a covenant that a home occupation will not come back for the same additional use on the property. He stated that public interest is served by the most appropriate use of the land. The applicant is proposing two residences on a single lot. It is an existing facility that will be converted to a residential use. The neighbors, except for the one they couldn't contact, unanimously approve this proposal. He stated that the demands upon the town are no different than another lot being created. This is a low impact situation and it cannot be measured as to its affect on the public service sector as it is minimal at best.

He addressed staff's report that there are several lots that can be built on for single family residences. He assumes that isn't the case because of the past moratorium there has been an inflation of buildable lots in town but he has no specific proof of the fact available tonight. In the context of being contrary to public spirit, it is suggested by staff that the purpose of the ordinance in a single family zone would be to prevent overcrowding of land. The proposed use would not double the allowed zone density. The Board has to look at if it materialistically affecting that density. Atty. Philpot stated that it is not. It is contrary to public interest to regulate similar situated lots differently. The staff report suggests that the applicant points to the buffer scenario with lot 4. The narrowness of the lot as it passes around the subject lot is similar to lots in the neighborhood but he cannot substantiate that fact. Mr. Guyer stated that his lot is the widest lot in the neighborhood. Atty. Philpot stated that there is more space to allow these two dwellings on it. He disputes the staff's assertion that there are similar situated lots. The lot is the largest lot in width but not area. It has 220' of road frontage.

Atty. Philpot stated that as the building is currently being assessed, it is being used as essentially commercial or home occupation. Turning it over to a residence is not going to change the requirement of services in any measurable way. Mr. Guyer stated the building is set up as a commercial use. It has a knox box with police and fire access and a security alarm system. He stated that the staff's report indicated that the new use would be on line 24/7 and Mr. Guyer indicated that the current home occupation is a seven day use. The activity on the lot by changing it to residential is a reduction as it doesn't have delivery trucks. The applicant will stipulate a covenant with the Board's condition of approval that a home occupation would not be requested on the lot. This covenant would go with the land if the variance is granted.

The denial of the variance would result in unnecessary hardship to the owner. The zoning restriction as applied to this property interferes with the owner's reasonable use of the property considering the unique setting of the property in its environment. The applicant at present is pursuing a commercial use of the building. The applicant is proposing a less intense use supported by his neighbors. The width of the lot is conducive to the separation and there is sufficient space for two dwellings. There is existing septic. The change in use may trigger a DES review and upgrade but that is something separate from the Board's consideration. Atty. Philpot stated that it is a home occupation but the pictures show the commercial use. The applicant has maintained his

use on the property for a number of years. The relief requested is less intense. The buildings will not be connected. They are separate buildings. This will be conducive to the proposed use. There is plenty of separation between the two dwellings so the lot is not over crowded. The situation with the road is that there is vegetation and the buildings are not visible from the road. As part of the 1995 subdivision a hemlock buffer was required. The house has a natural buffer with a half moon driveway and evergreens. The lot is different from others in the neighborhood because of its configuration. To not allow conversion of the existing higher intensity use to a less intense use would be an unreasonable decision given the unique setting. He addressed the criteria for having a fair and substantial relationship between the general purposes of the zoning ordinance and specific restriction on the property by stating that the purpose of the ordinance is to have sufficient space per unit. The ordinance requires one acre per unit and the subject lot is 1.9 acres. However you have neighbors that support this request. This will not be a situation where the abutters are opposing this proposal. The purpose of the ordinance is to substantially service the property given its unique setting and environment. The property has sufficient area, is supported by public water and sewer and is buffered by the back lot adjoining it because it is long and narrow. In its environment it is a unique circumstance. The staff put forth the proposition to the Board that the general purpose is to prevent overcrowding and protection of aesthetic and property values through the uniform and complimentary development of lots within the district. He stated that the width of the lot in a single dwelling zone is why they need a variance. You cannot see the buildings from the road and the surrounding properties are situated such that there is a visible barrier between the lots. The applicant stipulates that he will keep the existing buffer as part of the conditions of approval. The variance would not injure public or private rights of others because the abutters support the application.

The staff report puts forth the question about a second detached dwelling be a varied use not consistent with the neighboring uses and will likely diminish the value of surrounding properties. Atty. Philpot stated that the neighbors don't think so. They have expressed that this would be a benefit and they welcome it. By granting the permit substantial justice will be done because the existing space will only be converted, no enlargement of the structure is required. The applicant is proposing that the size of the structure remain the same. The applicant is amenable to a covenant that the structure would not be enlarged in the future. There will not be an increase on public services. They are not proposing a condominium or apartment, just one dwelling. The variance would not diminish the value of surrounding properties as the neighbors indicate that in their letters. The commercial aspect will decrease as well as the traffic impact. The existing home occupation is operating seven days a week. A residential use has far less impact. Mr. Guyer stated that the building is 2500 square foot building and they are proposing an 1100 square foot apartment and the rest would remain as a garage.

P. Oberhausen outlined the history of the building. In 1998 a building permit was issued for a garage built for a home occupation. No inspection was ever called for and no Certificate of Occupancy was issued. In 2003 a building permit was issued for a deck and pool and no inspection was called for or Certificate of Occupancy issued. He did not hear any new information tonight that was not originally submitted. Atty. Philpot stated that the abutters are happy about the proposal but if the catering business is sold, another home occupation moves in and the abutters might not be so happy. Mr. Oberhausen wanted to know how many people are living there. Mr. Guyer stated that his wife, himself and his daughter. Mr. Oberhausen stated three people. Mr. Guyer stated that he employs one person. Making it two employees, including him, and the criteria allows for three employees.

Atty. Philpot stated that new information was presented tonight. They demonstrated the configuration of the lot and abutting lots. They demonstrated the uniqueness of the site. There is enforceable covenant on the table that can be part of the condition that there be no further home occupation on the lot. The living space is 1100 square feet. P. Oberhausen stated that home occupation requires a one acre lot. Mr. Guyer stated that he would like the chairman to read the minutes from the original application. J. Olmstead read the motion from the original application. Atty. Philpot stated that the motions were not descriptive of what went on.

B. Paquette wanted to know if the well was supporting the back properties. Mr. Guyer stated that it is at the present time but as condition of the subdivision, if either properties are not owned by him then the back piece has to have its own well. The back piece is connected to the sewer line. B. Paquette stated that his residence, the business and the garage are on the one well. Mr. Guyer stated that it was correct, it was part of the subdivision approval. B. Paquette wanted to know if Mr. Guyer uses the garage. He stated that he uses it to park a truck. There has never been any problem with the well.

N. Patten wanted to know how they could guarantee that there be no other home occupancy there in the future. G. Boisvert stated that if the applicant represents that to the Board they can make it a condition of their approval thus making it a permanent condition that will go with the property.

Mr. Arey wanted to know if this is going to be a rental property or a separate home. Mr. Guyer stated that it is would not be separate home, it wouldn't be allowed. This proposal is because he wants to close down the catering business and would need the income from the rental.

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

BOARD ACTION – DAVID GUYER SR.:

MOTION: B. Paquette moved to deny the use Variance of Article 14- Lot of the Zoning Ordinance to allow two detached single-family homes on one lot for the following reasons:

1. The variance will be contrary to the public interest. There are no other two single family residences on a single lot in the area.
2. Denial of the variance would not result in unnecessary hardship to the owner because they already have a home occupation there. To allow another impact, two single family residence on one lot, does not fit into the ordinance.
3. A fair and substantial relationship does exist between the general purposes of the zoning ordinance and the specific restriction on the property.
4. The variance would not injure the public rights of others but it is not allowed and is not a reasonable use.
5. Substantial justice will not be done as the current home occupation can always remain. There are other two single family residences on a single lot in other areas of town that present problems for future resale. This request would create difficulties for taxes and ownership

- when the home is transferred and someone else owns the property. The town is trying to prevent this from happening.
6. There are questions on whether or not the variance would diminish the value of surrounding properties.

The motion was seconded by B. Arey and carried. (4-1) B. Arey opposed.

The Variance of Article 5 Table 2 of the Zoning Ordinance to allow two dwelling units without the minimum required acreage application was withdrawn as agreed upon by Atty. Philpot.

Abutters' Hearing – Eric Anderson: Requests for:

- Variance of Article 5 Table 2 of the Zoning Ordinance to replace a manufactured housing unit closer (12.5') to the front property line than allowed (50') but not closer than the existing unit.
- 2 Variances of Article 5 Table 2 of the Zoning Ordinance to construct a garage closer (6') to the side property line than allowed (12.5') and closer (6') to the rear property line than allowed (12.5').

Property is located at 30 Mountain View Terrace in an "RM" Zone, Tax Lot 121-071, ZBA # 2505, 2605 & 2705.

Mr. Anderson presented the application.

Mr. Anderson explained that they own a piece of property at 30 Mountain View Terrace that now has a 50' x 14' manufactured home with an 8' x 22' deck on it. It is 5.2' from the front of the property and they are proposing to put a 61' x 28' doublewide mobile home and move it back an additional 7.4' still maintaining the 12.6' on the side. The proposed garage is 18' x 24'. The surveyor laid it out to meet the 12.6' setback but the problem is there would be only 3' from the home, which is a potential fire hazard. Emergency vehicles would not get through. They also want to store their recreational vehicles in the garage. There are shrubs on the side of the property that they would like to keep. By shifting the garage it took up too much green space and they are trying to keep as much green space as possible. They are improving the area with a newer mobile home.

B. Paquette wanted to know if the existing deck would be removed. Mr. Anderson stated that it would be removed. J. Olmstead wanted to know about the existing shed and proposed garage. Mr. Anderson stated that the shed would be removed when the garage is built.

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

P. Oberhausen stated that similar request have been granted by the Board

BOARD ACTION – ERIC ANDERSON:

MOTION: P. Oberhausen moved to grant the Variance of Article 5 Table 2 of the Zoning Ordinance to replace a manufactured housing unit closer (12.5') to the front property line than allowed (50') but not closer than the existing unit as it meets all the criteria.

1. The variance will not be contrary to the public interest as similar requests have been granted.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it because:
 - 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.

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

MOTION: P. Oberhausen moved to grant 2 Variances of Article 5 Table 2 of the Zoning Ordinance to construct a garage closer (6') to the side property line than allowed (12.5') and closer (6') to the rear property line than allowed (12.5').

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 because:
 - 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.

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

Abutters' Hearing – Wyatt P. Cushing: Request for a Special Exception of Article 10.A.3.d. of the Zoning Ordinance to construct an addition closer (46.6') to the front property line than allowed (50') but not closer than the existing house. Property is located at 106 Perkins Road in an "RM" Zone, Tax Lot 122-068, ZBA # 2205.

At least three members have viewed the site.

Mr. Cushing presented the application.

Mr. Cushing explained that he built an addition to his house to add a bath and bedroom on the first floor. The addition is an extension of the existing house. If the addition was pushed back it could cause problems with the pitch to the sewer line. When they originally did the planning the builder made an error on the distance from the property line. A permit was issued for the structure being 68' from the property line when actually it was 46.6'. This discrepancy was not discovered until after the foundation was inspected. The title company found the error and he brought it to G. Boisvert's, Code Enforcement, attention and the construction stopped.

Mr. Robert Snow, an abutter, stated the addition enhances the area.

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

BOARD ACTION – WYATT P. CUSHING:

MOTION: N. Patten moved to grant a Special Exception of Article 10.A.3.d. of the Zoning Ordinance to construct an addition closer (46.6') to the front property line than allowed (50') but not closer than the existing house as it meets all the criteria.

1. The use is allowed in the district
2.
 - a. The specific site is appropriate for the use and will enhance the area.
 - b. No factual evidence is found that property values in the district will be reduced.
 - c. There is no valid objection from abutters based on fact. The abutters approve the proposal.
 - d. No nuisance or hazard is involved.
 - e. Adequate and appropriate facilities will be provided.
 - f. There is adequate sewage disposal.
 - g. Structures must otherwise meet all dimensional requirements of the Ordinance
3. No structures or additions that do not meet setback, except for those approved herein are allowed.

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

Abutters' Hearing – Kenneth Malone: Request for Special Exception of Article 10.A.3.c of the Zoning Ordinance to construct a second floor adding useable space within the existing footprint. Property is located at 53 Concord Street in a "V" Zone, Tax Lot 125-032, ZBA # 2805.

At least three members have viewed the site.

Mr. Ken Malone presented the application.

Mr. Malone wanted to know if the overhang can extend 2' from the roof line. G. Boisvert stated that the trusses can infringe in the setback up to 24".

P. Oberhausen wanted to know if the addition would be for living quarters. Mr. Malone stated that it would be. P. Oberhausen stated that he had concerns about fire safety and there being no escape route. Mr. Malone stated that he is in the designing stage and showed the Board a copy of the floor plan. G. Boisvert stated that the living space could be divided from the garage with a fire rated roof, which is solid concrete. Mr. Malone would need to have an egress window that meets code if there is a bedroom up there. P. Oberhausen wanted to know if it is attached to the original house. Mr. Malone stated that it was and he could put a door on the front that would lead to the ledge and a 4' walkway towards the barn. B. Paquette wanted to know if they are going to be separate dwellings. Mr. Malone stated that it would be one unit. G. Boisvert stated that having one kitchen keeps it a single family dwelling with separate entrance.

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

BOARD ACTION – KENNETH MALONE:

MOTION: P. Oberhausen moved to grant the Special Exception of Article 10.A.3.c of the Zoning Ordinance to construct a second floor adding useable space within the existing footprint as it meet the criteria.

1. The use is allowed in the district.
2.
 - a. The specific site is appropriate for the use.
 - b. No factual evidence is found that property values in the district will be reduced.
 - c. There is no valid objection from abutters based on fact.
 - d. No nuisance or hazard is involved.
 - e. Adequate and appropriate facilities will be provided.
 - f. There is adequate sewage disposal.
 - g. Structures must otherwise meet all dimensional requirements of the Ordinance.
3. Construction must stay within existing footprint which does not include existing roof overhangs.
4. May only be used as additional space within the existing single family dwelling. May not be used for commercial or other non-residential use.
5. No structures or additions that do not meet setback, except for those approved herein are allowed.
6. Proper entrance and exits throughout the building approved by the Code Enforcement Officer.
7. No kitchen or kitchenette allowed

The motion was seconded by B. Paquette and carried. (5-0)

Abutters' Hearing – Loren & Dorris Blair: Request for:

- Special Exception of Article 10.A.3.d. of the Zoning Ordinance to allow a deck and stair closer (33') from the front property line than allowed (50') but not closer than the existing building.
- Variance of Article 5 Table 2 of the Zoning Ordinance to allow subdivision where the new dividing line results in two single family homes being closer to the side property line (22') than allowed (25').

Property is located at 93 Bean Hill Road in an "RS" Zone, Tax Lot 218-127, ZBA # 3005 & 3105.

At least three members have viewed the site.

Mr. Bryan Bailey presented the application. Mr. & Mrs. Blair were also present.

Mr. Bailey explained that the deck and stairwell are closer to the front property line than allowed. They are proposing to divide a 72 acre tract of land so that there is only one dwelling on each lot. The new boundary line would cause the existing units to infringe on the side setbacks. The stairwell is used as an exit from the second floor and is further back than the existing house. The exit from the second floor was created for egress from the second floor and fire safety. There is no nuisance or hazard involved. The stairwell is behind the trees and stonewall and does not diminish sight distance for the travel way. The home is already fully serviced. It is a nonconforming grandfather lot. The Board read the letters from abutters Scott & Priscilla Davis and Eugene & Adrienne Mazzei. Mr. Bailey addressed the Davis's concerns about this being a multifamily unit. He stated that he is not aware of any apartment. G. Boisvert stated that he is not aware of any apartment. Mrs. Blair stated that at the time the deck was constructed their son was living with them and they created a separate entrance for his living quarters. Mrs. Blair explained that now they rent out the entire house to one family. G. Boisvert wanted to know if there is a sink or refrigerator upstairs. Mr. Blair stated that the stove was removed. He explained that there are two dwellings on one lot and they want to sell one and live in the small house. Mr. Bailey stated that the proposal is to subdivide the lot with a single family dwelling on each lot. The remaining lot will be 68 acres. Lot 218-127-001 will be 1.63 acres and lot 218-127-002 will be 2.08 acres. The houses already don't meet the side setback. There is a 22' setback from the closest point of either home to property line. They are taking a nonconforming use and separating a tract of land to continue a single family dwelling on each lot. The existing buildings cannot be moved to accommodate the setback requirements. The existing dwellings were built before zoning. The nonconforming lot will become less nonconforming by having only one building on each lot. Nothing is being altered except the property line.

B. Paquette wanted to know if there would be a shared driveway. Mr. Blair stated that there is another driveway on the other side of the property. The middle lot will have separate driveway.

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

BOARD ACTION – LOREN & DORRIS BLAIR:

MOTION: B. Paquette moved to grant a Special Exception of Article 10.A.3.d. of the Zoning Ordinance to allow a deck and stair closer (33') from the front property line than allowed (50') but not closer than the existing building as it meets all the criteria.

1. The use is allowed in the district
2.
 - a. The specific site is appropriate for the use.
 - b. No factual evidence is found that property values in the district will be reduced.
 - c. There is no valid objection from abutters based on fact.
 - d. No nuisance or hazard is involved.
 - e. Adequate and appropriate facilities will be provided.
 - f. There is adequate sewage disposal.
 - g. Structures must otherwise meet all dimensional requirements of the Ordinance.
3. No structures or additions that do not meet setback, except for those approved herein are allowed.

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

MOTION: N. Patten moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to allow subdivision where the new dividing line results in two single family homes being closer to the side property line (22') than allowed (25') 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.

The motion second B. Paquette and carried.(5-0)

OTHER BUSINESS:

A. BOARD'S ACTION - MINUTES:

J. Olmstead made a motion to approve the minutes of April 27, 2005. N. Patten seconded. Carried (4-1)
P. Oberhausen abstained.

B. RESIGNATION:

B. Arey announced his resignation from the Board due to time restraints and not being able to dedicate as much time as he would like to the Board. The chairman thanked B. Arey for the service to the Board and invited him to rejoin the Board when time permits.

ADJOURNMENT:

MOTION: On a motion by B. Paquette, seconded by P. Oberhausen, it was voted unanimously to adjourn at 9:26p.m. (5-0).

Respectfully submitted,

Elaine M. Murphy