

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING
PORTSMOUTH, NEW HAMPSHIRE
CITY COUNCIL CHAMBERS**

7:00 P.M.

August 25, 2004

MEMBERS PRESENT: Chairman Charles LeBlanc, Vice Chairman Jim Horrigan, Alain Jousse, Bob Marchewka, Nate Holloway, David Witham, Arthur Parrott, Alternate Steve Berg, Alternate Duncan MacCallum

ALSO PRESENT: Lucy E. Tillman, Planner I

~~~~~

**I. OLD BUSINESS**

Chairman LeBlanc stated that the first order of business was to take of the tabled the re-hearing that they had tabled the previous night. Mr. Holloway made the motion to take that off the table. All members were in favor of taking the motion off the table.

- 1) Request for Re-hearing regarding the application of Justine Rosberg and Jason Parent d/b/a Meat House LLC, for 2222 Lafayette Road.

**DECISION OF THE BOARD**

Mr. Marchewka made a motion to grant the applicant's request for re-hearing. Mr. Holloway seconded for discussion. Mr. Marchewka stated that based on the request that the applicant sent in, he felt that there was some question as to the number of employees that they had added, and the number of deliveries (whether or not they would be reduced).

Mr. Holloway seconded for discussion. Mr. Parrot stated that just speaking for himself, it was perfectly clear to him from the previous issue which he thought was pretty thorough that there would be a substantial reduction in the number of deliveries. He stated that it was probably a valid point but he did not feel that it had a whole lot to do with the request for area variance that the applicant was making.

Chairman LeBlanc stated that he remembered asking the applicant if they were going to be reducing truck traffic and deliveries to the property, and he had said yes, that there would be a reduction.

Mr. Horrigan asked to be corrected if he was wrong, but stated that he believes he voted for the original petition, but that he concurs with Mr. Parrot and the Chairman because he really does not see any new evidence presented here that was not available at the time of the hearing. He stated that he also recalls that the delivery issue was discussed. He stated that certainly no

procedural errors were made, so he guess that it was the judgment of the Board that was being questioned, and he did not feel that that was sufficient reason for granting of re-hearing.

Chairman LeBlanc called for any additional comment from the Board, hearing none, called for the vote to grant the re-hearing. The motion to grant failed with a 1-6 vote, therefore the request was denied.

~~~~~

II. NEW BUSINESS

15) Petition of **Bluestone Properties of Rye LLC, owner, William Downey, applicant**, for property located at **off Sagamore Avenue** wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow a 3' x 4' free-standing sign in a district where such use is not allowed. Said property is shown on Assessor Plan 201 as Lot 9 and lies within the Mixed Residential Business district. Case # 7-14 and Case # 8 -15

Mr. Witham stepped down for this hearing, as he is an abutter (and also spoke to the petition).

SPEAKING TO THE PETITION

Attorney Bernard Pelech stepped forward on behalf of the applicant to speak in favor of the petition. He stated that Mr. Downey operates the kayak business, which operates out of Witch Cover Marina, formerly Mike's Marina on Wentworth Road. He stated that the request that was before them that evening was to allow the applicant to place a sign at the corner of Sagamore and Wentworth. He stated that unfortunately, the sign is in a district where such use is not allowed. He stated that they have reviewed the Planning Department Memo, and Mr. Downey has in fact contacted the State of New Hampshire D.O.T. and they have advised him that he does not qualify for one of the off-premises signs, as those are only limited to Interstate highways and major arterial highways. He stated that he therefore has a business that is undetectable from the corner of Sagamore and Wentworth Avenue.

He stated that this is a use variance, and as such, the Simplex analysis applies. He stated that the variance will not be contrary to the public interest. He stated that it is a 3' x 4' sign and is not overly large, and is certainly in keeping with other signs in the area. He stated that he believes that it is in the public interest to grant the requested variance because it allows the public to identify the location of a business. He stated that it is in the public interest because it avoids the confusion and traffic congestion at the intersection. He stated that obviously, if people were looking for the place where the applicant's kayak business is located for Sagamore Road and then they are looking for Wentworth Road, where the business is actually located, when they get to the intersection, there is no sign to enable them to determine which this is, and this would result in a situation in which drivers could become confused and would be slowing down. He stated that from motorist safety standpoint, it is in the public interest to grant the requested variance.

Mr. Pelech stated that the lot upon which the sign would be placed is not overly intensified by the use variance. He stated that it would not detract from the surrounding properties. He stated that it should not cause any diminution of values of surrounding properties if the sign was allowed to go on that lot.

He stated that special conditions exist such that literal enforcement of the Ordinance results in an unnecessary hardship. He stated that special conditions exist because basically the business, which is an allowed business in its Zone at its location, because it is a Waterfront Business Zone, and this is a waterfront business, is down a relatively obscure or unused street, Wentworth House Road.

He stated that it would not be contrary to the spirit and intention, nor would it be contrary to the public interest. He stated that finally, he would say in conclusion that this does meet all five criteria. He stated that surrounding property values are not going to be diminished, it is not an overly large sign, it is not going to in any way affect them because all of the surrounding properties have business uses along Sagamore Avenue. He stated that given the totality of the circumstances and the location of this property, special conditions do exist and this is a reasonable use [which would allow?] and that this does meet the Simplex analysis for a hardship.

Mr. Jousse asked how long the kayak business had been in that particular location. He stated that it had been in business since the Witch Cove Marina was established, approximately a year and a half ago.

Mr. Horrigan stated that he had looked at the drawing on the tax map and that he was a little unclear of where it was going to be located. Mr. Downey stated that Michael Gray had informed him that it has to be 12' from the existing sign, so they were hoping to get it as close to the road as possible. Mr. Horrigan asked if it was 12' from the Wentworth Marina sign (Mr. Downey stated yes) which they did not know whether or not it was legal. Mr. Horrigan stated that it was a fairly wooded lot, and asked if vegetation would have to come down. Mr. Downey stated that he would say that it is actually not wooded, and that it is more small shrubs. Mr. Downey stated the sign would be parallel to Wentworth Road.

Chairman LeBlanc asked if there was a building on the lot, if signage would be allowed for that building. Ms. Tillman stated that freestanding signs are not allowed in this district, so no matter what would be there, a freestanding sign is not allowed.

Mr. Jousse asked if prospective clients call ahead of time to make sure that there are kayaks available, or if they just show up. Mr. Downey stated that he asked that clients call to make reservations. Chairman LeBlanc asked if they could get directions at the time that they call to make a reservation, and Mr. Downey stated that they did their best to give directions. Mr. Downey stated that people tend to have a hard time when coming 95, people from out of town, or people that have found them on the internet, really struggle with how to get to Route 1B.

Chairman LeBlanc called for anyone else wishing to speak to, for or against the petition, and seeing no one rise, declared the public hearing closed.

DECISION OF THE BOARD

Mr. Marchewka made a motion to grant the petition as presented and advertised. Mr. Parrot seconded.

Mr. Marchewka stated that the applicant is in an odd location for a business, and stated that he knows because he lives on Sagamore Avenue, a little further towards town. He stated that people stop all of the time and ask where 1B is. He stated that he knows it is difficult to find. He stated that he did not think what was being requested would be out of character, and that there are other freestanding signs in the area. He stated that it is a little odd because there is nothing on the lot. He stated that if there was a business there, they might treat it differently or

look upon it differently. He stated that he did not think what the applicant was requesting was unreasonable. He stated that it is not a really large sign, and that it is pretty small. He stated that he felt that it would serve a purpose, and that it would help people find his business. He stated that it will be in the public interest to have people better able to find his business. He stated that he felt that the restriction is interfering with a reasonable use of the property.0

Mr. Parrot stated that he felt that that particular neighborhood has been pretty stable for a long time, and that it is not likely to change. He stated that if there is anything built on this lot, then the sign obviously would have to go. He stated that he indicated that it is very unlikely that residential use would be a future of that particular lot. He stated that the gas station seems to be standing across the street. He stated that as everyone pointed out, that particular area is pretty much commercial/office. He stated that a tasteful sign of this size would be in keeping with the area.

Mr. Jousse stated that he would not be supporting the motion. He stated that a hardship had not been presented. He stated that a situation had been presented, but that a hardship had not. He stated that the business has been in this location for 3 years and has survived apparently well. He stated that if a business survives the 1st year there, it is pretty much guaranteed to keep on going. He stated that it is unfortunate that a competitor found himself a more visible location to be at, but that is not of the Board's concern from what he could see, and that it is not within their realm to dictate who is going to go where. He stated that there are new businesses on Sagamore Creek and that this is an allowable venture on the waterway. He stated that if they grant the sign and this piece of property is sold at a later date, the new owner is stuck with a sign that they don't want because the Board gave that piece of property the variance for a sign for somebody else's business who is not the owner of the property that could potentially be bought. He stated that the applicant has testified that most of the clients who show up at his location get directions ahead of time, and make reservations. He stated that it is hard enough to find the sign for Route 1B or Wentworth House Road. He stated that it is hard enough to see the street signs without putting another sign that could confuse the general public if they are trying to locate the name of the street. He stated that for these reasons, he would not support the motion.

Mr. MacCallum stated that he wanted to revisit the point made by Mr. Parrot, that if at some future time, a building were to be put on this lot, then obviously the sign would have to come down. He asked if this is correct. Chairman LeBlanc stated that if the new landowner does not want it, it would be his/her property. Mr. MacCallum stated that he understood that, but supposing the new landowner did want to continue to have the sign there, he wanted to know if the landowner or future lessee would be able to keep a sign there as long as the landowner wanted it. He asked if the Board granted a variance, would it be correct to say that the owner would be free to contract with other businesses who wanted to erect signs on that property as long as they were in the 3' x 4' parameters. Chairman LeBlanc stated that this would be incorrect because it is represented as a specific location on the site, and for a particular business. He stated that they would have to come back to them to put up a different sign.

Mr. MacCallum concurred with the views of the Planning Department in that he thought it should be denied. He stated that he would be voting against the petition.

Chairman LeBlanc called for the vote to grant the petition as presented and advertised and the motion failed 2-5.

16) Petition of **Kenneth K. and Deborah A. Jennings, owners**, for property located at **63 Thaxter Road** wherein a Variance from Article IV, Section 10-402(B) was requested to allow a 24' x 24' one story garage 15' in height with a 1' rear yard where 11.25' is the minimum required. Said property is shown on Assessor Plan 166 as Lot 40 and lies within the Single Residence B district. Case # 8-16

SPEAKING IN FAVOR OF THE PETITION

Mrs. Deborah Jennings, the owner of the property, spoke on behalf of the petition. She stated that her garage was too small to fit anything in it. She said they were originally going to extend the garage 6 feet but only half of the garage is on the foundation and the other half sits on rocks. The garage is in disrepair. The contractors that she had consulted for the job informed her that the best means of fixing it would be to tear it down and rebuild. They want to build a 24' x 24' garage so that they can store both of their cars inside and keep it in the same location as the old one. She pointed out that she confronted her neighbors with her plans and no one objected to their proposed project.

Mr. Marchewka asked if the existing garage was 20 ½' x 18 ½'.

Mrs. Jennings answered yes.

Mr. Marchewka asked if she looked at pulling it forward because there was not much more room than a foot on the rear of the garage and the fence there would hinder the ability to paint the garage.

Mrs. Jennings said she had considered moving it forward, however it would make it very difficult to maneuver the vehicles.

Mr. Marchewka thought three or four feet would be better than one.

Mrs. Jennings thought it would be pretty tight.

Chairman LeBlanc asked if there was anyone who wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

DECISION OF THE BOARD

Mr. Marchewka made the motion to grant the petition as presented and advertised with a four-foot rear setback and Mr. Jousse seconded.

Mr. Marchewka stated that the garage was obviously in disrepair and too small. He thought the only issue was its close proximity to the lot line and he thought that presented problems. He stated that is why he approved the petition with the stipulation that the garage have a four-foot rear setback to a lot for more space to manage.

Mr. Jousse agreed with Mr. Marchewka's statements.

Mr. Witham stated he would support the motion.

Chairman LeBlanc stated that he would not support the motion since he thought the lot is similar to most lots in the area and thought that the garage could be a lot smaller.

Mr. Parrot thought the dimension of the garage was a lot larger than it needed to be. He thought with redesign they would be able to be compliant with the setbacks. He would not support the motion.

Mr. Horrigan agreed with Mr. Parrot.

Chairman LeBlanc called for the vote to grant the petition. The motion to grant failed with a 3-4 vote with Mr. Horrigan, Mr. Holloway, Mr. Parrot and Chairman Le Blanc voting in the opposition.

~~~~~

17) Petition of **Cail Sheila Curtin Trust 2002, owner**, for property located at **#122 Tidewatch 579 Sagamore Avenue** wherein a Variance from Article III, Section 10-301(A)(7)(a) was requested to allow a one story L-shaped 169± sf addition to an existing sunroom with a 92.3'± setback to mean high water where 100' is the minimum required. Said property is shown on Assessor Plan 223 as Lot 30 and lies within the Single Residence B district. Case # 8-17

#### **SPEAKING IN FAVOR OF THE PETITION**

Attorney Bernard Pelech spoke on behalf of the owner and the petition. He presented photographs of the area. He stated they were proposing to square off the corner of the building and add to an existing sunroom. The area currently was a flag stone patio. The sunroom currently is 9' x 9' and it would be 13' x 13' if allowed. The property is within the 100-foot setback from Sagamore Creek. Attorney Pelech stated that the Tidewatch Condominiums were constructed prior to the implementation of the buffer zone for Sagamore Creek. They would not be disturbing any undisturbed area or removing any vegetation only the flagstone patio that currently exists. He felt that they were requesting very minimal relief and felt they met all five standards for hardship and therefore, urged the Board to grant the variance.

Mr. Jousse asked Attorney Pelech about his statement made earlier that the building was 96 feet from the high water mark and why the plan submitted stated it was 97.5.

Attorney Pelech said he stood corrected.

Mr. Jousse asked how long the applicants have owned the property.

Attorney Pelech stated many years.

Chairman LeBlanc asked if the flagstone patio was cemented into the ground or if they were just placed on the ground.

Attorney Pelech stated that he thought they were just placed there.

Mr. Horrigan asked how large the existing sunroom was.

Attorney Pelech stated 9' x 9'.

Mr. Jousse asked how large or what the square footage of the unit was.

Attorney Pelech did not know.

Chairman LeBlanc asked if there was anyone who wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

### **DECISION OF THE BOARD**

Mr. Jousse moved to deny the petition as presented and advertised; Mr. Parrot seconded.

The corner of the building was in non-compliance and the request was to increase the non-compliant portion of the building. He thought that the replacement of the flagstone patio, being a permeable surface, with a roof, which is a non-permeable surface, was contrary to the public interest. He did not feel that the applicant demonstrated a hardship since they have enjoyed the property for years without said improvements. He did not believe that granting the variance would be consistent with the spirit of the ordinance.

Mr. Parrot agreed with Mr. Jousse's reasoning.

Chairman LeBlanc called for the vote to deny the petition as presented and advertised and the motion passed via a vote of 5-2 with Mr. Marchewka and Mr. Witham voting in the opposition.

~~~~~

18) Petition of **Stephen and Karen Barndollar, owners**, for property located at **120 Ridges Court** wherein the following were requested: 1) a Variance from Article III, Section 10-302(A) to allow a 12.5' front yard where 30' is the minimum required, and 2) a Variance from Article III, Section 10-301(A)(7)(a) to allow setbacks from mean high water varying from 56.3' to 79.2' where 100' is the minimum required. Said property is shown on Assessor Plan 207 as Lot 61 and lies within the Single Residence B district. Case # 8-19

Let the record reflect that Mr. Horrigan has recused himself and Mr. Berg was sitting in his place.

SPEAKING IN FAVOR OF THE PETITION

Attorney Malcolm McNeill spoke on behalf of the owners and the petition. He brought with him the architects on the project. He stated that the relief sought was entirely dimensional in character and proposed to eliminate a non-conforming use. The existing structure was a duplex situated in the Single Residence B zone and they proposed to eliminate the duplex and replace it with a single-family home. He felt the relief was modest and passed out photographs depicting the existing conditions as well as photos of other residences in and around the property. He presented letters submitted by Jack Blalock, an abutter to the property, as well as the Vanderbilts supporting the proposed. He stated that the setback on the street line was 30' and the existing structure was only 12.5' from the street on the front line. The new proposal would contain the exact same 12.5' setback. The area was all ledge. The corner of the building closest to the street was 66.3' from the mean high tide line and the proposed would be the exact same spot and distance. The second line proceeded from a point in the peninsula back to the stairway for a distance of 74.3' and they proposed an additional 5' further back from that location. The third setback line was 83.1' and that was from the corner of the building. He felt that in addition to

the municipal setbacks, there was a highest observable tide line setback of 50' to be complied with by NHDES. The property had always been a rental property. He thought it was reasonable and appropriate to remove the non-conforming property. The new property would maintain the same distance to the high water mark as the old property, it would maintain the same setbacks from the street for which they were seeking relief and increase the distance from the water in the front of the property. He passed the presentation onto Mr. Gregg as to why the building was proposed where it was in relation to the neighbors.

Mr. Gregg stated that due to the ledge there would be significant blasting required besides the fact that the abutters were 5' away from the property line. In addition, the topographical conditions of the land are sloped and created difficulty with building the proposed.

Mr. MacCallum asked if the 3,500 sf included the garage.

Mr. Gregg stated that 3,500 sf would be heated space.

Mr. MacCallum asked if that meant the garage would be in addition to that.

Mr. Gregg answered yes.

Mr. Jousse asked what was the condition of the present building.

Mr. Gregg stated that the building has a poured concrete foundation that was cracking and the first floor level showed a lot of signs of moisture.

Chairman LeBlanc asked what was the difference in footprint coverage from the existing to the proposed, including garages and heated spaces.

Mr. Gregg answered the existing building coverage was 4.7%, the proposed would be 8% and the current open space was 53% and the proposed would be 92%. that was correct.

Mr. Berg asked about the trellises whether they were covered or not.

Mr. Gregg answered no.

Mr. Berg asked if the two terraces were on the roof at the garden level.

Mr. Gregg answered that is correct.

Mr. Steve Barndollar, the owner of the property, spoke on behalf of the petition. He stated the house is in a lot of disrepair. He stated that he wanted to move out of the federal type house they currently reside into a single family home. He reiterated that the proposed was the best case scenario they could come up with that made everyone involved, including his neighbors, happy.

Attorney McNeill addressed the criteria necessary to satisfy for the granting of a variance.

Chairman LeBlanc asked if there was anyone who wished to speak in favor of the petition.

Richard Adams of Kent Street spoke in favor of the petition and thought what was proposed would enhance the neighborhood.

Jack Kelley of 137 Newcastle Ave. spoke in favor of the petition and agreed with Mr. Adams' comments.

Charlie McLeod of 67 Ridge Court spoke in favor of the petition. He stated that he really appreciated the applicants' effort including them and the other neighbors in on their proposed project. He felt that it would not only benefit the applicants but the neighborhood as well. He wanted to stress the limitations of the lot of the applicants and he was very happy with their proposal. He urged the Board to grant the variance request.

Chairman LeBlanc asked if there was anyone else who wished to speak to, for or against the petition.

Chairman LeBlanc read aloud a letter submitted by Kathleen Thompson of 56 Ridges Court who was unable to attend the meeting, which expressed her concerns about the proposed project. She also felt that the proposal was not appropriate and thought that it would affect the property values and taxes. She urged the Board to deny the request.

Seeing no one rise, the Chairman declared the public hearing closed.

DECISION OF THE BOARD

Mr. Witham moved to grant the petition as presented and advertised and Mr. Berg seconded.

Mr. Witham stated that he felt there were three options the applicant could go with but felt the most appropriate and best scenario was to go with what the applicant was proposing. He didn't feel that the property had any historic value as it currently existed or added any character to the neighborhood eventhough the house predated zoning. He thought that the design for the new home was very minimal and mild so it would be an improvement to what currently exists. He thought the front setback request was reasonable and that they had been sensitive to all of the factors that were associated with the unique setting of the property.

Mr. Berg agreed with Mr. Witham's statements and thought their requests were reasonable.

Mr. Jousse stated he would not support the motion. He thought the Board needed to be consistent. He didn't think it was right that they denied one petition for encroachment into the wetlands buffer and then approve the current petition's request to encroach upon the wetlands buffer. He did not think there was a hardship presented and that the house just needed maintenance since it is 60 years old. He thought the applicant could enjoy the property as is and since Portsmouth is in desperate need for housing, it would not be in the best interest of the public to remove a duplex and replace it with a single family home.

Chairman LeBlanc asked if there was any further comment of the Board.

Hearing none, the Chairman called for the vote and the motion to grant passed via a vote of 5-2 with Mr. Holloway and Mr. Jousse voting in the opposition.

~~~~~

19) Petition of **Mark Kim, owner**, for property located at **3002 Lafayette Road** wherein the following were requested: 1) a Variance from Article III, Section 10-301(8) allow a 90' front yard where 105' is the minimum required, 2) a Variance from Article II, Section 10-207 to allow a commercial laundry in a zone where such use is not allowed, 3) a Variance from Article XII, Section 10-1201(A)(2) to allow a two way travelway to be 10' wide where 24' is the minimum required. 4) Variances from Article XII, Section 10-1201(A)(3)(c)(1) and Article XII, Section

10-504(C)(2) to allow unscreened parking within 50' of a mixed residential lot line; and, 5) a Variance from Article XII, Section 10-1203(A)(1) to allow loading within the required side and rear yards. Said property is shown on Assessor Plan 292 as Lot 13 and lies within the Mixed Residential Business district. Case # 8-20

### **SPEAKING IN FAVOR OF THE PETITION**

Attorney Bernard Pelech spoke on behalf of the owner and the petition. He informed the Board that the property was formerly the McDonald's Meat Market site, which had been used as a commercial site for many years. They proposed to use the site for a laundry business. It was situated in a Mixed Residential Business district where most of the business conducted was commercial. He indicated that the Single Residence B district was at the rear of the property. He didn't think it would be detrimental to the neighborhood and didn't see anyone from the neighborhood at the meeting to speak in opposition to the petition. He felt that it would not diminish the value of the surrounding properties, as the site was a one-story structure with office space on the interior and would fit in with the surrounding properties along Lafayette Road. Attorney Pelech stated that the lot was very small, narrow and long. They believed it was a reasonable use and that it would not injure the public or private rights of others. The property was only 195 feet from Lafayette Road and with the 105-foot setback, it left a very small buildable area. Given, the small lot size and the setbacks of the existing structure along Lafayette Road, there were no other reasonable alternative methods feasible. He stated that what they were proposing was not too different than what currently exists. He went over the Boccia criteria necessary to obtain an area variance. He urged the Board to grant the relief sought and informed the Board that his client was present if they had any questions for him to answer.

Mr. Witham asked why the height proposed was for 40' and wondered if that figure was accurate.

Attorney Pelech stated it was an error and it was less than 40'.

Mr. Jousse asked how the chemicals would be handled, mainly the disposition of the chemicals.

Mr. Kim stated that the chemicals would be stored on site. Mr. Kim stated that they just refill them.

Mr. Jousse asked what they do with the chemicals once they get dirty.

Mr. Kim answered that they have a company that picks up the chemicals every few months.

Mr. Berg asked where the laundry is done now.

Mr. Kim answered 2800 Lafayette Road.

Mr. Horrigan asked if they understood that the variance goes with the property. He didn't know why the building was so large that they could only provide 10 feet.

Attorney Pelech stated the size of the building was what they needed.

Mr. Horrigan asked why they needed exactly 3,600 feet.

Attorney Pelech stated that they made the determination of how much sq. footage they needed.

Mr. Horrigan asked about the entrance to the lot, he thought it was very ambiguous and wondered if the applicant intends to pave the ten feet.

Attorney Pelech stated they would do whatever the Board felt was appropriate.

Mr. Holloway asked if they would only be cleaning clothes there.

Attorney Pelech stated people would be dropping off their dry cleaning but that was it.

Chairman LeBlanc asked how many vans they have.

Mr. Kim answered one van.

Chairman LeBlanc asked if there was anyone who wished to speak to, for or against.

Seeing no one rise, the Chairman declared the public hearing closed.

### **DECISION OF THE BOARD**

Mr. Horrigan still had misgivings about the one dimensional variance (#3) request. He wanted to take that variance request separately.

Mr. Horrigan moved to deny the 10' travelway and Mr. Parrot seconded.

Mr. Horrigan did not see any necessity to have such a narrow travelway and did not see any special conditions of the property that dictated that need. He could not support the variance.

Mr. Parrot agreed with Mr. Horrigan's statements and concerns. He was thinking about plowing and that realistically it could not be plowed without pushing it onto the other property. He wasn't comfortable with the granting of such a small alley way.

Chairman LeBlanc called for the vote to deny the 10' travelway request. The motion passed with a vote 5-2 with Mr. Holloway and Mr. Jousse voting in the opposition.

Mr. Horrigan moved to grant Variance #2 and Mr. Marchewka seconded.

Mr. Horrigan thought the public interest was clear enough since it would be a business that would serve many interests for the residents of the area. He thought the hardship was established by the applicant since it was a reasonable use of the property given the nature of the abutting properties along Lafayette Road. He also cited all of the other criteria necessary to satisfy to

grant a variance and thought the applicant did satisfy all and thought it would be beneficial to approve the use.

Mr. Marchewka agreed with Mr. Horrigan.

Mr. Parrot disagreed with Mr. Marchewka and Mr. Horrigan. He didn't think the property was unusual or unique and could not vote to approve the requested relief.

Chairman LeBlanc called for the vote to grant Variance #2. The motion to grant passed 6-1 with Mr. Parrot voting in the opposition.

Mr. Horrigan moved to grant variances 1, 4 and 5 as presented and advertised and Mr. Marchewka seconded.

Mr. Horrigan stated it would be good for the public interest and all of the same reasons he stated in his prior motion rationale. For those reasons, he would grant the remaining dimensional variance requests.

Mr. Marchewka agreed with Mr. Horrigan and again, felt the requests were reasonable.

Chairman LeBlanc asked if there was any further comment by the Board.  
Mr. Witham wanted to add a stipulation that the building height not exceed 20'.

Mr. Horrigan seconded.

Mr. Jousse thought that since all of the variance requests were approved other than the first, the Board had put the applicant in a predicament.

Chairman LeBlanc asked if there were further comments by the Board.

Hearing none, the Chairman called for the vote.

The motion to grant the variance requests of 1, 4 and 5 with the stipulation that the building height not exceed 20' passed with a vote of 6-1 with Mr. Parrot voting in the opposition.

~~~~~

III. ADJOURNMENT

A motion was made and seconded and the meeting was adjourned at 10:27 p.m.

Respectfully submitted,

Christina Staples
Acting Secretary