

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING
PORTSMOUTH, NEW HAMPSHIRE**

MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

CONFERENCE ROOM B

7:00 p.m.

February 21, 2012

MEMBERS PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott,
Susan Chamberlin, Derek Durbin, Charles LeMay, Alternate
Patrick Moretti

EXCUSED: Alternate Robin Rousseau

I. APPROVAL OF MINUTES

A) December 13, 2011

It was moved, seconded and passed by unanimous voice vote to accept the Minutes as presented.

II. PLANNING DEPARTMENT REPORTS

No reports were presented.

III. OLD BUSINESS

Chairman Witham noted that there were several requests regarding the subject. As there were currently violations, the equitable waiver would be addressed first and, once that was done, they could deal with the variances. He then read Case # 1-2 and 1-2A

B) Case # 1-2

Petitioners: Brian M. Regan & Susan M. Regan

Property: 28-30 Dearborn Street

Assessors: Map 140, Lot 1

Zoning District: General Residence A

Description: Allow the existing front-yard setback of the building to remain and revise the off-street parking layout required in a previous variance approval for the property.

Requests:

- Equitable Waiver (under RSA 674:33-a) to allow a front yard setback of 0'± where a 20' front yard setback is required for the structure located at 30 Dearborn Street.
- Amend the Variances granted 1984 and 1991 by revising the required parking plan (as shown on the plan on file at the Planning Department).

(This petition was postponed from the January 17, 2012 meeting.)

C) Case # 1-2A

Petitioners: Brian M. Regan & Susan M. Regan

Property: 28-30 Dearborn Street

Assessors: Map 140, Lot 1

Zoning District: General Residence A

Description: Provide four off-street parking spaces.

Requests: 1. A dimensional Variance from Section 10.1112.30 to allow four off-street parking spaces to be provided where eight off-street parking spaces are required.

(This petition is new and was not a part of the petitions postponed from the January 17, 2012 meeting)

Reiterating that once the first two cases had been cleared, if they were, they could move on to the variance requests, Chairman Witham read the Description and Request sections from Case #1-1, as shown below.

A) Case # 1-1

Petitioners: Brian M. Regan & Susan M. Regan

Property: 28-30 Dearborn Street

Assessors: Map 140, Lot 1

Zoning District: General Residence A

Description: Divide an existing nonconforming lot containing two, two-family dwellings into two lots each containing one, two-family dwelling.

Rehearing Requests:

- Variance from Section 10.331 to allow a lawful nonconforming use to be extended.
- Variances from Section 10.521:

- Lot 1
 - To permit a lot with 6,750 of lot area where 7,500 s.f. is required.
 - To permit a lot with 3,375 s.f. of lot area per dwelling unit where 7,500 s.f. is required.
 - To permit 55.15' of continuous street frontage where 100' is required.
 - To permit a side yard setback of 3.7' where 10' is required.
- Lot 1-1
 - To permit a lot with 6,432 s.f. of lot area where 7,500 s.f. is required.
 - To permit a lot with 3,216 s.f. of lot area per dwelling unit

- where 7,500 s.f. per unit is required.
- To permit 90.15' of continuous street frontage where 100' is required.

Chairman Witham stated that they would now address Cases #2-1 and 2-1A.

SPEAKING IN FAVOR OF THE PETITION

Attorney Jack McGee introduced himself as representing Mr. Brian Regan and Regan Electric, who was involved in lot line revision. Attorney Pelech, who represented Ms. Susan Regan, was not able to attend. Technically, he was not representing Ms. Regan but anything he would say was already pre-approved with Attorney Pelech so he was making a joint presentation in that regard.

Attorney McGee stated that the issue with the Equitable Waiver dealt with what they thought to be a 7' setback when a Special Exception was sought in, he thought, 1994. He outlined a brief history of the property describing how Mr. Regan, when working on his two houses, met with the Public Works people, specifically Mr. Russell Pratt. Where the City had no records of Dearborn Street, it was their mutual understanding that, to determine the edge of the property, they went to the center of the paved portion and counted back twelve and a half feet, assuming a 25' road. If that was the case, then the setback in question would be about 7' or 8'.

Attorney McGee stated that they didn't have a survey done which was where the error came in, if it was an error because, while their surveyors have now put Dearborn Street at 30', the evidence of that was indirect. He cited two mentions of the 30' street in two 18th century deeds and two 19th century deeds, while the Sanborn tax maps showed 25' which would have been the actual measurement back around 1900. Where there was no record of a layout, you're dealing with streets which might well be right-of-way roads, as opposed to fee roads, where the owners actually own to where the street was actually used.

Attorney McGee noted that Mr. Regan was present and could testify that when he was developing the property in 1994, when the 7' setback came in, the banking of earth at 28 Dearborn Street went right to paving, the location of the wall face. He stated that was never used as a street. They were asking that, assuming that the surveyor, Mr. Berry, was correct and it was a 30' street, the Equitable Waiver be granted so they could proceed and correct the situation resulting from an informal determination of the width of Dearborn Street in 1994.

Attorney McGee asked if there were any questions or he would proceed to the Variance on parking. Chairman Witham commented to the Board that this was advertised as looking for a front yard setback of 0' where 20' is required, but actually the front setback is the average of the homes along the street, which was around 6".

Attorney McGee then addressed the parking, noting that when these matters came before the Board, it was contemplated to have a parking area behind 28 Dearborn Street where 4 cars would be parked and 4 behind 30 Dearborn. Those were never installed as a result of a dispute between Mr. and Mrs. Regan which left parking lot issue set aside. It would be difficult today to construct those areas due to the Wetlands Ordinance provisions. He noted, also, that the abutter to the left of 28 Dearborn Street would prefer not to have the parking area behind 28

Dearborn Street as it would detract from his home to have to look over the parking to the mill pond. Attorney McGee stated that he had also talked about the plan with Mr. Brandzel and his attorney and their prime focus was the front wall which they would like removed which the applicants were going to attempt to do. That would create parking in front and, rather than the problematic rear parking, their current plan would call for two spaces in each driveway and removing the wall to get in four spaces there.

In response to questions from Ms. Chamberlin, Attorney McGee again stated that the plans back in 1994 showed 4 spaces each behind 28 and 30 Dearborn Street, in addition to having the driveways which were also shown on the plans. He stated that the neighborhood, in talking about congestion, focused on the wall, which Mr. Brandzel felt was a major impediment to traffic on a tight street. The street might still be 25' wide but they were assuming, for that evening's purposes, that it was 30'. They planned to work with Public Works on that and on whether four cars could be parked with the required dimensions. It appeared adequate.

Attorney McGee stated that he and Attorney Pelech had been in touch with Mr. Brandzel's attorney and had prepared some proposed terms and conditions acceptable to them, which he distributed to the Board. A discussion followed among Attorney McGee, Ms. Chamberlin and Mr. LeMay which covered the following concerns: 1) how to determine adequate parking dimensions; 2) whether, if the City didn't approve removing the wall due to safety, they would have to come back; 3) what could be done to ensure that the latest parking plan could be relied on; and 4) what would be the impact of a potential new owner. Attorney McGee noted that, if the terms and conditions were not adequately implemented, the variance granted would be null and void. It stated in the first paragraph of the terms and conditions that they had to be implemented before a Subdivision Agreement could be entered into with the City of Portsmouth or the lots conveyed.

Mr. LeMay asked if this plan would be filed in Rockingham, with the deed. Attorney McGee responded that they had to first come before this Board before going to the Planning Board. All the specified terms had to be met and they had to also get permission from the City Council for the little bumpout proposed for access to 28 Dearborn Street. In addition, Public Works had to approve the removal of the wall, which might require an engineer verifying that what was left would support the property. These issues would have to be addressed at the Technical Advisory Committee and, if they couldn't be worked out, they would have to come back to the Board of Adjustment.

Mr. Parrott noted that the plans showed the parking spaces at 19'. He understood that when there was 0 degrees angle of parking to the travelway you had to have a 20' long space. Attorney McGee stated that he didn't know if there was 20' there. If the plans from Attorney Pelech were showing as 19', that was what they had. He noted that, if the Planning Board wasn't happy, they were going to be back before them to try and figure out a way to put the parking behind without violating federal regulations.

Chairman Witham stated that they would now allow public comment, then deal with the Equitable Waiver and Variance for parking, followed by the presentation for the subdivision.

SPEAKING IN OPPOSITION TO THE PETITION

Mr. George Dempsey stated that, if he had known the Equitable Waiver was going to come up he would have had a copy of the regulations for them. He believed they stated that the homeowner was responsible no matter who gave them answers years ago. He wasn't opposed to anything here but was just tired of people misusing the Equitable Waiver provision.

SPEAKING TO, FOR, OR AGAINST THE PETITION

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Chairman Witham reiterated that they were combining Case 1-2 and 1-2A and he would entertain a motion for the Equitable Waiver and the 0' front yard setback where 6' ± was required. Then there was the Variance request to amend previously granted Variances to allow 4 off-street parking spaces where 8 were required. Regarding the Equitable Waiver and the front setback, he stated that he had seen people measure from the edge of pavement where there was no survey and he felt this was one of those situations. While the homeowner was ultimately responsible, sometimes the guidance could be better and he felt this was an honest error. With regard to parking, the applicants were previously granted Variances and those plans were not carried out. They had a new plan in front of them which had been worked out by putting all the parties together and the Planning Department agreeing this was the best option. Chairman Witham stated he found the plan credible considering the previous option of creating these small parking lots in the back yards within the inland buffer zones.

Ms. Chamberlin made a motion that the Equitable Waiver and the Variances be granted with the understanding that nothing take place until the parking spots were constructed and the congestion relieved.

Chairman Witham stated that the attorney had given them proposed terms, conditions and restrictions and he felt, with her motion, they could not move on to the subdivision that evening. Otherwise, they would have to wait for the applicants to come back. He stated that he felt, with the two pages of conditions and restrictions, the Board was covered in that they were not going to be able to do anything unless the parking spots were resolved to the satisfaction of the Department of Public works, the Technical Advisory Committee and the Planning Board. In terms of a stipulation to an approval, he would suggest the proposed terms, conditions and restrictions be a part of the motion. He stated that she was free to do as she wished, but he would like to think that the Board could deal with this and it could move on to other Boards.

Ms. Chamberlin asked if it were necessary for them to grant the subdivision before the applicants could move on to other Boards and get the conditions fulfilled. Chairman Witham stated he was comfortable with doing that.

Ms. Chamberlin stated she would then make a motion to grant the Equitable Waiver and the Variances with the attachment of the proposed terms, conditions and restrictions for the sole purpose of allowing the applicants to move forward and take the necessary steps to resolve the problems that had been laid out that evening.

Mr. Parrott seconded the motion but stated that he would like to add another condition. He noted that the two-page document containing the proposed terms, conditions and restrictions had no date of signature. He felt it had no weight as it was and could get lost in a file. Chairman Witham suggested that they could ask the attorneys to sign and date one copy. Attorney McGee spoke from the public area that he could sign as attorney for Mr. Regan. Mr. Regan could sign and Mrs. Regan, if she were willing, could also sign as being bound by these terms and conditions. Mrs. Regan stated from the public seating area that Attorney Pelech was not there, but she would take a copy. Chairman Witham stated they could get the signatures cleared up afterwards as long as Mr. Parrott was satisfied. Mr. Parrott stated that he would specifically want the signatures of the applicants and their attorneys and asked if that would be acceptable to the maker of the motion. Ms. Chamberlin stated it was acceptable to her.

Ms. Chamberlin noted that the petition had been before them at a couple of meetings and now the parties who had been in extreme disagreement had come together and made this proposal. She stated that the agreement addressed the safety concerns of blocking the road and the congestion so she believed that granting the request was not contrary to the public interest. It observed the spirit of the Ordinance in that the setback was not out of range with the character of the neighborhood. She stated that substantial justice would result for the reasons she had discussed, that the parties were in agreement and long-standing neighborhood problems would be resolved. She felt that the value of surrounding properties would not be diminished and there was evidence that this would help maintain values. The hardship was the tightness of the neighborhood and the way it was developed which created special conditions that needed to be addressed.

Mr. Parrott stated that he agreed with her comments and only wanted to add that they needed to ensure that the agreement to which they referred had to be a part of the official record.

Ms. Chamberlin stated that she had one further comment. She did have a copy of the statute regarding the Equitable Waiver in front of her and noted that the owners of the land were bound by the constructive knowledge of the applicable requirements so this was not to waive any requirements or burden on the owners. She stated that there was a history of the property and the difficulties with it. She stated that the violation in terms of the setback was not intentional and, for that reason alone, they could waive the dimensional requirements which was really only a 6” waiver as opposed to 20’ due to the nature of the neighborhood.

Chairman Witham stated that they were voting on the Equitable Waiver and the two Variance requests with regard to parking.

The two stipulations were as follows:

Stipulation 1:

Neither of the two proposed lots proposed to be subdivided may be sold until the following terms, conditions and restriction have been met or prior to an agreement entered with the City of Portsmouth in the nature of a Subdivision Agreement which would provide and guarantee through appropriate surety compliance that such terms, conditions and restrictions will be implemented:

1. That the Regans must remove the currently existing retaining wall which runs along the front of 28 Dearborn Street to the westerly side of the building situated on 30 Dearborn

Street. And they shall simultaneously pave the area from the street right-of-way line as shown by surveyor Christopher Berry to the currently paved area of the street so the area is acceptable for four parking spaces.

2. That in connection with such removal the Regans shall also remove two trees currently situated between the buildings at 28 Dearborn Street and 30 Dearborn Street which removal has been recommended by the Portsmouth Planning Department.
3. That upon removal of such retaining wall the Regans shall relocate the presently existing sewer line which services 30 Dearborn Street in a manner acceptable to the City of Portsmouth and particularly its Public Works Department.
4. That upon removal of the aforementioned retaining wall the Regans shall be allowed to reconstruct a “bump out” with stairs as shown on the plans submitted with their application so that entry can be had to 28 Dearborn Street through the use of such steps.
5. That the Regans shall obtain any necessary permits which may be required to remove said retaining wall, pave over the area where the retaining wall and fill have been removed, construct the “bump out” and remove the trees and relocate the sewer line.
6. That the Regans shall cooperate with the City of Portsmouth and particularly its Public Works Department as to the establishment of an appropriate physical boundary at the sideline of Dearborn Street and the Regans boundary established by the surveyor Christopher Berry.
7. That the City of Portsmouth shall issue a satisfactory license, easement or other permission for the Regans to maintain the steps which have been “bumped out” and which are on the southerly side of the street boundary as set forth on the Regan plans as submitted with their application.
8. That if the Regans do not meet the foregoing terms, restrictions and conditions then the Regans or their successors upon a new petition presented to this Board may request new relief from the Board of Adjustment provided that if any such new petition is filed, it must specify in detail what conditions have not or cannot be met with a detailed explanation of why they have not or cannot be met.
9. The work and subdivision contemplated by the above Terms, Conditions and Restrictions must be completed one year from the grant of the variances and equitable waiver otherwise they shall be null and void and the Regans shall be required to submit a new application pursuant to 8 hereof.

Stipulation 2:

That the proposed Terms, Conditions and Restrictions be signed and dated by the applicants and their attorneys and submitted to the Clerk for the Board of Adjustment.

The motion, with the two stipulations, was passed by a unanimous vote of 6 to 0.

Chairman Witham stated that they would now take up Case #1-1, previously read, which was the various requests with regard to subdivision of the lot. Again, if they did approve this

petition, there were quite a few restrictions with it that many of the other City boards would be reviewing.

SPEAKING IN FAVOR OF THE MOTION

Attorney McGee again stated that he was representing Mr. Regan and Regan Electric and was filling in for Attorney Pelech, representing Mrs. Regan. The basic issue bringing them there was to accomplish two things. One was subdivide 28 Dearborn Street and 30 Dearborn Street and also permit a lot line revision which would allow a 15' strip of land to be deeded to Regan Electric. In terms of the goal of dividing the houses, he stated that there had been a natural line between them and it was better from the owner's standpoint as well as the City's to have one house per lot. Granting the request would allow the Regans to make a more reasonable use of their property and would not hurt the value of surrounding properties. In fact, one of the things accomplished would be improving the values by doing something with the wall and the sewer connection.

Attorney McGee stated that all the five criteria would be met. It would be in the public interest as evidenced by the neighborhood coming together. He felt it was also in the spirit of the Ordinance to bring people together in consensus and allow one person to stay in their home while another sold their property. He noted that all the issues had been presented the previous summer and the Board had granted approval. Mr. Brandzel and Mr. Dempsey had then brought out certain issues which were now being addressed. The variances and the subdivision of the two lots would be subject to the terms, conditions and restrictions that had been adopted. He was asking that the lot line revision be allowed to go ahead with the variances. The City had asked for one concession, with which Regan Electric had no problem, that the strip be kept open. They might keep the existing paving and the open space would be limited to any further encroachment. As far as the two houses, there would definitely be the terms, conditions and restrictions. Attorney McGee noted that they had to go before TAC and there would be discussions with the City at all levels to effectuate the subdivision. He added that he had been in contact with Mr. Brandzel's attorney and sent him the basic proposal the previous week and he believed Mr. Brandzel was in agreement and they hoped to have a better situation for everybody.

Mr. Mike Brandzel stated that, in the spirit of compromise, he had decided to support this plan. He noted that Mr. Cracknell had been instrumental in bringing them all together and effecting a compromise. In an ideal world, it was not everything that they would hope for, but it was a positive step and would allow the applicants to split the properties. He thanked the Board for all of their time.

SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Ms. Chamberlin made a motion to grant the variances necessary to divide an existing nonconforming lot containing two, two-family dwellings into two lots each containing one, two-family dwelling. The motion was seconded by Mr. LeMay.

Ms. Chamberlin stated that this was part of the entire package before the Board. She felt that granting the Variances would not be against the public interest as it would move forward issues such as the retaining wall and they had testimony from a neighbor who would support the petition in the spirit of compromise. She stated that the spirit of the Ordinance would be observed by having one building per lot which was a typical zoning requirement. Substantial justice would be done and, arguably, the value of surrounding properties would be improved or, at least, not diminished. She stated that the hardship was that this was a tight neighborhood and granting these Variances would solve some of the existing problems, allowing the parties to move forward.

Mr. LeMay added that, back in September, the Board had done a lot of work in terms of analyzing and scrutinizing all the various details of this project. He didn't want the public to think they were just rushing through an important Variance. All the details had been considered and were in the record.

Chairman Witham stated that he would like to ask the maker of the motion if they would allow the addition of a stipulation that the land being conveyed to Regal Electric remain as open space except that any existing paving within the strip be allowed to remain in place. Ms. Chamberlin and Mr. LeMay stated that they accepted the stipulation.

Mr. Parrott commented that this was a very unusual situation and the public should not see this as setting a precedent because they were allowing two very substantial variances for big buildings on small lots. He wanted it to be on the record that the Board looked at everything on its merits and as an individual case.

The motion to grant the petition with the stipulation was passed by a unanimous vote of 6 to 0.

Chairman Witham thanked the abutters for their participation.

D) Case # 1-3

Petitioner: Sam & Lea Chase

Property: 604 Lincoln Avenue

Assessors: Map 148, Lot 15

Zoning District: General Residence A

Description: Construct a 2½-story, 4' x 25' addition to the existing building and replace a 6' x 16' deck with a 2½-story, 6' x 16' addition.

Requests: 1. A dimensional Variance from Section 10.321 & Section 10.521 to increase the building coverage from 32% to 34%± where a maximum of 25% is permitted.

This petition has been revised. The original request, for a 4' x 19' 2 ½ story addition to the existing building, was postponed from the January 17, 2012 meeting.

Chairman Witham noted that the petition had been revised from the January meeting.

SPEAKING IN FAVOR OF THE PETITION

Mr. Sam Chase identified himself as one of the petitioners and wasn't sure what questions the Board might have.

Chairman Witham suggested that he briefly walk the Board through the project and state why the Board should grant his request.

Mr. Chase stated that they had a fire in November and the house was gutted. They felt this was a good time to take care of some issues such as the structure settling and a window on one side with no foundation. He stated that their proposed plans, which included a mudroom, would keep them within the setbacks but they needed relief for lot coverage. He did not feel the house would be overly large and there were larger ones in the neighborhood. Another issue was egress from the third floor where the stairs are narrow and do not meet code. They had been told they would have to remove them and they would like to replace them now, rearrange areas on the interior and create more space. He felt that, if there had been no fire, they would not have to be in front of the Board and hoped they would put this through. In response to questions from the Board, he stated that this was a two-family. He cited other examples in the neighborhood with similar styles, which were bigger and had more setback issues.

SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION.

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Ms. Chamberlin made a motion to approve the petition as presented and advertised and would like to open it up for discussion. Mr. Moretti seconded the motion.

Ms. Chamberlin stated that it appeared that the changes were being offset to some degree so that the total coverage according to the calculations was a 1% change, so this did not appear to be a significant modification but more of a realignment.

Mr. Parrott stated that the agenda indicated this was a revision to the previous submission and now there was a 2% change, yet the application to the Board of Adjustment they had changed it from 32.4% to 33.4% so that he would like some clarification.

Chairman Witham asked Mr. Nick Cracknell, the Planning Department Planner/Consultant if he could shed some light. Mr. Cracknell stated that the revised legal notice indicated a 2% increase which was why the petition was continued in January.

Mr. Chase stated that it was more the lot coverage amount than the percentage of increase. They had held it up for a month because of the difference between the previous 27% and 34% which it ended up being. They wanted to be sure they had the proper calculation. Chairman Witham asked if, then, the scope of work didn't change, it was more how it was calculated and

Mr. Cracknell clarified that the garage was not included in the first calculation. Mr. Chase stated that he was not sure where he went wrong. He had done a lot on the computer and it was probably more a problem with his math than anything.

Mr. Parrott stated that the question became which dimension was off, the 4' x 19' (4' x 25'). Chairman Witham stated that the 4' x 19' (4' x 25') was the additional square footage and the 6' x 16' was so that was just being built over existing lot coverage. Mr. Cracknell confirmed that the agenda was correct. Mr. Parrott asked if the 2% was correct and Mr. Cracknell stated it was.

Ms. Chamberlin stated that granting the variance would not be contrary to the public interest, where there had been a fire and the building was not being substantially changed. It was being modified without a substantial increase in the lot coverage. The spirit of the Ordinance would be observed in that the request was within the character of the neighborhood. There was nothing really out of alignment in the proposal that she could see. She stated that it was substantial justice in that, again, this is not a huge change and it would allow some improvement to the building. There was no evidence that there would be any diminishment in the value of surrounding properties. Regarding the special conditions, she stated that she was not sure if the fire was a special condition but would say that, if you had to do a little remodeling as you rebuilt after a fire, it sounded reasonable to her.

Mr. Moretti stated that this was a small modification to the structure to bring the property up to modern times and the small increase would be no detriment to the neighborhood or surrounding properties.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 6 to 0.

IV. PUBLIC HEARINGS

1) **Case # 2-1**

Petitioners: Deer Street Associates, owner, Robert Marchewka, applicant

Property: 165 Deer Street, Building #1

Assessors: Map 125, Lot 17

Zoning District: Central Business B

Description: Rental and storage of motorized scooters.

Requests: 1. A use Variance from Section 10.440, Use #11.10 to permit the rental and storage of motorized scooters in a district where such use is not allowed.

SPEAKING IN FAVOR OF THE PETITION

Mr. Bob Marchewka stated that he wanted to start a scooter rental business out of 165 Deer Street, as he had outlined in his submitted letter. The property would serve as a storage area for scooters, with some delivery to customers. These units were small, only travelling up to 30 mph. He envisioned providing rentals to tourists coming into the downtown area and chose this location for proximity. He stated that the classification of automobile and motorcycle rentals was a little bit of a grey area and he had looked at the areas where this might be allowed but they were high traffic areas removed from the downtown. Mr. Marchewka described the

property as basically a garage or warehouse which had been constructed years ago for oil trucks. He stated that a warehouse in the downtown area would not conform to zoning so that nothing that inside that building would conform.

Mr. Marchewka stated that granting the variance would not be contrary to the public interest but would allow a use that would be compatible with the tourist environment downtown. He felt that the spirit of the Ordinance would be served as the use was appropriate for the building and the surrounding neighborhood. For the same reason, granting the variance would represent substantial justice. This would also be a safe location for the business. He stated that the value of surrounding properties, all of which were industrial in nature, would not be diminished and there was also an abutting railroad so this use would have no impact. He felt that the hardship in the property was that the use he was proposing was compatible with the business and the area but no allowed uses were compatible with the building.

In response to questions from Ms. Chamberlin, Mr. Marchewka stated that the property owner was there and could answer more fully but he believed there currently were 6 garages in the facility and a plumbing operation. He was not proposing a retail operation but primarily one for storage. While some people might come in, park, and rent a scooter, he anticipated that they would make the rental arrangements and he would then meet customers or deliver the scooters to them. He anticipated having six scooters.

In response to questions from Mr. LeMay, he stated that he wasn't sure about the signage and some of the signs on the site were temporary. He didn't anticipate large permanent signage but maybe would park a scooter in the front so that walk-in traffic might be attracted. When Mr. LeMay asked about scooter rental and sales down the road, Mr. Marchewka stated that he was not sure that was an appropriate spot to accommodate a full-time retail operation. It was just a warehouse with electricity but no water or sewer. Mr. Moretti asked about the storage of fuels or oils and he stated that he hadn't anticipated that and perhaps the owner could speak to that. It would probably have been done before when the building housed oil trucks. Mr. Marchewka didn't anticipate cans of fuel as there was a gas station around the corner and scooters don't use a lot of fuel in any case.

SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. Parrott made a motion to grant the petition as presented and advertised, which was seconded by Mr. LeMay.

Mr. Parrott stated that this was an off-the-beat location up against a railroad track and not on any tourist map he imagined. It seemed a logical use for this facility and was a pretty benign use. He felt that the criteria that they had to apply to variances were met and granting the variance would allow a vacant spot to be put to use.

Mr. LeMay stated that he was satisfied that the scope of operation would be limited by the size and the facilities on site.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 6 to 0.

2) Case # 2-2

Petitioner: Raymond Wilkins

Property: 973 Islington Street

Assessors: Map 172, Lot 5

Zoning District: Business

Description: Wholesale HVAC and cooling equipment.

Requests: 1. A use Variance from Section 10.440, Use #13.11 to permit the wholesale storage of HVAC and cooling equipment in a district where such use is not allowed.

SPEAKING IN FAVOR OF THE PETITION

Mr. Jack McGee stated that he was appearing for Attorney Pelech who represented the applicants and referenced a memo previously submitted by Attorney Pelech.. He stated that the applicant was faced with a building near the old mills which technically had been used for a retail mattress operation. The property did not lend itself to retail sales with the only access a 20’ right-of-way. Effectively, you were talking wholesale, not retail and that type of operation would be more favorable to abutters with incoming traffic in the morning and no constant flow as you might have in retail. He noted that the Planning Department had questioned tractor trailer visits but, as Attorney Pelech had mentioned, the deliveries would be in much smaller vehicles.

Attorney McGee stated that Attorney Pelech had also outlined the five criteria. Regarding the hardship, he stated that an owner could not make a reasonable use of the property given the approved use of retail operations. Only a wholesale entity would want it. He stated that substantial justice would be done by helping the area and the public. For all the other reasons stated by Attorney Pelech in his memorandum, he submitted that all the five criteria were met.

SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. LeMay made a motion to grant the request as presented and advertised, which was seconded by Mr. Durbin.

Mr. LeMay stated that it was a small step to move to this use. He felt that granting the variance would not be contrary to the public interest as the use was suitable for that location. In the justice balance test, there would be no benefit to the public if the variance were denied. He stated that the value of surrounding properties would not be diminished and, with no additional

traffic, it would probably be difficult to tell the company was in there. He felt that the hardship would be in forcing this particular location to remain in strictly a retail use.

Mr. Durbin noted that this particular commercial unit did not front on Islington Street so the way it was set up for retail was in itself a hardship. He felt that moving to a more benign wholesale use was consistent with the spirit of the Ordinance.

Chairman Witham stated that the use was compatible with the area and, given the hours of operation, would be compatible with the nearby theater group for parking availability. He felt that this use would provide a good balance.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 6 to 0.

3) Case # 2-3

Petitioner: Carole J. Hicks

Property: 496 Lincoln Avenue

Assessors: Map 133, Lot 48

Zoning District: General Residence A

Description: Construct a 34' x 22' 2-story rear addition with basement garage.

- Requests:
1. A dimensional Variance from Section 10.321 to allow a lawful nonconforming building to be extended or enlarged in a manner that is not in conformity with the Zoning Ordinance.
 2. A dimensional Variance from Section 10.321 & Section 10.521 to intensify a right side yard setback of 5'4" ± where 10' is the minimum setback required.
 3. A dimensional Variance from Section 10.321 & Section 10.521 to increase the building coverage from 31.6% to 37.7%± where the maximum building coverage allowed is 25%.

SPEAKING IN FAVOR OF THE PETITION

Attorney Jack McGee stated that he would be representing the applicant that evening as Attorney Pelech was unable to attend. He stated that this particular house dated from 1904 and was one of the oldest buildings in the area. The owner had lived there for 36 years and couldn't keep up the house on her own as the inside stairways were steep and mechanical devices didn't work well in that structure. After family discussions, they had decided to be a multi-generational family unit, allowing the current owner to stay in her home, while adding an addition at the back to update the property to current needs. He stated that the design and plans had been developed by Mr. Ware who was there that evening to address issues such as shadows and sunlight, which had been raised by abutters.

Attorney McGee stated that they were seeing two variances, for lot coverage and the right side yard setback. Basically the rear addition on the back would not be increasing the nonconformity as to the sideline as the existing porch was 5'4" from the property line. The porch would be removed and the addition put in its place. He noted that the addition took a turn of about 5' so that the setback was 10' at the back. He stated that, if the Board members had visited the property, they would have seen some steel rods showing where the rear portion of the addition would be. Overall, the coverage situation would be neutral, with probably more

open space as they could pull out a strip of the parking area up against Wibird Street and have grass there and the garage would come down as well.

Attorney McGee stated that the owner had spoken with the neighbors and did hear their concerns, one of which was that the building would block sunlight. They had asked Mr. Ware to analyze that and, based on his studies, the blocking of the sun would be minimal and would not affect anybody's garden. He noted that if this were a one story addition, the issue would not even be raised. Drainage had also been raised as an issue, but he noted that there would be a net gain to open space and, if the Board felt it was an issue, they could put in a retention pond.

Attorney McGee described how they proposed to attach the garage to the house with living space, accessed by an elevator, for the current owner over a two car garage. It had been commented that the addition could be used as a separate apartment. He stated that there were no plans for a separate kitchen. The owner would live there as a member of the family while an outmoded property would be modernized. If there were a real concern, a deed restriction could be put in that, if the variance were granted, this in-law area would not be turned into a second apartment.

Addressing the criteria, Attorney McGee stated that, after the Simplex case, homeowners had a right to reasonably use their property as long as they did no harm. A 1904 house which no longer accommodated the needs of a modern family created an unreasonable situation. He stated that the neighborhood would not be any more affected than with any other building put on a lot of the same size. It would encroach no further into the setback and the study would show that no garden would be ruined. Fairness would be to allow a family to use a house which didn't meet today's needs as proposed. He felt that substantial justice would be done by allowing a multi-generational family to utilize the property. He didn't feel it would offend the Zoning Ordinance to have a 6% increase in coverage, especially where it went to the rear and not to the side. In terms of the public benefit, the proposed change would, if anything, increase taxes. He stated that the owner, her daughter, and son-in-law had obtained signatures in support. He again noted that Mr. Ware would address the shadow issue.

Mr. Jeff Ranis stated that he was the owner's son-in-law and asked for their careful consideration as they evaluated the project, which was vital to their family in remaining in the home. He described some of the current interior problems and the improvements which would permit a multi-generational family to live there. In response to questions from Mr. Parrott, he stated there would be no use of the fourth floor as there was a high pitched roof. The bedroom had a vaulted ceiling to maintain the characteristics of the design and he described other features that were incorporated for the same reason. Architecturally, they would like to retain the 1904 feel. Mr. Parrott asked the gross square footage of the addition noting that this represented over 2,200 s.f. of additional space. Mr. Rainis pointed out that the space already existed with the screened-in porch.

Ms. Heather Ranis stated that she felt the proposal met the criteria and asked that the Board grant their request. They loved the house but it was flawed. She reiterated their reasons for needing the space, emphasizing that the home couldn't be used in a reasonable manner now.

SPEAKING IN OPPOSITION TO THE PETITION

Mr. and Mrs. DeCoste of 484 Lincoln Avenue, Mr. Stettner of 159 Wibird Street, Mr. Ned Healy of 175 Wibird, Mr. Bill Niland of 189 Wibird, Mr. Steve Bergeron of 199 Wibird, and Mr. Bill Townsend, co-owner with Mr. Stettner, all spoke in opposition to the petition. They described why they had bought their properties and listed their concerns and positions, which included the following:

- That sunlight and open air would be affected by a structure which would tower over their yards
- That this would not be a reasonable use and would have a negative effect on the character and charm of the neighborhood, decreasing values.
- That this would essentially be a second unit on the property and a precedent could be set.
- That all the backyards now lined up together and allowed a continuing view which would be lost with a large structure.
- That a one story structure could also solve the problem of an older family member.
- What would happen with water and drainage when the garage was removed; how they would get into the proposed garage; and where would snow be placed.
- In general the reason for the height and bulk of the structure was questioned.
- A number of those testifying indicated that they personally liked the applicants and disliked speaking against the project but felt they had no choice.

SPEAKING TO, FOR OR AGAINST THE PETITION

Attorney McGee stated that, if you looked at the overall neighborhood, you would see much more density with the huge corner house on Wibird on the other side of Lincoln. This was also a “grand house.” In terms of keeping a nice open area, that was just the way the houses were laid out. He felt Mr. Ware could address the shadows and that installing a puny addition would look terrible, like a cookie cutter amalgam. He introduced Mr. Ware.

Mr. Ware stated that he had been hired to help design the addition and had prepared a power point presentation showing shadow lines. He began to show different views and perspectives at various times of the day, responding as he proceeded to questions from Mr. Nick Cracknell about the views and what they represented. Mr. Ware stated that he was trying to show the worst case situation. Some members of the public requested certain views or had questions, indicating what was on the screen at a given point. At the end of the presentation, Mr. Ware mentioned that a rain garden had been considered as part of the site plan but specific plans had not yet been developed. In response to questions from Mr. Parrott about the lot area and gross square footage of all the structures he had designed, Mr. Ware stated that he didn't have the figures with him.

With no one further rising, the public hearing was closed.

DECISION OF THE BOARD

Chairman Witham commented that he was all for multi-generational living and, in the past variances had been granted with conditional approvals for a parent. He felt the proposal was way beyond what was needed to allow someone to stay with a parent. He noted that it was

50% over what was allowed in the zone and didn't feel that a "grand house" needed a grand addition. He felt there would be a negative impact on abutters and the value of their properties and noted that there would be an opportunity to get back to the drawing board to design something with less impact on the neighborhood if this were not passed.

Mr. Parrott made a motion to deny the petition as presented and advertised, which was seconded by Mr. LeMay.

Mr. Parrott stated that he agreed with the comments of the Chairman. This was a small lot, 52' x 130' approximately, less than 6700 s.f.. As pointed out, there was a handsome large house on this small lot. They were already well over the allowed 25% lot coverage and, as the Chairman had pointed out, going to 37.5% put the proposed coverage 50% over what was allowed. He noted that, with respect to the criteria the Board has to consider, one of the specific provisions was that the personal situation of the applicant may not be considered by the Board as justification for the project, just the specific five criteria. Mr. Parrott stated that, regarding diminution in the value of surrounding properties, it was unusual to have so many neighbors speak against the proposal. Everyone seemed to feel that their property would be adversely affected and there was no documentation presented to the contrary so he felt that granting the variance would be detrimental to the values and he didn't feel the request should be approved. He added that he felt the Chairman had also raised a good point with respect to redesign.

Mr. LeMay stated that, in any particularly dramatic variance request such as this, there would always be some abutters upset for a tree or a view, whether reasonable or no. On the other hand, people buy their property with a reasonable expectation that variances and special exceptions would not issued in such a way that the rules as to impacts would be violated. He felt that this proposal would alter the essential character of the neighborhood. He had visited the area and there did seem to be a collective space at the back and he felt the light, air, and character of the whole back yard area would be impacted and could affect values. He stated that they were asking for a lot in terms of that house on that lot, which essentially was like adding a second dwelling.

Ms. Chamberlin stated that she agreed with the previous statements and wanted to comment that the neighbors were all respectful and indicated that there was nothing personal in their statements. Chairman Witham added that it could be difficult to speak and neighbors might not want to do so but also wanted to protect their property. It was a good presentation and he hoped that the applicants might listen to all the comments.

The motion to deny the petition as presented and advertised was passed by a unanimous vote of 6 to 0.

4) Case # 2-4

Petitioners: Wayne & Marie Gagnon

Property: 171 Sagamore Avenue

Assessors: Map 221, Lot 22

Zoning District: General Residence A

Description: Replace existing 20' x 21' shed/garage with a 21' x 20' garage.

Requests: 1. A dimensional Variance from Section 10.572 to allow a 21' x 20' accessory structure, 16'± in height, with a left side yard setback of 2.25'± where 10' is

the minimum setback required and a rear yard setback of 5'± where 12' is the minimum required.

SPEAKING IN FAVOR OF THE PETITION

Mr. Brendan McNamara stated that he was the designer. They were just trying to replace an existing structure so there was no increase in the existing lot coverage, although the structure would increase in volume due to the pitched roof. They were trying to match the house for aesthetic reasons.

Referring to the plot plan, Mr. LeMay asked how certain they were of the shed’s location with regard to the lines. Mr. McNamara stated that an informal survey had been done the previous year. He confirmed that the survey had located the buildings on the property.

SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Chairman Witham stated that the request was to rebuild a garage of the same size with slightly greater setbacks so that it was actually in greater conformity than currently existed.

Ms. Chamberlin made a motion to grant the petition as presented and advertised, which was seconded by Mr. Durbin.

Ms. Chamberlin stated that this was a minor change which would not be contrary to the public interest. In the spirit of the Ordinance, there would be a slight improvement to the setbacks without changing the measurements of the garage. For the same reason, substantial justice would be done. She stated that there did not appear to be any impact on the value of surrounding properties. If anything, they would likely improve. Regarding the hardship, she stated that the special condition was that the garage already existed and this would be a modest change. There was no fair and substantial relationship with the Ordinance which would not be affected at all.

Mr. Durbin stated that he had nothing to add.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 6 to 0.

5) Case # 2-5

Petitioners: Michael De La Cruz, owner, Tom Holbrook, applicant

Property: 142 Fleet Street (63 Congress Street)

Assessors: Map 117, Lot 5

Zoning District: Central Business B

Description: Install a 22” x 38” (5.8 s.f.) projecting sign.

Requests: 1. A dimensional Variance from Section 10.1253.50 to allow a sign to project

43” ± over the sidewalk where a sign is allowed to project no more than one-third of the width of the sidewalk (20” ±).

SPEAKING IN FAVOR OF THE PETITION

Mr. Tom Holbrook stated that he was the General Manager of River Run Bookstore and the applicant. They were requesting a variance for a projecting sign, which had hung at Commercial Alley for seven years until they moved. They would now like to install it in their new location using the existing bracket. He stated that there had been a sign in that location for several decades which was in compliance until just recently. He passed out the sign standards for the Franklin Block which also had been used for decades and were in compliance until recently. He stated that the sign would be a benefit to the neighbors and help increase foot traffic. He added that a sign in the size allowed would be like no sign at all and would create a hardship for their business.

SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Chairman Witham noted that, as stated in the Planning Department memo, there was a zoning amendment in place that would be going to the City Council and, if it were passed, this type of request would no longer require a variance. He felt the amendment came about based on the number of this type of variance requests coming before them.

Mr. LeMay made a motion to grant the petition as presented and advertised, which was seconded by Mr. Moretti.

Mr. LeMay stated that a reasonable size sign was need to identify the business for the public and there were signs on either side of the same size as that proposed. The spirit of the Ordinance would be observed as this was not an excessive sign and there was a fairly narrow sidewalk along all of Fleet Street. In the justice balance test, he stated that the benefit to the applicant if the variance were granted would not be outweighed by a corresponding hardship to the public. He felt that the value of surrounding properties would not be diminished. In the hardship analysis, a small sign would provide a lack of visibility for no good public purpose and it was not unreasonable to ask for a larger sign.

Mr. Moretti stated that he concurred. He felt that the sign seemed appropriate for that part of town, where all the signs were close to that size.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 6 to 0.

- 6) **Case # 2-6**
 Petitioner: MJS Realty Trust, M. J. Shafmaster & M. J. Sevigny, Trustees

Property: 860 State Street
Assessors: Map 145, Lot 45
Zoning District: General Residence C
Description: Construct a 7' x 4' cantilevered, second floor, rear balcony.
Requests: 1. A dimensional Variance from Section 10.521 to allow a rear yard setback of 16'± where 20' is the minimum setback required.

Chairman Witham noted that on the aerial view provided by the Planning Department for this petition, the starred symbol was in the wrong location and he indicated where it should correctly appear.

SPEAKING IN FAVOR OF THE PETITION

Mr. Chris Wright stated that he was appearing on behalf of the owner who wished to construct a 7' x 4' balcony. Addressing the criteria, he stated that granting the variance would not be contrary to the public interest as this was an attractive design, which would help break up the line of windows. In the spirit of the Ordinance, they were not seeking to extend the footprint and there could free movement underneath the balcony. He stated that substantial justice would be done by granting the variance. This was a very small balcony on the second floor leading off the kitchen and living room. All other applicable requirements had been met. There would be no impact on surrounding properties and a small attractive balcony would not diminish their value. In the hardship test, he stated that there was no fair and substantial relationship between the public purposes of the Ordinance and their applicability to this property. The footprint of the entire building would not be increased, just this small balcony. This was a reasonable use and would allow use of the property from the main living space.

SPEAKING IN OPPOSITION TO THE PETITION

The abutter at 88 Union Street distributed some pictures of the property, indicating that the house was what had gone up in the place of a former single story garage and pointing out the location of her house. She had a deck built in the back which she used a lot in the summertime. She stated that there were so many properties in the area and she felt like they were right on top of her and no one talked about invasion of air space. She had objected to the previous variance. She described the neighborhood, how sound carried and that she felt she would lose her privacy if this were approved. She noted that the balcony would be higher than her deck and it would be noisy, as there were a number of reasons and situations in which the applicants would use the deck. She stated that she would rather see a ground level space where the proposed arbor vitae would give a nice intimate feel and she wouldn't have to look at their grill.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Mr. Chris Wright noted that they had already been granted a variance to build the house and were only looking to add a 24 s.f. of balcony. This was not a party deck but the size of sheet of plywood. The owners were just as concerned with their privacy. He noted that the kitchen and living room windows would still look down on her property whether this was granted or not. He stated that the main living space was on the second floor so that it was a more natural flow to just step out onto a balcony.

In response to questions from the Board, he stated that the plan prior to the balcony was a double hung window. He confirmed that it was just an afterthought that the balcony had not been included in the original plan. They had begun work on the second floor and had put in the cantilevered joists with the understanding with the Inspection Department that they would be removed if not granted.

The abutter again spoke, maintaining that the owner was not going to live there but was going to sell it off and the new owner might not be as concerned with privacy.

With no one further rising, the public hearing was closed.

DECISION OF THE BOARD

Chairman Witham stated that he heard the abutter’s concerns about the size and scale of the house, noting that he had supported granting the original variance. He felt the scale was large but the request was not for setbacks or height but for lot area per dwelling unit and street frontage. The scale was not an issue before the Board. He stated that this seemed a minimal request but he struggled with second floor balconies

Mr. Parrott made a motion to deny the petition as presented and advertised, which was seconded by Mr. LeMay.

Mr. Parrott acknowledged that the balcony was small but it had to be put in its setting where the back of the house was 20’ off the property line. This was a compact neighborhood where houses were close and there were too few trees for privacy. He noted that one of the criteria that had to be met was that the variance would not be contrary to the public interest, which he felt in this case was represented by the next door neighbor. He stated that the edge of the balcony would be only 16’ or so from the property line and elevated off the ground and, with a few people up there, there could be an impact. He felt those factors outweighed the small size of the balcony. While it didn’t extend to the ground, it did take up space and volume.

Mr. LeMay stated that the Board had granted the original variance after careful consideration of the footprint and the lot size. As had been pointed out, the structure filled the available envelope. If that was reasonable, why would a hardship justify a small deck. The issue was not the small size of the deck but with substantial justice and hardship.

Chairman Witham stated that they did not need a variance for a deck 18” or lower, noting that he would not have a problem if a deck were 24” off the ground as arbor vitae would help at that level. He was not comfortable with this height.

The motion to deny the petition as presented and advertised was passed by a vote of 5 to 1, with Mr. Moretti voting against the motion.

- 7) **Case # 2-7**
 Petitioners: National Block II LLC, owner, Portsmouth Buddhist Center, Inc., applicant
 Property: 40 Congress Street
 Assessors: Map 117, Lot 40

Zoning District: Central Business B

Description: Convert an existing vacant space to a religious use.

Requests: 1. A Special Exception under Section 10.440, Use 3.11 to allow a religious use in a district where such use is allowed by special exception.

SPEAKING IN FAVOR OF THE PETITION

Ms. Michelle Racine stated that she was representing the Portsmouth Buddhist Center in their request for a Special Exception to operate at 40 Congress Street. She reminded the Board that they had been before them the previous July with a similar request to operate a meditation center at 99 Bow Street. That space had been leased and this vacant commercial space had been offered to them. She noted that the use was permitted in the Table of Uses in Ordinance by Special Exception.

Addressing the standards for granting, Ms. Racine stated that there would be no hazard to the public or adjacent property from fire explosion or release of toxic materials. The Buddhist center would not present these hazards. There would be no detriment to property values or change in the essential characteristics of the area on account of smoke, noise, gas, or other pollutants. There would be no change in the space or the site. She stated that a traffic safety hazard would not be created or any increase in the level of traffic. The most popular evening was Wednesday when there were about 12 participants, many of whom were living or working Portsmouth and walking over. There would be no impact on parking. With no change in the site, there would be no additional demand on municipal services or increase in storm water runoff. She distributed a letter signed by supporters to the clerk.

Mr. John Gregg of 69 Hunking Street and Ms. Ann Weber of 423 Court Street both spoke in support, stating that they believed the Buddhist Center would make an upstanding tenant and met the needs of many area residents.

Mr. Parrott asked if they had abandoned all use at the former location and Ms. Racine stated they were in the process of doing so.

SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Ms. Chamberlin made a motion to grant the Special Exception as presented and advertised, which was seconded by Mr. Parrott.

Ms. Chamberlin stated that the requirements for this tenant would be no different from those for general office space. There would not be a lot of people generating additional traffic. There would be no issues with hazardous materials, no additional noise, no increase in the demand for municipal services or increase in storm water runoff.

Mr. Parrott stated that he agreed.

Mr. LeMay asked if they could attach the stipulation previously applied that this approval would run with the lease. Ms. Chamberlin and Mr. Parrott agreed to the stipulation.

Chairman Witham stated that the vote would be to grant with the following stipulation:, That the Special Exception shall run with the lease, and any subsequent renewals, of the Portsmouth Buddhist Center at this property location.

The motion to grant the Special Exception with the proposed stipulation was passed by a unanimous vote of 6 to 0.

V. OTHER BUSINESS

Chairman Witham stated that they needed to schedule the work session to discuss staff reports. The Board briefly considered February 28 or March 27, with the decision to try for the latter date.

No other business was presented.

VI. ADJOURNMENT

It was moved, seconded and passed by unanimous voice vote to adjourn the meeting at 10:20 p.m.

Respectfully submitted,

Mary E. Koepenick
Administrative Clerk