MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

7:00 P.M. **December 16, 2025**

MEMBERS PRESENT: Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; David Rheaume; Paul Mannle; Jeffrey Mattson; Thomas Nies; Thomas Rossi

MEMBERS EXCUSED: None.

ALSO PRESENT: Stefanie Casella, Planning Department

Chair Eldridge read the items that were postponed to the January meeting into the record (the postponements were requested by the applicants early enough so that they did not need motions from the Board). It was Chair Eldridge's last meeting, and the Board wished her well.

I. APPROVAL OF MINUTES

A. Approval of the **November 18, 2025** meeting minutes.

Vice-Chair Margeson abstained from the vote.

*Mr. Rossi moved to **approve** the November 18 meeting minutes as amended, seconded by Mr. Nies.*

The amendments were:

Mr. Nies said the November meeting minutes noted a correction on the October minutes incorrectly and that the word "one" should replace 'none" so that the sentence reads: "*Mr. Nies concurred and said that one of the public comments received by the Board indicated a concern that the structures would be split into two residences in the future."*

Mr. Rossi asked that the first paragraph on page 8 have the word "granting" replaced by "exceeding" so that the sentence now reads: *"Mr. Rossi said his concerns were not with the site's appearance from the road but that he did not see a clear case for hardship for exceeding the maximum allowed setback."* Mr. Rossi asked that the top paragraph on page 13 have the word "pitched" replaced by "pinched" so that the sentence now reads: *"He said the property had an odd pork chop shape, and because of the way the lot line angled toward the house from the front of the property in the area where the porch would be built, it pinched off the right rear corner of the structure."* Mr. Rossi asked that the words "overall arching" in the motion made be replaced with

the word "overarching" so that the sentence now reads: *"He said the overarching fact was that the footprint of the structure would not change, and the shape and appearance of it would but not in a way that would affect the conformance with the spirit of the ordinance or the public interest."*

Mr. Mattson asked that the long paragraph on page 6 have the word 'wetlands' added to a sentence and that the ending of the sentence be changed to "the applicant's argument seemed to be why setting it back was good." The sentence now reads: *"Mr. Mattson said the ordinance would want to have the structure closer to the street and farther away from the wetlands setback, and the applicant's argument seemed to be why setting it back was good."*

*The motion **passed** unanimously, 6-0, with Vice-Chair Margeson abstaining from the vote.*

[Timestamp 9:11] Chair Eldridge stated that New Business, Petition E, 609 Middle Rd, was requested to be postponed by the applicant.

*Mr. Rheaume moved to take Item E, 609 Middle Rd, out of order so that it could be postponed. Mr. Nies seconded. The motion **passed** unanimously, 6-0, with Vice-Chair Margeson abstaining from the vote.*

Chair Eldridge read the request to postpone petition into the record.

*Mr. Mannle moved to **postpone** the hearing until the January 20 meeting, seconded by Mr. Rossi. The motion **passed** unanimously, 6-0, with Vice-Chair Margeson abstaining from the vote.*

[Timestamp 11:23] Chair Eldridge said New Business Item D, 53 Pray Street, was requested to be postponed.

*Mr. Rossi moved to take Item D out or order, seconded by Vice-Chair Margeson. The motion **passed** unanimously, 7-0.*

Chair Eldridge read the item into the record. She asked the Board if they needed more time to review the petition, due to all the changes. The Board noted the discrepancies and decided to postpone the item until the applicant made a complete submission to the Board.

DECISION OF THE BOARD [Timestamp 15:41]

*Mr. Rossi moved to **postpone** the petition until such time that a proper and complete packet had been submitted to the Planning Department. Mr. Mannle seconded.*

Mr. Rheaume suggested including a date, and Ms. Casella agreed.

The **amended** motion was:

*Mr. Rossi moved to **postpone** the petition to the January 20 meeting so that a proper and complete packet could be submitted to the Planning Department. Mr. Mannle seconded. The motion **passed** unanimously, 7-0.*

II. OLD BUSINESS

A. POSTPONE TO JANUARY The request of **909 West End LLC** and **PWED2 LLC (Owners),** for property located at **909** and **921 Islington Street** whereas relief is needed to construct a sign at 921 Islington Street that will be servicing the businesses located at 909 Islington Street which requires the following: 1) Variance from Section 10.1253.10 to allow a sign setback of 4 feet from a lot line where 5 feet are required, 2) Variance from Section 10.1224.90 to allow a sign advertising a product or service not provided on the lot on which the sign is located ("off premise sign"); and 3) Variance from Section 10.1252 to allow 27 square feet of sign area where 20 square feet are allowed. Said property is located on Assessor Map 172 Lots 7 & 10 and lies within the Character District 4-W (CD4-W). **POSTPONE TO JANUARY** (LU-25-134)

The petition was **postponed** to the January 20 meeting.

B. 134 Pleasant Street – Rehearing Request (LU-25-138)

[Timestamp 19:05] Mr. Rheaume said the Board had an extensive review of the item. He said the points brought up included questioning whether the matter should have gone before the Board at all because it was a historic use and only had to be relocated. He said he believed however that there was a significant change to the property, and the location of the drive-thru was significantly different as well as its orientation and access point. He said the location of the business was also changed because the back building was converted to a new front building, which influenced where the drive-thru would go, and the bank building moved to a new front building. He said those concerns made it clear that there was a significant change in the use and it made it fair game to say that this was on the property before but the applicant proposed to change it in such a significant manner that it was something that was no longer currently allowed by the zoning and was no longer grandfathered. He said it was nothing the Board should consider having a rehearing for. He said another issue was the nature of the Board's disapproval, noting that their focus was on the change in what the zoning was trying to accomplish. He said the applicant stated that they were making an existing use better for vehicular traffic flow, but the Board said it was at the cost of pedestrian access at the back building. He said he thought the applicant disagreed with the Board's ultimate decision but he did not see anything presented that indicated that the Board erred so egregiously that a rehearing was required. Mr. Nies said there were comments in the letter that he could not find the justification for. He said it was mentioned that the Planning Board decided it was better to move the drive-thru to the south side of the lot, but he could not find any comments about that in the Planning Board's September 18 meeting recording as a recommendation from the Planning Board or Planning Department. He said he had asked at the previous BOA meeting why the location changed, and the applicant's representative did not mention any recommendation from the Planning Board at that meeting. They said that after reviewing the discussion of the Planning Board, they

decided they would move it to a different location. He said he did not attribute that to a recommendation. He said there were comments in the letter that indicated that the applicant did not think pedestrian flow was an item that the BOA should be looking at, and he disagreed because one of the goals in the character district is to encourage pedestrian-friendly development, which pedestrian flow is a part of. With respect to whether a variance was needed or not, he said the issue was brought up at the Planning Board and one of the Planning Board members said he was disappointed that drive-thrus were still allowed in that district, but the Chair corrected him and said they were not allowed so they would require a variance. He said he did not think the applicant presented a strong argument as to why there was an error, either procedural or law. He said all those points got discussed at the BOA meeting. Vice-Chair Margeson said the appeal of an administrative Code Official should have been raised at the initial hearing. She said a drive-thru is not allowed in CD4, so the applicant needed a variance for it. She said she did not see that issue being heavily addressed in the motion for rehearing and did not believe that anything needed to be reheard. Mr. Mattson said he did not think there was an error in the way the Board came to their conclusion. Mr. Rossi said he was absent from that meeting but studied the materials. He said one thing that the Board had to be clear about was the appeal stating that the applicant's variance application and testimony at the public hearing demonstrated that the applicant satisfied the three other criteria. He said that assertion was based on the letter from the Planning Department back to the appellant, which not mention the other three criteria as being insufficient. He said it was not the practice of the Board to enumerate every single deficiency in an application, and the fact that the Planning Department was silent about three of the criteria should not imply that the Board felt that those criteria were satisfied. He said it was only necessary to specify one criterion as deficient to turn down an application.

DECISION OF THE BOARD [Timestamp 28:02]

*Mr. Nies moved to **deny** the Request for Rehearing, seconded by Mr. Mannle.*

Mr. Nies said the Board mentioned several points that boiled down to the fact that they did not believe there had been an identification of error, procedural or law, in their decision from that meeting. He referred to the previous discussion. Mr. Mannle concurred and had nothing to add.

*The motion **passed** unanimously, 7-0.*

III. NEW BUSINESS

A. The request of **Eric Brassard (Owner)**, for property located at **233 Dennett Street** whereas relief is needed to construct a detached accessory dwelling unit and garage which requires the following: 1) Variance from Section 10.521 to allow a) 4-foot left side yard where 10 feet is required. Said property is located on Assessor Map 142 Lot 7 and lies within the General Residence A (GRA) District. (LU-25-155)

SPEAKING TO THE PETITION

[Timestamp 30:00] The applicant Eric Brassard was present and said he wanted to build a two-car garage with a rental apartment above. He explained why the garage would be a good use of the

space and said the design would be consistent with the rest of the neighborhood. He reviewed the criteria and explained how they were met.

[Timestamp 34:53] Mr. Rheaume said the existing house was 760 sf in footprint and Mr. Brassard proposed to build a garage with an apartment above that would be three feet shorter than the existing house. He said it would be like another homelike structure adjacent to the existing house and only four feet away from the property line. He asked why Mr. Brassard would not consider positioning the garage at the back side of the property and have back street access instead. Mr. Brassard said the width of his primary house was 36 feet and the width of the proposed garage was 26 feet, so it would be smaller in scale and would not be as high. He said there was also a grade change, so the first floor of the primary structure would not be on a plane with the slab of the garage. He said the back side of the property was about 120 feet away from the house, so it would be practical use as far as access to the garage from the primary structure. He said eventually he might connect the house to the garage via a breezeway. Mr. Rheaume said the proposed structure was a good-sized one but could be pulled farther away from the neighbor's property. He asked what drove the 26 feet. Mr. Brassard said more width would make it easier to get cars in and store lawn equipment. Mr. Rossi asked if the garage could be located closer to the back to stagger it away from the neighbor's house. Mr. Brassard said he was asking to put the front plane of the garage five feet closer so that it would not obscure open air to his neighbors' back yards. There was more discussion. Mr. Mattson said the applicant's request was close to the neighbor's house and that there were viable alternatives. Mr. Brassard said the challenge with pushing the garage back was that it would create a lot of dead space in that area and leave that piece of yard unused. Mr. Mattson asked if the applicant had considered an attached ADU instead. Mr. Brassard said he did, but from a design perspective, it did not reflect the historic style. It was further discussed. Vice-Chair Margeson said the purpose of setbacks was for the circulation of air and light between buildings. She said it appeared that the neighbor's building was between the left yard setback and the applicant's building would be quite into the setback as well, so the concern was that the applicant's proposed garage would impede air and light between the two buildings.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD [Timestamp 47:18]

Mr. Rossi said the case for hardship was weak and that there were several alternatives proposed without requiring the reduced setback from the left property line, including moving the ADU. Mr. Mattson said it seemed that the property could support an ADU and that there might be better solutions, but there was at least justification as to why it was being proposed in that location. Mr. Rheaume said he agreed about the hardship He said the proposed garage was a substantial structure and that the applicant was asking for a lot. He said the applicant did not understand that moving the

structure backwards would also involve moving it to the full ten feet so that the neighbor was only allowed a 10-ft setback. He said the applicant noted that other properties had houses close together, which was true in the older sections of Dennett Street where there was less space between the houses but less applicable to the area around the applicant. He said the applicant was creating a very large structure that would be uncomfortably close to the neighbor. He said the change would be a permanent one, and the Board had an obligation to uphold the ordinance. He said the applicant could return with a revised proposal that required less of a setback relief or no relief at all.

DECISION OF THE BOARD

*Mr. Rossi moved to **deny** the petition as presented and advertised, seconded by Mr. Rheaume.*

Mr. Rossi said the hardship stated that there should be something unique about the property that argues in favor of the placement of the ADU within the left line setback. He said there really was no hardship because there was nothing unique about the property that said the ADU must go in that location. He said the property was not an exceptionally narrow one and did not have a unique geometric pattern. He said the proposal was to take a conforming property with regard to the left line setback and make it nonconforming, which he thought was a big ask in any district. He said there were other ways that the property could reasonably be used to accomplish the applicant's objectives, so a hardship did not exist. Mr. Rheaume said he also thought the application failed the first two criteria of not being contrary to the public interest and observing the spirit of the ordinance. He said the ordinance was trying to accomplish spacing, and it was more than just buildings but was also the enjoyment of the neighbor's property and the fact that the applicant could not build something right up to the property line or even ten feet back from the property line. He said a more modest one-story structure would work. He said another concern was accessibility to be able to maintain the structure. Mr. Mattson said an ADU could fit on the lot. He said the lot was unique in some ways but that it was a through lot and quite large, which should alleviate the need to put it in the side yard setback. Chair Eldridge agreed.

*The motion to deny **passed** by a vote of 6-1, with Mr. Mannle voting in opposition.*

B. The request of **R and J 2100 Corporation (Owner)** and **Radmoto USA (Applicant)**, for property located at **2100 Lafayette Road** whereas relief is needed for a change of use from retail bicycle shop to sales of electric mopeds and motorcycles which requires the following: 1) **Special Exception** from Section 10.440 Use #11.10 to allow Sales, renting or leasing of motorcycles, including accessory repair services. Said property is located on Assessor Map 267 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-25-162)

SPEAKING TO THE PETITION

[Timestamp 57:14] The applicant Chaz Sullivan was present and said he wanted to register E-bikes (electric bicycles) as well as mopeds to grow the business. He said the building would not change. He reviewed the Special Exception criteria and said they would be met.

[Timestamp 1:01:46] Mr. Rheaume asked if all the bikes were currently stored indoors. Mr. Sullivan agreed and said they had a warehouse to store them in. Mr. Rheaume confirmed that a certain number of vehicles were kept overnight. He said some of the battery capabilities had more amperes and could cause fire concerns. Mr. Sullivan said the building was brought up to code and that the Fire Department was involved before and after the buildout. He said all the batteries were from the manufacturer. Mr. Rossi verified that Mr. Sullivan would continue the same business but needed the special exception because E-bikes were reclassified as electric vehicles. Mr. Sullivan agreed and said they wanted to offer mopeds as well. It was further discussed.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the special exception for the petition as presented and advertised, seconded by Mr. Mattson.*

Mr. Rossi said it was a permitted special exception within the zone. He said granting the special exception would pose no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials. He said concerns about batteries notwithstanding, the Board had approved the sale and storage of electric vehicles with much larger battery capacities, in other buildings in Portsmouth, and it had all been successfully managed. He said the business was already in operation, so there were no new hazards that would present a problem. He said granting the special exception would pose no detriment to property values in the vicinity or changes in its essential characteristics because it would be the same business with a few new products offered and would have no discernible impacts on the neighborhood. He said it would pose no creation of a traffic safety hazard, noting that he did not see that as a result of allowing the sale of the vehicles in that location. He said it would pose no excessive demand on municipal services because the applicant was currently selling similar items and the demand would not substantially change with the new business. He said the request was being driven in part by a change in regulation and classification of the type of bikes that the business was already selling, so there was no change other than the addition of the mopeds. He said granting the special exception would pose no significant increase in stormwater runoff because there would be no change in the impermeable surfaces or to the external aspects of the building. Mr. Mattson concurred and had nothing to add.

*The motion **passed** unanimously, 7-0.*

Chair Eldridge recused herself from the rest of the agenda, and Vice-Chair Margeson took her seat as Acting Chair.

C. POSTPONE TO JANUARY The request of **Stewart Baker Revocable Trust (Owner)**, for property located at **20 Coffins Court** whereas relief is needed for the construction of a spiral staircase on the left side of the home and dormers on the third floor which requires the following: 1) Variance from Section 10.521 to allow a) 4 foot right side yard and a 5 foot left side yard where 10 feet are required, b) 50.5% building coverage where 35% is allowed; and c) 4.5% open space where 20% is required. Said property is located on Assessor Map 135 Lot 53 and lies within the General Residence C (GRC) District. **POSTPONE TO JANUARY** (LU-25-164)

The petition was **postponed** to the January 20 meeting.

D. The request of **Kenneth J and Rebecca T Nicholson (Owners)**, for property located at **53 Pray Street** whereas relief is needed to demolish and reconstruct the existing sunroom and roof deck, replace the existing patio and driveway, and replace an 8 foot fence which requires the following: 1) Variance from Section 10.521 to allow a 7.5 right side yard where 30 feet is required; 2) Variance from Section 10.515.13 to allow an 8 foot fence in the front yard where 4 feet is allowed; and 3) Variance from Section 10.516.10 to allow a 6.5 foot front yard where 17 feet is required. Said property is located on Assessor Map 102 Lot 40 and lies within the Waterfront Business (WB) and Historic Districts. (LU-25-166)

DECISION OF THE BOARD

Prior to opening the public hearing, the Board discussed the late submission of materials to the Board and decided to postpone consideration to the January meeting so the Board could have more time to review all the required materials.

*Mr. Rossi moved to **postpone** the petition to January so the applicant can submit a complete packet to the Board, seconded by Mr. Mannle. The motion **passed** unanimously, 7-0.*

E. REQUEST TO POSTPONE The request of **Chase Home for Children C/O Woodman (Owners)**, for property located at **698 Middle Road** whereas relief is needed to construct a new facility on the property which requires the following: 1) Variance from Section 10.334 to allow the residential care facility use to be extended to another part of the remainder of the land, 2) Variance from Section 10.440 to allow for the construction of a new residential care facility structure. Said property is located on Assessor Map 232 Lot 45 and lies within the Single Residence B (SRB) District. **REQUEST TO POSTPONE** (LU-25-167)

*Mr. Rheaume moved to **postpone** the petition to January, seconded by Mr. Nies. Vice Chair Margeson recused from the vote. The motion **passed** unanimously, 6-0.*

F. The request of **Robert M Snover Revocable Trust (Owners)**, for **appeal** of the administrative decision to require a variance for Section 10.1530 pertaining to the lot area of the property located at **58 Humphreys**. Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-168)

[Timestamp 1:09:38] Acting Chair Margeson said Deputy City Attorney Trevor McCourt was present to give an overview of how administrative appeals are handled. The Board discussed whether the second appeal should be heard before the variance request. It was decided that the first appeal would be heard and then the variance would be heard, which might change the last appeal.

[Timestamp 1:13:23] Attorney McCourt said he represented the City and the decision of the Board. He discussed how code appeals of administrative officers were handled. In response to the Board's questions, he said it was a public hearing in which the appellant would present first, followed by the administrative official. He said the Board's decision would be the final word.

Acting Chair Margeson read the petition into the record.

SPEAKING TO THE APPEAL

[Timestamp 1:18:43] The appellant's representative Attorney Derek Durbin was present and stated that there was an appeal of Planning Director Peter Britz's determination of October 21 regarding the definition and application of lot areas as it applies to 58 Humphreys Court. He said the appeal involved a 163-sf paved area in the northwest corner of the property that had been used for many decades in conjunction with the Humphreys Court's right-of-way, and as a result of the determination made, the 163-sf area could not be counted as part of the lot area of 58 Humphreys Court. He said his clients were 158 square feet short of what was required to subdivide the property by right. He said the appeal was in conjunction with the variance application as well. He said the language in the zoning ordinance regarding lot area was clear and that the Board was restricted to a literal interpretation of the ordinance and could not look beyond the intent or other sections of the ordinance to determine what the intent of the lot area definition was. He said the lot area as defined in the ordinance is the total horizontal area included within the property lines. He elaborated further and said it was clear that the lot area definition meant the metes and bounds description in a recorded deed or survey plan or other instrument, like a court order. He explained that Exhibit B was the recorded deed and Exhibit C was a plan from the 1900s that showed the two properties that eventually became 58 Humphreys Court. He said the boundaries were consistent with the deed's description and the most recent boundary survey. He said Mr. Britz relied on the phrase "front lot line" and how it is defined for determining that the 160 square feet cannot be counted as lot area. Attorney Durbin said he thought the 160-sf area was part of the parcel. He said his client did not have a formal dedication and it was not part of any subdivision plan approved by the Planning Board. He asked the Board to approve the appeal and reserve Planning Director Britz's direction.

[Timestamp 1:26:00] Acting Chair Margeson said there was a photo in the packet of the street in the northwest corner, and she asked if that was the entire 163-sf area as it extended farther down Humphreys Court. Attorney Durbin said the photo did not show the full extent of it. Acting Chair Margeson asked what the Humphreys Court right-of-way was. Attorney Durbin said it was the street as it was dedicated and accepted and that the paved area did not follow that. Mr. Nies asked if evidence was found that there was an easement granted on the corner by the City, or if there was any transfer of ownership of that slice from the property owner to the City. Attorney Durbin said he did not find any evidence but the title policy supported that it is a 10,005-sf lot. Mr. Nies asked if

the street lines from the 1900s subdivision plan that went from property line to property line on either side of the street were considered a public way. Attorney Durbin said they did. Mr. Nies asked if the property owner ever challenged the measurements on the field card. Attorney Durbin said the current owners were new owners and the former owner was Harold Whitehouse, who had a friendly relationship with the City, so he did not think he ever challenged it. Mr. Mattson asked what the current legal status was in a situation where the public right-of-way crossed private property lines without an easement but was allowed. Attorney Durbin said he thought the City bears the burden to demonstrate that it has prescriptive rights in that area or that it has fee title or there has been a formal dedication acceptance. He said the ordinance did not speak to a situation like that but simply described the lot as what is deeded or shown on a recorded survey. Mr. Rheaume asked if the sketch of land show in the subdivision plan was equivalent in stature to a survey, noting that it did not look like a spike was set as part of that. Mr. Chagnon said the sketch was done by another surveyor, who set a pin in the pavement at that point in time. He said his team had not found the pin and the road was repaved. In the course of doing their survey, he said they did a grantee-grantor search to see of anyone deeded away any portion of that description and found that no one had. Acting Chair Margeson said nothing in the chain of title suggested that the prescriptive rights would be dedicated acceptance, and even if there had been a prescriptive easement, the property still belonged to the property owner. Attorney Durbin agreed.

[Timestamp 1:36:28] Planning Director Peter Britz said the City did not have a lot of background research but that it was really the memo they provided and that they relied on the survey provided by the applicant. He said it was clear that there was a 163-sf curved section of the roadway. He said they used the front lot line to define it and that the 163 square feet was part of the parcel's lines but not part of the calculation for the lot area per dwelling unit. He said the City felt that the lot itself was only 9,842 sf of usable space that they could be subdivided into lots, and the appellant was trying to subdivided it into two lots to build two homes on. He said the City had been plowing the paved road for years and that the public used it, but the City did not count that as part of the lot area dwelling calculation. Mr. Rheaume asked if there was any documentation that said the City had asserted any legal right to the corner. Mr. Britz said the City had not done that kind of research. Mr. Rheaume asked if there was any action underway or being contemplated to do an eminent domain action or to exercise the City's legal rights to take the corner. Mr. Britz said the City could do that but he did not know the exact mechanism. Mr. Rheaume asked what the Planning Department's standard was for determining lot area if there was a public easement across the property. Mr. Britz said he could not make an interpretation. Acting Chair Margeson said the City's assertion was, because that part of the lot is not usable, the City would not count that against the lot area and the dwelling unit and that Mr. Britz was saying that it had to be done on a case-by-case basis. Mr. Britz said he was using the term public place and that it was clear in this situation that the 163-sf area was a public place. Mr. Rheaume asked Mr. Britz if he was aware of any previous cases before the Planning Staff where they had to consider a possible turnaround that the City had an easement for. Mr. Britz said there was discussion about a parcel that had a City turnaround, and no one ever asked for a lot line adjustment or subdivision. He said they thought they had to keep track of that public place so that the lot area available for future development.

[Timestamp 1:42:30] Mr. Mattson said there might be a conflict in the ordinance. He said Mr. Britz said that it was legally unusable property because it was currently being used by the public, but he asked if the owner could take it back and remove the public portion. Mr. Britz said in this case, it was so common because it had been done for a long time. Attorney McCourt said there were many places in Portsmouth where the City had a public right-of-way that had apparently been on private property for a long time. He said the City would continue to assert its right to continue that public way over that area. Mr. Mattson said the lot line and lot area said one thing, but the front line definition mentioned the public. He asked what the current legal status was and how that usage would be maintained, seeing that there was no easement. Attorney McCourt said when there was competing language in the ordinance, the Statutes should be reviewed by the courts and the BOA to make sense and not lead to an absurd result. Mr. Rossi asked if the City had a formal easement to use that part of the property. Attorney McCourt said they did not. Mr. Nies asked if there was anything in the ordinance that describes a lot area being adjusted for right-of-ways that are not deeded or for land use by the City on an informal basis. Mr. Britz said they were making a definition of lot area per dwelling unit to conform to the zoning. He said the front lot line was the closest in that calculation to determine where a public place was. Mr. Nies asked if Mr. Britz meant that a public place is determined by pavement that has been put down apparently without any authorization, or if a public place was determined by the lot lines determined by a plan performed in the early 1900s. Mr. Britz said the Planning Staff did not contest the survey, but the survey called out the public area that was being plowed and used by the public. He said it was a dangerous corner without the curve. Mr. Nies said TAC had an October meeting in which a drawing appeared to show the carve-out from 1937. He asked if anyone pursued where that came from. Mr. Britz said there were a few conflicting drawings of the parcel and that it would be a long process.

Acting Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE APPEAL

[Timestamp 1:51:60] Attorney John Arnold said he represented a group of 12 property owners, which he named, who objected to the appeal. He said they believed that the City got its zoning determination correct in the lot being under 10,000 square feet. He said the City's determination was based on the definition of lot area defined as the total horizontal area included within the property lines. He said they looked at the definition of lot line and thought Attorney Durbin relied on the first sentence of the definition, "the property line bounding a lot", which is where he stopped. Attorney Arnold said there were three subsections to that definition that defined front lot line, rear line and side line, and that it was critical to look at that, especially the front lot line. He said the public place, the streetway, was the rounded corner of Humphreys Court and that it did not matter whether the City owns the title to the land of whether they have an easement to use that portion of the lot as a public way. He said either way, it was excluded from the definition of lot area by virtue of being inside of the front lot line. He said throughout New Hampshire, there was a legal presumption that abutting lot owners owned the center line of a street because most streets historically were laid out as easements. He said if the appellant's argument was taken as correct, it would lead to a situation where the City would have to consider all abutting lot owners owning the

land all the way to the center line of the street, including the lot area in the definition of lot area, which would not make any sense. He said the corner has existed for several decades. He passed out two documents to the Board. He said there was some contemplation in the 1937 plan that the corner of Humphreys Court would be rounded and given to the City. He said the appellant and the City had found no evidence that there was an actual conveyance of that property, but it was contemplated that it would be used as a public way since the 1930s. Since the 1960s, he said the corner had been maintained and plowed by the City. He said the photos he submitted were recent and noted that the City repaved the corner in the summer. He said the State Statute recognized where roads have been used by the public for a period of 20 years before 1968, and they become a public road and no formal easement or deed is granted. He said his clients did not believe that there was any credibility to the argument that the corner is not a public street. He said anything beyond the front line is not includable in lot area. He said, given the historic use and maintenance of that corner as being a rounded corner, it has become a public way, and public ways by definition are excluded from the calculation of lot area. He said they believed that the City made the correct zoning determination that the lot does not contain more than 10 square feet and that the corner needs to be excluded from the calculation of the lot area.

Sylvia Olson of 41 New Castle Ave said the house was located on a rocky cliff and posed traffic hazards, and she did not know how two houses with driveways would be placed.

Jim Lee of 520 Sagamore Avenue said he was a real estate broker and that he also owned the 39-41 New Castle Avenue property. He said the use of that road for that number of years created a prescriptive easement, which meant the City was using the land and the owner could not do anything with it. He said it could not be counted as part of the lot in terms of size. He said the lot was 9,500 square feet, not 10,000 square feet and that the City Planner's decision should be upheld.

Jamie Baker of 75 Humphreys said it would be an absurd result to say that the corner that had been used for a public way for almost 100 years was somehow usable for purposes of a development.

Acting Chair Margeson asked Mr. Britz if there was a definition of a public right-of-way in the ordinance. Mr. Britz said there was not. She said the definition of "street" had specific requirements and asked if it was the City's position that the corner was somehow part of the street as opposed to just an easement. Mr. Britz said it was being used as a public way, so it was a street in that case. It was further discussed. Attorney Durbin said Acting Chair Margeson may be alluding to the argument about looking at lot area in the context of the individual lot line definitions, specifically the front lot line where it describes anything outside of a public place as being outside the front lot line. He said the public place was the street and was defined in the ordinance specifically as a thoroughfare or roadway that is either formally accepted by the City or shown on a subdivision plan approved by the Planning Board. He said it did not fall within that definition. He said the City historically included those easement areas where there had been a dedication of an easement and that they had not carved out that area from their lot area calculations. He gave two examples and said it was evident that the lot areas included those areas. He said the lot area was being treated

differently in this situation. He said in the 1937 plan, the City took the land by tax collector deed, sold it out, and did not exempt that 163-sf portion of the land. He said it was not a recorded plan.

[Timestamp 2:08:12] Mr. Mattson asked for more clarification about the 163-sf portion taken. Attorney Durbin said the land was conveyed by tax collector deed back to the City, and the City then conveyed it out and sold it after it wasn't redeemed by the landowner and included the 163-sf area as part of the land description. Mr. Rheaume said Exhibit C, the old plan, looked like it was recorded at the Rockingham County Deeds, and he asked if that was where it was found. Attorney Durbin agreed and said it was a recorded plan. Mr. Rheaume asked if the sketch from 1988 in Exhibit D was a recorded plan. Attorney Durbin said it was not. Mr. Rheaume said the intent then was that the plan that was put together will be a recorded plan at some point. Attorney Durbin agreed. It was further discussed. Mr. Rossi asked if the property in dispute was or was not a public place. Attorney Durbin said it was not a public place per the zoning ordinance. He said the presumption was that the owner owns that land and the presumption would be on the City to establish that it is a public way across the 163 square feet, which it could do in the future. It was further discussed. Mr. Rossi said Attorney Durbin's point was that a precedent has been established that a public way would still be countable as lot area for the purpose of building lot size. Attorney Durbin said there was precedence that these areas are counted as part of the lot area, and in this situation, it had never been established what the rights are in that corner.

[Timestamp 2:15:28] Attorney Arnold said he agreed that the definition of a street in the ordinance was narrow. He said in the modern area, there was a formal acceptance by the City of streets by way of a City Council. He said there was a precedent in NH law for acceptance by a City according to a City's conduct, like maintenance, but aside from the focus on the street, he said the definition they were looking at for lot area and front lot area refers to a public place, which is a different definition than a street. He said Mr. Britz was correct in saying that it was a public community space that provides public access. He said for that reason, it is also in the definition of a front lot line that gets excluded from lot area.

No one else spoke, and Acting Chair Margeson closed the public hearing.

DISCUSSION OF THE BOARD

[Timestamp 2:25:41] Mr. Rheaume said it was straightforward and thought the Board and the Planning Director had confused themselves by talking about front lot lines and public places. He said the definition of lot area as shown in Article 15 is the total horizontal area included within the property lines. He said it came down to where the property lines were. He said he thought the appellant identified that the property lines of record say what that description is, and everything they provided indicated that the property lines follow the straight path as shown on the plan that the appellant's representative put together for the subdivision, which indicates the total lot areas as just over 10,000 square feet. He said there was no indication that there are any legal proceedings by the City to take the corner of the property by adverse possession or other legal means. He said the property lines that the Board was concerned about were the straight corner going back that defines a

10,000-sf lot. Mr. Nies agreed but said he found it difficult that the Board had a definition that said how the property lines are determined and to accept that the definition of lot area and lot lines and what a lot is was overruled by an interpretation of where the front lot line is. He said the City made the claim that because they defined the front lot line in a certain way, it overruled the deeded boundaries of the lot. He said it seemed like an illegal taking.

DECISION OF THE BOARD

Mr. Mattson moved that the Board uphold the appeal of the appellant and overturn the decision of the Code Official. Mr. Rheaume seconded.

Mr. Mattson said the Planning Memo had three definitions: lot line, lot area, and front lot line. He said he thought that both lot area and lot line would imply that this portion of unbuildable property is still part of the lot and lot area, whereas the issue arises in the third definition with front line and public place being mentioned. He said two out of the three definitions would support the administrative appeal. He said the single definition of just the lot area was that it is the person's property, and one would have to go through many definitions to get to the point where it could be established that public place is moving some of the property, but it is still owned by the owner and is unbuildable. He said, however, because it gets paved over, it gets counted as not being the property owner's land. He said as it legally stands, it is part of the owner's land whether or not it is buildable or being used without an easement. Mr. Rheaume said the appellant showed that there is information at the Rockingham County Registry of Deeds indicating that the property was as represented in the plan. He said to him, that was the property line, which defines lot area and which is used to determine lot area per dwelling unit and allowable lot area as required by the ordinance. He said there was a long-standing precedent that the Code Officials accept plans that are stamped from a licensed surveyor that indicates what the property boundaries are. He said the Board accepted that as a Code Official presenting it to them as a signed plan, and based off the property lines shown, it needed to be accepted. Acting Chair Margeson said she would support the motion because it was clear that the deed and the surveys demonstrate that the lot is 10,005 square feet.

*The motion **passed** unanimously, 6-0, with Chair Eldridge recused.*

G. The request of **Robert M Snover Revocable Trust (Owners)**, for property located at **58 Humphreys** whereas relief is needed to subdivide the existing parcel into two parcels which requires the following: 1) Variance from Section 10.521 to allow a) 51.8 feet of continuous street frontage where 80 feet is required, b) 4,840 square feet of lot area where 5,000 square feet are required; and c) 4,840 square feet of lot area per dwelling unit where 5,000 square feet are required. Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-168)

SPEAKING TO THE PETITION

[Timestamp 2:39:04] Attorney Durbin was present on behalf of the applicant, along with project engineer John Chagnon. Attorney Durbin said it had been established that the lot was a 10,005-sf lot that contained a single home and had 195 continuous feet of street frontage on Humphreys Court that wraps around the property on two sides, so the only way to subdivide the property without frontage relief was to create two triangular shaped lots with the division line running diagonally through the middle of the property. He said it was proposed before TAC and disfavored by the City under the subdivision regulations due to the square/rectangular shaped lots. He said the applicant then created a new plan that required frontage relief. He reviewed the criteria.

The Board had no questions. Acting Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

No one spoke.

SPEAKING IN OPPOSITION TO THE PETITION [Timestamp 2:47:21]

Attorney John Arnold said he represented the same twelve individuals. He said granting the variance would impact the character of the locality and would not observe the public interest. He gave the Board two handouts, one of which was a tax map showing the other properties that were considered to be the locality and were all within 200 feet of the subject property. He said about ten lots in the immediate area were conforming and noted that taking a conforming lot and creating a new nonconforming lot would tip the balance and affect the mix of lots in that area. He said the Board needed to look at those other lots. He said if the other lots sought to build within the setback, the cumulative effects would be significant. He said the crowding and congestion in the area would worsen and the health, safety and welfare of the public would be threatened. He discussed the photos that he passed out that showed kids playing in the street, parallel-parked cars parallel, d and driveways. He said the street was already narrow, and creating a new substandard lot would add to it. He said the some of the undersized and congested lots in the neighborhood were due to the neighborhood's age and were legally protected as grandfathered lots. He said the benefit to the applicant was that he could flip one more lot out an existing one and sell it. He said surrounding property values would be diminished and that there was no hardship. He said a few properties on the tax map showed that the property was not unique.

Ben St. Jean of 54 Humphreys Court said the neighbors were concerned with the aggressive scope of the proposal. He said there would be more traffic and that the proposed two houses would box his house in. He said the applicant's land was higher than his property. He asked how much permeable land would remain and said there was already an issue with water runoff. He said the neighbors had talked to realtors and believed that their property values would suffer.

Jim Lee of 520 Sagamore Avenue said he owned the 39-41 property on New Castle Avenue that was directly across the street from the applicant's property. He said Portsmouth was a desirable place to live and that a lot of people wanted to exploit that. He said the substantial justice criterion

was not satisfied because the project would change the neighborhood's character and cause harm to the neighbors. He asked the Board to deny the variance request.

Hannah Holden of 63 Humphreys said she was a 5th grader and that she and her friends played in the street. She said there would be more driveways and increased traffic that could cause collisions.

Amy Baker of 75 Humphreys Court said cramming an extra house would require both houses to be built much closer to the property lines and would decrease the visibility from the short corner as well as add congestion and traffic. She said the applicant, who would benefit financially.
Zoe Daboul of 53 Humphreys Court said a conforming lot should not be made unconforming.

Rachel Kurshan of 33 Humphreys Court said the variance request met none of the five criteria. She said the additional driveway would add more cars and there would be visibility concerns. She said there would be drainage and waterflow issues, and property values would be diminished.

Robin Ferrari of 44 Humphreys Court said the proposal would create a hardship in perpetuity for everyone who lived on the street. She said visibility was already a problem due to the topography.

Whitney Warren of 59 New Castle Avenue said he had two kids who walked on the street regularly and that he also had concerns about permeable surface. He said a large home would be very close to their property and would decrease their light, and he was concerned about the effect on the trees.

Jamie Baker of 75 Humphreys Court passed out photos to the Board. He said the lot did not meet the standard of having unique characteristics that prevented a reasonable use. He said the fact that the lot wrapped around the second part of the street did not present a hardship. He said there was no surplus space, and it was a high-volume route for pedestrians, especially school kids.

Andrea St. Jean of 54 Humphreys Court said she thought the development should not come at the expense of the residents' quality of life.

Robert Gunning of 43 Humphreys Court (via Zoom) asked the Board to oppose the variance request.

SPEAKING TO, FOR, OR AGAINST THE PETITION [Timestamp 3:28:06]

Attorney Derek Durbin said the concerns the Board heard were out of speculation or fear of what it would become. He said a lot of the concerns were Planning Board ones, like the grading and driveway. He said the argument about public safety and speeding cars were contradictory because cars associated with the property would park on the street and slow traffic down. He said the property was unique with respect to the lot area and continuous street frontage and that it could have two dwellings on it. He noted that the Planning Board thought his client's proposal made the most sense. He said he had evidence from a real estate agent indicating that some surrounding property values would not be diminished, which he gave to the Board.

Jim Lee of 520 Sagamore Avenue said it was likely that surrounding property values would be diminished due to the two new houses. He asked the Board to deny the variance request. ,

Acting Chair Margeson asked why the lot's topography was quite a bit taller than the rest of the lots around it and what the plans for that were. Mr. Chagnon said if the variance went forward, the next step would be to finish the subdivision process with the Planning Board and then do the building permit process. He said the HDC would also weigh in because the lot was in the Historic District. He said there would be some changes to the grade to accommodate a structure. Acting Chair Margeson asked why the grade was bigger and if it could be brought down. Mr. Chagnon said it could and that the property was currently served by a steep driveway, so any redevelopment would involve a driveway closer in grade. Acting Chair Margeson asked Attorney Durbin if any building in the lot would fit within the building envelope if the variance were granted and one of the lots had the substandard street frontage. Attorney Durbin agreed.

No one else spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD [Timestamp 3:25:27]

Mr. Mattson said the owner could build a duplex on the property by right, so the discussion of one home vs. two was within that context. He said there could be a common parcel with two homes on it or two lots, one conforming and one not. He said the actual density would meet the lot area and that a decent-sized house could be built within the character of the neighborhood. He said he struggled with the hardship a bit but the lot had a weird shape. Mr. Rheaume said it was not the first subdivision and was similar to other applications. He said a two-family home was allowed by right. He said traffic concerns could be taken care of by the Parking and Traffic Safety Committee using traffic calming tools, and so on. He said adding one home with a car or two would probably not have a significant impact and was not part of the Board's criteria. He said he thought the criteria that it came down to was the hardship and was not very convinced about what the applicant said about the long overall street frontage giving him something special about his lot. He said he wasn't sure that the property was unique and found it hard to argue that property values would be impacted by the change. He said if it was an existing lot of record that had never been merged together, there would be a stronger case that would indicate that it should be a buildable lot. He thought creating a subdivision was a tougher sell. Mr. Rossi said it was a high bar to take a conforming lot or structure and move it into nonconformance. He said what was lacking in the hardship criterion was not so much the reasonable use but the fact that there was no special condition to the lot because it was very similar to the surrounding lots. He said the special conditions did not exist.

DECISION OF THE BOARD [Timestamp 3:44:15]

*Mr. Rossi moved to **deny** the variance application as presented and advertised, seconded by Mr. Mannle.*

Mr. Rossi said the failure of the applicant to demonstrate hardship was the basis of his motion. He said there was nothing special or unique about the property that differentiates it from the other properties in the immediate area surrounding it, so therefore one could not get to the other aspects of hardship that mostly revolve around reasonable use. Mr. Mannle said he agreed and was loath to take a conforming lot and split it into two nonconforming lots, regardless of where it was. He said the hardship argument was weak. He said they heard from realtors and brokers but thought it was a 'what if' because no one knew what the future would be. He said the applicant felt that there would not be a diminution of value, which Mr. Mannle thought would be tough to prove when the values in Portsmouth were going up. He said the applicants were convinced that their properties would be diminished, but that was in the future and all conjecture. He said given the choice between a conforming lot being subdivided into two nonconforming lots against the neighborhood, he would go with the neighborhood. Mr. Nies said he would vote to deny. He said the applicant talked about the spirit of the ordinance and whether it was complied with, and that one of the applicant's arguments was that there were other lots in the area that also did not comply with the existing requirements. He said the zoning ordinance stated that special conditions of the property that distinguish it from others in the area must be present for a variance to be granted, and the existence in the surrounding area of conditions that are similar to the proposed nonconformity shall not be a basis for the granting of a variance. He said the argument that it complies with the spirit of the ordinance because other properties are not in conformance did not fly. In addition, the said the ordinance points out that when there's a requirement that is more stringent than existing conditions, the goal is to make sure you move toward those more stringent conditions. In this case, he said the Board would be going the other way – from a conforming lot to a nonconforming one. He said it would not comply with the hardship approach and questioned whether it would meet the spirit of the ordinance. Mr. Mattson said the GRB zone allowed 5-12 units per acre, and the proposal fell within that, so as an overall lot, it was still in the spirit of the ordinance. He said he thought the property was special because it has conditions that distinguish it, and the fact that it is on the inside of the curve affects the frontage.

*The motion to deny **passed** by a vote of 4-2, with Mr. Mattson and Acting Chair Margeson voting in opposition and Chair Eldridge recused.*

*At this point in the meeting, Mr. Mattson moved to go past ten o'clock, seconded by Mr. Mannle. The motion **passed** unanimously, 6-0.*

H. The request of **Ben and Andrea St. Jean, Braden and Robyn Ferrari, Bob and Laura Gunning, Mike and Zoe Daboul, Tim and Kim Sullivan, and Jamie and Amy Baker** (**Appellants**), for **appeal** of the administrative decision of a zoning determination pertaining to the side and rear lot lines of the property for a proposed subdivision located at **58 Humphreys.** Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-165)

SPEAKING TO THE APPEAL

[Timestamp 3:51:49] Attorney John Arnold representing the group of 12 residents summarized that their appeal related to Mr. Britz's zoning determination regarding the classification of the front, side, and rear lot lines on the property. He said the ordinance defined lot lines as the front lot line that is along the street, the rear lot line is opposite the front, and the side lot line is anything that is not a front or rear lot line. He said the ordinance stated that the rear lot line is less than 10 feet long or forms a point, and the City imposes an artificial 10-ft line so that there is always a front line. He said there was always a front and rear lot line but there may not be side lines. He said the City determined that there are two front lot lines and two side lot lines and imposes the artificial 10-ft long diagonal across the rear corner of the lot. He said his clients' position was that there are two front lot lines, two rear lines, but no side lot lines. He explained why they thought this was the correct interpretation. He said the significant part was that the rear lot lines impose a 25-ft setback, and the side lot lines impose a 10-ft setback, so the rear property line is important for the neighbors in terms of how close the improvements on this lot could be built. He said his clients would like this determination made and the appeal decided in the event that there was an appeal of denial of the variance, otherwise that categorization is important for that setback.

[Timestamp 3:54:33] Planning Director Peter Britz referred to his memo and explained how the front and rear lot lines were determined.

Mr. Nies said the original subdivision plan had a Humphrey Street Extension and one had it listed just as "street:, so it clearly said that there were two streets. He said Mr. Britz's argument that it was only one street was because someone said they would call the street Humphreys Court. He asked whether a corner was defined as where two streets met. The definition of a corner lot was discussed. Mr. Britz said he did not consider it two streets. He said it was not a corner lot but was a lot with a single continuous frontage. The rear lot line was further discussed. Mr. Rheaume said the 10-ft lot line that was created was not parallel to any portion of the front lot line. He asked how that was reconciled. Mr. Britz said the City had to be creative in terms of the parallel aspect. The corner was further discussed. Mr. Rheaume asked how the corner impacted the determination of rear lot line. Mr. Britz said it was not a corner lot and explained how the rear lot line was determined.

[Timestamp 4:01:27] Mr. Rossi said the application to subdivide the lot was denied, and he asked why the back corner was indicated as such. Mr. Britz said the frontage was still the entire frontage of Humphreys Court. The hypothetical aspect of it was further discussed. Mr. Mannle asked where the current rear line on the current property was, and Mr. Britz explained it. Acting Chair Margeson said there was a disagreement between the City and the appellant as to what the rear lot line is.

[Timestamp 4:07:27] Attorney Durbin said it was their position that there is no rear lot line in this instance. He said the appellant's argument was premised on the fact that there is always a rear lot line, but it wasn't true. He said they supported the administrative determination, but as to the determination on the lot lines favoring the first appeal, they took the position that there are two side lines and one front line.

Acting Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE APPEAL

No one spoke, and Acting Chair Margeson closed the public hearing.

[Timestamp 4:09:33] Mr. Rheaume said that in his 13 years on the Board, he had never seen an application that defined the back property line in this manner and created a rear property line that was at an angle to the rest of the property. He said it was a very unusual interpretation. He said the essence of the fictitious 10-ft rear lot line that the ordinance talks to is really for a more complicated situation and not intended for rectangular lots. He said instead of being two street, Humpheys Court was called one street. He said there were enough similar situations in Portsmouth to update the ordinance, but to somehow say that this was the right solution to that problem struck him as the non-obvious solution. He agreed with the appellant that the Planning Department's determination was not the right one, but he thought the suggestion of the appellant to call them rear lot lines also was not right. He said there was a clearly visible front lot line and a very ambiguous rear lot line. He further explained it. He said the two other boundary lines were defined by either the smaller property or the larger property as a whole due to the unique nature of the street being one contiguous street would in fact be side lot lines.

[Timestamp 4:13:25] It was further discussed at great length. Acting Chair Margeson said she tended to support Mr. Britz's interpretation, but the property had been very difficult for the Board and City to deal with. She said she would ask for a motion to deny the appeal and uphold the decision of the Code Official. It was further discussed and decided that it was a de novo appeal.

DECISION OF THE BOARD [Timestamp 4:23:04]

Mr. Nies moved that the Board disagrees with the Planning Director's determination of the rear lot line of this proposed subdivision of the lot. Mr. Rossi seconded.

Mr. Rheaume said the Board had individual ideas on how the matter should be resolved. He said there was consensus among the Board that what was determined was not the right answer. He said his only concern with the motion was that it did not speak to the appeal and that the Board was partially granting the appellant's appeal but leaving silent the answer to what the rear lot line is. He suggested rephrasing the motion in terms of the appeal. It was further discussed.

Mr. Nies withdrew his motion, and Mr. Rossi agreed.

[Timestamp 4:32:07] The motion was further discussed.

The **amended** motion was:

Mr. Rheaume moved that the Board grant the appellant's appeal of the zoning determination by Planning Director Peter Britz regarding the classification of the rear lot lines for the proposed

subdivision of 58 Humphreys Court, and that the Board makes no determination of classification of side lot lines for the proposed subdivision. Mr. Nies seconded the motion.

*The motion **passed** unanimously, 6-0, with Chair Eldridge recused.*

I. POSTPONE TO JANUARY The request of **Michael R and Isaac M. Roylos (Owners)** and **Christopher Cloutier (Applicant),** for property located at **25 Sims Avenue** whereas relief is needed to create a buildable lot which requires the following: 1) Variance from section 10.521 to allow a) 5,000 square feet of lot area where 15,000 is required, b) 5,000 square feet of lot area per dwelling unit where 15,000 is required, and c) 50 feet of frontage where 100 feet are required. Said property is located on Assessor Map 233 Lot 71 and lies within the Single Residence B (SRB) District. **POSTPONE TO JANUARY** (LU-25-169)

The petition was **postponed** to the January 20 meeting.

IV. ADJOURNMENT

The meeting adjourned at 11:41 p.m.

Submitted,

Joann Breault
BOA Meeting Minutes Taker