

**CITY OF CONCORD, NH
ZONING BOARD OF ADJUSTMENT
SEPTEMBER 7, 2022 MEETING
MINUTES**

Attendees: Acting Chairman Nicholas Wallner, Andrew Winters, James Monahan, Laura Spector-Morgan Spector-Morgan and Tedd Evans.

Absent: Christopher Carley

Staff: Tracey Hutton, Zoning Administrator
David Hall, Code Administrator
Rose Fife, Clerk

Meeting commenced at 7:00 pm.

34-22 72 Washington Street; CN Neighborhood Commercial District; 45 Centre St Frnt: (Request for Rehearing)

Applicant proposes to locate a restaurant with a gross floor area less than 5,000 sf with no drive-through service (Use I1 in the Table of Principal Uses) and is seeking variances for this proposed change of use to:

1. Article 28-7-1(a), which requires when a use of any land is changed, that off-street parking and loading spaces shall be provided for the entire use or combination of uses, where in this case the existing parking lot has no capacity for additional parking;
2. Article 28-7-2, Sections:
 - (a) Computation of Number of Spaces Required, to allow no off-street spaces to be located within the existing parking lot, which has no capacity for additional parking (44 spaces are required for this proposed change in use);
 - (c) Requirements Where There are Multiple Uses or Buildings on a Lot, to allow no parking spaces to be provided within the existing parking lot for this proposed change of use, where the sum of required parking spaces of both principal uses exceeds the capacity of the existing parking lot.
 - (e) Table of Off-Street Parking Requirements, where the zoning ordinance requires 1 parking space for every 75 square feet of gross floor area ($3,328 \text{ sf of GFA} \div 75 \text{ parking spaces per sf} = 44$) spaces required.
3. Article 28-7-3, Location of Required Parking, which requires that off-street parking shall be provided on the same lot as the use or uses that they are intended to serve;
4. Article 28-7-5, Requirements for Handicapped Accessible Parking Spaces, to allow no off-street accessible parking spaces, where two spaces are required;
5. Article 28-7-7, Parking Area Design Standards, to allow no application generally of the provisions of this article, as there is no on-site parking available to be allocated for this change of use;
6. Article 28-7-8, Access and Driveway Standards, to allow no application generally of the provisions of this article, as there is no on-site parking allocated for this change of use;
7. Article 28-7-9, Pedestrian Circulation, to allow no application generally of the provisions of this article, as there is no on-site parking allocated for this change of use;
8. Article 28-7-10, Parking Area Landscaping Standards, to allow no landscaping to be performed as a result of no ability to expand the existing parking lot to accommodate additional parking for any secondary principal use related to this structure;
9. Article 28-7-13, Off-Street Loading Requirements, to allow no loading spaces to be provided for this change of use;
10. Article 28-7-14, Off-Street Loading Area for Refuse Containers, to allow for no provision of off-street loading area for refuse containers, where there is no area available on the existing site to provide it;
11. Article 28-8-4(a)(1), Continuation of a Nonconforming Use or Nonconforming Characteristics of a Use; and
12. Article 28-8-4(5)a, which allows an existing use to be replaced by a use permitted in the RN District if there is no net increase in the need for off-street parking spaces.

Acting Chair Wallner asked the Board members if they had a chance to review the case and information. Acting Chair Wallner advised that the request will be heard by a three-member board. Evans and Winters have recused themselves.

Spector-Morgan and Monahan see no errors of law or new information.

A motion to deny the request for rehearing was made by Spector-Morgan, seconded by Monahan and passed by a 3-0 vote.

44-22 179 Pembroke Road: OFP-Office Park Performance District: by Jeremy Eggleton, Esq. for Proverbs 16:3 LLC, Owner: (Request for Rehearing) Applicant seeks review of Administrators Decision interpreting permissible uses under the ordinance. Code Administrator letter dated June 1, 2022 determined that the complex of 62 monolithic domes to be used for short and long-term rentals is not an allowed use in districts zoned OFP without zoning relief.

This request was heard by a full 5 member Board.

Acting Chair Wallner asked if the Board members had a chance to review the information before them including the letter from Orr & Reno that was submitted for a rehearing request.

Spector-Morgan didn't see anything in the letter that was submitted that lead her to believe the Board made any error of law nor was there any new information presented.

Winters noted that because this was an appeal of an enforcement action, he'd be inclined to grant a rehearing.

Monahan is relying on the letter and Minutes as he was not part of the original Board. He concurs with Spector-Morgan.

Evans concurs.

Wallner was also inclined to rehear the matter.

Winters asked if Monahan and Evans were comfortable voting as they weren't on the original case. Both said they were as they had reviewed the information.

A motion to grant the rehearing request was made by Winters, seconded by Evans and passed by a 4-1 vote with Spector-Morgan in the minority.

PUBLIC HEARINGS

41-22 188 Pleasant Street; CN – Neighborhood Commercial District; by Nouria Energy Corp. for Arck Tej Realty LLC, owner:

Applicant wishes to engage in the operation of a convenience store with the retail sale of gasoline and seeks a reversal of the Code Administrator's Decision, per correspondence dated June 13, 2022, which determined that the structure and land has been abandoned, under Section 28-8-6(b)(1).

If the Board upholds the Code Administrator's decision the applicant request variances to Articles:

1. 28-4-1(h), Table of Dimensional Regulations, to allow the existing
 - a. 17.1-foot setback from the building to the northern property line and an 11.2-foot setback from the building to the southern property line, where a 20-foot setback is required, and
 - b. 13.5-foot setback from the gasoline canopy to the northern property line and a 10-foot setback from the gasoline canopy to the southern property line, where a 20-foot setback is required, and
 - c. 84.8% lot coverage, where only 80% is allowed; and
2. 28-7-2(e), Parking and Loading, to allow 4 parking spaces at the fueling pumps, where 10 are required; and
3. 28-7-7(f), Driveway Width, to allow the existing driveway width of 51 feet along Pleasant St. and 53 feet along Warren St., where only 28 feet is allowed; and
4. 28-7-8(c)(1), Driveway Separation, to allow the existing separation
 - a. from the street intersection of 48 feet along Pleasant St. and 44 feet along Warren St., where a separation of 125 feet is required; and

- b. to Lot Z-14 of 85 feet along Pleasant St. and 85 feet along Warren St., where a separation of 100 feet is required.

Spector-Morgan disclosed that she and Attorney Pollack have a case in common.

Testified: Attorney Ari Pollack of Gallagher Callahan and Gartrell. Tom Healy, VP of Facilities at Nouria, and Steve Pedro with HFA Architects.

Attorney Pollack explained that Nouria Energy Corp. is leasing the property. The applicant is making two opposing requests. The first is that they are asking for a review of a staff decision that the structure and use of land of the former gas station has been abandoned. They would like the Board to find that they have not abandoned the use of land or the structure. This project will need to be permitted through the Planning Board, but the structure and associated setbacks are grandfathered.

The second opposite application is that if the Board confirms the staff view of abandonment then they are asking for variances to allow structural non-conformities remain and allow the land and structure to be refurbished as they are currently configured.

They will present both requests together if it pleases the Board. The use of service station will still require a conditional use permit and a site plan review of the Planning Board. The property is located at 188 Pleasant Street, but is across the street from Concord High School. It is a 10,570 s.f. lot vs. the minimum lot size required of 10,000 s.f. The lot does conform. It was approved in 1981 and a gas station has operated there since that time. The land and improvements are assessed at \$450,000 and the building is assessed at \$250,000. It is a peninsula shaped lot. It is a small, tight site. The lot coverage and fuel island, driveway width, and driveway separation are all nonconforming. In early 2020 the gas station and convenience store stopped operating so the "use" was abandoned. Overall the site layout looks and feels like a gas station. The site has characteristic equipment or furnishings used in the performance of the use. They submitted photographs that were part of the appeal and Attorney Pollack would like the Board to look at them. Attorney Pollack proceeded to review and explain each photograph. Signage and gas island and canopy were shown. He showed a close up view of the gas island and the work going on at the site.

He believes the merits of the administrative appeal hinges on the language of Article 28-8-6(b) of the Ordinance. In particular Article 28-8-6(b)(1), the operative language for abandonment was read into the record.

Staff's decision found "there was a visible and apparent discontinuance of use of the site for a period of more than 12 months regardless of whether equipment was removed." This confirms that the equipment was not removed. It's their position that this finding mixes the standards of Article 28-8-6(b)(1) and Article 28-8-6(b)(2). Subsection (b)(2) addresses abandonment of the use of land. Under subsection (b)(2), they concede the station was abandoned for greater than 12 months. The "use" needs to be approved by the Planning Board with a conditional use permit. Article 28-8-6(b)(1) talks about abandonment of structure and land. This section refers to the equipment being removed and replaced within a 12 month period. The gas island and canopy were never removed. It looks and feels like a gas station. Nouria Energy Corp. is requesting that the Board recognize the distinction between Article 28-8-6(b)(1) and Article 28-8-6(b)(2) and reverse staff's decision that there was an abandonment of the structures. Attorney Pollack wanted to be clear that if the appeal was successful and abandonment was reversed they would still need to go forward with site plan review.

Winters asked if the Board finds that the use was abandoned is it their position that it invalidates the use variances but not the non-use variance such as the setback and parking. Attorney Pollack stated they weren't seeking a use variance at all and that distinction no longer exists in law. The use may have been abandoned, but the portion of the building in the setback was not abandoned nor was the portion of the canopy in the setback. All of the equipment and appearance of the gas station remained. Structure and Land should be looked at differently. The corner of the building, for example, being 17 feet from the property line, vs. 20 feet, that would be a nonconformity that Nouria Energy Corp. would ask to be found preexisting, legal and be allowed to continue.

Spector-Morgan doesn't think 28-8-6 applies at all. She thinks that the structures, the setbacks, the lot coverage have not been abandoned and feels they should be allowed to remain in place according to Article 28-8-5. She agrees with Winters. Parking and loading she believes goes back to the nonconforming use described in Article 28-8-4. Driveways have her thinking. Those are neither a structure or a use. She doesn't believe Nouria Energy Corp. needs variances for setback or lot coverage, but will need a variance for parking and loading.

Winters agreed.

Spector-Morgan asked if this was built with or without variances. Attorney Pollack believes it was built before the zoning ordinance was adopted.

Attorney Pollack discussed driveways. The site is going to require some variances from otherwise very confining driveway widths due to peninsula shape of the property.

Winters's inclination is that the driveway width falls more into needing a variance as the driveway width is dictated by the need for commercial activity.

Attorney Pollack noted that their focus is on the appeal is because of the language of the ordinance in Article 28-8-6(b)(1) that talks about the structure and land combination which he thinks dictates that The City must accept the existing condition as it sits today. Whatever the use will be, it will be extremely confined.

Monahan asked if the gas station had been sold by the previous owner to Nouria Energy Corp. and was still being used as a gas station, they would not be before the Board. Attorney Pollack agreed with the statement. Monahan asked what the dates of closure were. Attorney Pollock said it had been closed since early 2020. This conversation started with City staff this spring of 2022; so it had been about two years. Monahan asked if it were stopped by the Pandemic. Attorney Pollock was unsure.

Winters believes thinks they stopped selling gas for about a year before they shut down. Attorney Pollack's client took it on as a lease acquisition. They thought it would be a turn key operation and they'd be open by now.

Evans feels Attorney Pollack's argument is persuasive regarding the ordinance language. He doesn't see the value of declining.

Acting Chair Wallner agreed.

Winters asked if they needed to hear from the public. Spector-Morgan said they did . And Code.

Hall asked if when gas pumps and lines are being removed, and the canopy stays, is that enough to qualify for abandonment?

In favor: none.

In opposition: Robert Every of Easton, NH. He spoke regarding the relationship between the site and its proximity to Concord High School. He's 77 years old and drove up from Easton, NH. They own the abutting property. They bought the building more than 24 years ago. He submitted photographs. The property has a long history. It's been a problem for the high school and for them. It's not the first time it's been abandoned. It has had a succession of owners. He has picked up rubbish and drug paraphernalia and has cut down the overgrowth of vegetation. He had a tenant that signed a lease for the first floor apartment and backed out due to the drug sales going on next door. He went to Assessing because they reduced his assessment of his property. There has been all kinds of trouble in the parking lot. As soon as it opens, there will be more problems. The City had plans for that intersection, which is what he was told by City staff. It is a dangerous intersection. He received the plan from Engineering. He feels that shutting this place down is what is owed to the students of Concord High School. There isn't another high school in this state that is operating right across the street. It's a disgrace to the City, to the high school and a disservice to the students.

Rebuttal: Attorney Pollack. He's sorry for Mr. Every's experience. His client has plans to refurbish the property. Nouria Energy has a record of a good platform.

Code: none.

DECISION TO REVERSE CODE ADMINISTRATOR'S DECISION THAT STRUCTURE AND LAND HAVE BEEN ABANDONNED:

Spector-Morgan thinks the structural setbacks and lot coverage have not been abandoned but that the parking and loading

have. She believes driveway width and separation have as those go along with abandonment of the nonconforming use.

Winters agrees. Effectively he would be inclined to reverse his decision . Inclined to affirm his ruling to 2, 3, 4. Wallner confirmed that by saying 2, 3, 4 he meant Parking, Driveway Width and Driveway Separation. Winters affirmed.

Monahan agrees with Spector-Morgan. Those abandonments were due to a consequence of the overall property.

Evans found the argument regarding the ordinance language persuasive. He is not clear on the other variances. He is inclined to not bother with them.

Wallner is on the fence with 2, 3 & 4.

Wallner wanted the Board to take up 1 & 2 first.

Spector-Morgan made a motion to reverse the decision of the Code Administrator and grant the appeal for the 17.1 foot setback the 13.5 foot setback and 84.8% lot coverage which is 1a, 1b and 1c on the agenda. Winters seconded the motion. Motion passed by a unanimous vote.

A motion by Spector-Morgan to affirm the decision of the Code Administrator and deny the appeal to 28-7-2(e), Parking and loading as she believes those were abandoned along with the use, seconded by Winters and passed by a 4-1 vote with Monahan in the minority.

A motion to affirm the decision of the Code Administrator and deny the appeal for #3 and #4 with regard to driveway width and driveway separation as she feels it was abandoned as part of the use, seconded by Winters and passed by a 4-1 vote with Monahan in the minority.

Variance requests:

Attorney Pollack went on to discuss parking and stacking spaces at the gas island. The site allows 1 car at each side of each pump for 4 spaces where the ordinance requires a stacking space of 1.5 spaces per fueling location, so ordinance would require 10. They cannot fit that with peninsula shape of the lot and road configuration. Driveway width he made reference to the turning radius diagram. Regarding driveway separation, it is an existing lot of record and it is confirming in terms of size. The driveway separations along Pleasant and Warren and separation from the neighboring lot all require relief. The neighboring lot, the relief there is looking to preserve an 85 foot separation for Pleasant and Warren where the requirement is 100. It's not significant. Distance from the intersection, is what it is.

Variance criteria: granting would not be contrary to public interest because the use serves pedestrian and motorist needs. The current configuration of the building, driveway, fueling island, canopy and coverage, those are nonconformities that have existed for years. The spirit of ordinance is met as it is a conditional use in that district. The area is predominantly commercial corridor. Substantial justice would be done as the site has historically operated with this use and it will be reoccupied. Without relief the vacancy will linger indefinitely. Refurbishment would add aesthetic value. Literal enforcement of the ordinance results in hardship as the peninsula shape of lot cannot be effectively redevelopment without some relief. If you are able to see uses being reasonable, it's been historic. Asking for in favor vote of 3 remaining variances.

Spector-Morgan asked if there had been issues with cars stacking. Hall said City's position is that it has been a problematic property in that regard. Attorney Pollack feels that is a Planning issue. They queried the police department and they were only able to identify 1 accident. Winters remembers cars stacking outside of the property.

In favor: none.

In opposition: Robert Every, Easton NH. Relating to the 5 points that they need to satisfy. It is contrary to the public interest; the history speaks to that. It has remained a real detriment to the neighborhood, the school and the people. The place is terrible. Spirit of the ordinance – there are documented issues. Substantial justice is not done for the neighborhood. The surrounding property values are diminished – he submitted a letter showing that point. Plans from Engineering showing a change of the intersection. Literal enforcement of the ordinance resulting in unnecessary hardship for who? The applicant? The people of Concord. They have enough evidence to say no and hopes they do.

Code: none.

Rebuttal: Attorney Pollock. The gentlemen is entitled to his opinion. The matters he is raising will be raised through the Planning Board process.

DECISION:

Winters appreciates the gentlemen who drive quite a distance and spoke very passionately about this, but it doesn't go to the variance requests. Those are police issues. The Zoning Board doesn't have the authority to shut down a business. Its not an ideal lot and a business is allowed to operate there. He is inclined to approve.

Evans agrees. The kind of issues brought up are not determined by the physical nature of the site. He is inclined to approve.

Monahan noted that if there had never been a gas station there, they would never allow it.

Spector-Morgan has no concerns with the driveway width and separation variances. She is inclined to grant all 3 requests. Has a concern with the stacking, but where they checked with the police and found not much in the way of accidents she is inclined to grant.

Wallner felt that the hardship is demonstrated by the peculiar shape of the property.

A motion to approval all 3 variance requests was made by Evans and seconded by Spector-Morgan.

Drive width variances: Allowing them is not contrary to the public interest or spirit of the ordinance because it doesn't alter the essential character of the neighborhood or create a health, safety or welfare issue. It is not going to reduce property values. There is no benefit to the city that is not outweighed by loss to applicant. The lot is unique given shape and location. The use is permitted use and once CU is granted is a reasonable one.

Separation variances: Very similar thoughts. It doesn't alter the character of the neighborhood because it is there. It doesn't create a health, safety or welfare issue. Substantial justice is done. It will not reduce property value. The property is unique and the use is reasonable.

Stacking: It is a preexisting use, although abandoned, and there was testimony about a lack of accidents, she finds it is not contrary to public interest or spirit of ordinance. It will not diminish property values. Substantial justice done. The property is unique and the use is reasonable.

The vote was unanimous and the motion passed.

42-22 64 River Road; RO-Open Space Residential District; by Jared Chiumento, owner: Applicant needs to replace the existing deck on the west side of the house and wishes to expand from 6-foot by 6-foot, to 6-foot 5-inches by 12-foot and is requesting a variance from Article 28-4-1, Table of Dimensional Regulations, to permit a structure to be located to within 2 feet 4 inches to the western side property line, where a 40-foot side setback is required.

Testified: Jared Chiumento and Natasha Chiumento.

Mr. Chiumento testified that the property is non-conforming. The west side has about 8 feet of property from the house and an 8 x 6 deck, which was damaged 2 years ago by a vehicle accident and needs to be replaced. It's 7" closer to setback. It will be built over the bulk head so it will not increase the footprint. They are asking for a 7" decrease for setback relief.

Wallner asked about the original deck setback. Mr. Chiumento stated it was 35". The original deck was 6'6" and 35" line. By increasing it to 6'6" x 12, it makes it 28" to the property line and over the bulkhead. Spector-Morgan asked why it cannot be the same as the original deck. Mr. Chiumento stated that was due to the bulkhead.

In favor: none.

In opposition: none.

Letter from Mark Cornell who is an abutter at 71 River Road and is in favor.

Code: none.

DECISION:

Monahan is inclined to support the request. The applicant is doing a good job trying to conform and is sacrificing the bulk head.

Evans agrees.

Winters agrees. It is a reasonable use to have a bigger deck.

Spector-Morgan agrees. It will not change the character of the neighborhood etc. It is a unique property.

A motion to approve the variance request was made by Evans, seconded by Monahan and passed by a unanimous vote.

47-22 63 Bog Road; RM-Medium Density Residential District; by Justin Stephens for Bull Meadow Real Estate Holding, LLC, Owner: Applicant wishes to install a second freestanding sign on the westerly side of the driveway and is requesting a variance to Article 28-6-8(a)(1), Signs Permitted in Residential District, to allow a second freestanding sign with a combined sign area of 32 square feet, where only one freestanding sign with an area of up to 20 square feet is allowed.

Testified: Justin Stephens and Eric Stephens. They are two of the 3 owners of the Barn at Bull Meadow located at 63 Bog Road. They are here requesting a variance to install a second sign. It would face westward on Bog Road. It is a residential district and only 1 freestanding sign is allowed with a total of 20 s.f. They want 4' x 4' or 16 s.f., identical to the sign they have existing there now. Since they opened 2 years ago, many of their customers come from the west and clients get lost. There are wetlands on both sides of their driveway and along Bog Road. A residential district a sign needs to be 10 feet from the lot line, which will impact the wetlands. That is why they decided to have their existing sign to face eastward.

It is not contrary to the public interest as the sign does not conflict with the purpose of the ordinance.

Granting the request will be consistent with the spirit of the ordinance as it will not alter the character of the neighborhood. There are other signs in the neighborhood.

The sign is not threatening health safety or welfare but will help customers not get lost and not turn around in their neighbor's driveways.

Eric Stephens stated that substantial justice is done and there will be no harm to the general public.

Property values will not be diminished. It will not increase the traffic count on Bog Road. It will not increase the noise on Bog Road either.

Unnecessary hardship is that there are special conditions of the property, lot size, and wetlands. The property is larger. The building is setback very far and it is impossible to see.

Justin Stephens testified that these signs are not for advertising. It is so people can locate the business when they are trying to find it. They are trying to work around the wetlands.

Spector-Morgan asked why not a compliant size? Mr. Stephens stated that one sign is allowed and they have one sign at 16 s.f., which is below the maximum size allowed and this one is also 16 s.f. Winters asked about a double sided sign? Mr. Stephens explained that the issue is that they can't run their sign perpendicular to Bog Road without going into the wetlands as they need to be 10 feet off Bog Road. They showed what a double sided sign would look like. They showed

an image of their existing sign.

In favor: none.

In opposition: Melanie Barker, Penacook NH. She knows of the business. It is definitely wetlands. The signage now is pleasing to the public. They can they seek a variance from a 10 foot distance from the front property line to be able to be a double sided sign for their business instead of a second sign. It is a very residential area.

Code: none.

Letters: Jeff Tobine, 57 Bog Road in favor. Andrew Terragni, 67 Bog Road in favor. Jocelyn and Jerry Wolcott is in opposition. There is no need to increase the size of the sign.

Rebuttal: Justin Stephens explained that there are street signs, so if they went for a variance for the 10 feet, the street signs will be blocking it.

DECISION:

A motion to approve the request was made by Monahan.

Winters noted that this applicant has come before the Board numerous times. When they first approved the use, this could have been predicted. They could have asked for a variance to get closer. He doesn't believe one variance is better than the other.

Motion was seconded by Winters.

Monahan thought it was an appropriate solution. The applicant was clear that this was an issue of safety vs. advertisement. They are respecting the wetlands as well.

The vote passed unanimously.

48-22 32 Amy Way: RM-Medium Density Residential District; by Alex and Karen Eddy, Owners: Applicants wish to construct a 24-foot by 24-foot garage with an attached 8-foot by 12-foot breezeway onto an existing single-family dwelling, and is requesting a variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit a structure to be located to within 7 feet 6 inches to the northerly side property line, where a 15-foot setback is required.

Testified: Alex and Karen Eddy. Mr. Eddy would like a 24' x 24' garage with an 8' x 12' attached breezeway. It is 9'2" to the fence for the front and 7'6" to the back of the property. They need a variance for 7'6" to be closer to the fence. The hardship issue is trying to get a garage in their area. They are 1 of about 15 houses that do not have a garage. Spector-Morgan asked if they didn't construct the breezeway would they comply with setbacks. Mr. Eddy said they would. Spector-Morgan asked why they needed a breezeway. Mr. Eddy said it would make easier access to the house. Evans asked how many homes in the area have garages and breezeways. Mr. Eddy responded approximately 50%. Monahan asked if they were the first owner. Mr. Eddy answered that they were the third owners. Spector-Morgan asked if houses that have garages comply with setbacks? Mr. Eddy is not sure, but they thought they had 10 foot setbacks. Spector-Morgan asked if the other garages are in the setbacks? Mr. Eddy responded that a few are closer similar to what they are requesting. Winters asked if they could go place this behind the house? Mr. Eddy responded that it is a weird shaped property. No matter which way they moved it, it would require a variance. Evans asked what was in the rear yard. Mr. Eddy responded that it was a pool and a shed, which was there when they bought the property.

In favor: none.

In opposition: none.

Letter from Ray Petrillo. Mr. Eddy explained that the letter reads Mr. Petrulio is in favor of the garage and is a direct abutter. Ray and Tiffany Petrillo.

Code: none.

Decision:

Evans respects their desire for a garage. If they didn't add the breezeway, they wouldn't be before the Board as they would comply. The general approach is minimal relief, not maximum relief. He is inclined to deny.

Monahan agrees.

Wallner noted that some of the properties do have breezeways.

Evans also heard testimony that people have made mistakes regarding setbacks in that neighborhood.

Winters noted that it is a fairly new neighborhood. He agrees with Evans. A breezeway is nice, but he can't see the hardship as the builder could have plotted that out.

Spector-Morgan agrees.

A motion to deny the request was made by Evans and seconded by Spector-Morgan. It would alter the character of the neighborhood. Substantial justice is done by denying the request as they can construct garage, just not the breezeway. Approving this would diminish property values. There is nothing unique about the property. None of the variance criteria are met. Motion passes by a unanimous vote.

49-22 New lot created by the merger of 76 Community Drive, 83 High Street, and 87 High Street; RN-Neighborhood Residential District; by Boys and Girls Club of Central New Hampshire, Owner:

Applicants wish to redevelop the referenced properties into a merged lot to accommodate a child day care and community meeting facilities and seeks the following variances to:

1. Article 28-2-4(j), Table of Uses, use B4, to allow a child day care facility in an RN district, where such use is only allowed with a Special Exception; and
2. Article 28-2-4(j), Table of Uses, use B14, to allow a community center in an RN district, where such use is only allowed with a Special Exception; and
3. Article 28-4-1(h) to permit lot coverage of 65%, when a maximum of 50% is allowed; and
4. Article 28-5-40(b)(1) to allow a 6-foot fence in the front yard of a residential district, where a maximum of 4 feet is allowed; and
5. Article 28-7-2(e) to allow 25 parking spaces, when 53 are required; and
6. Article 28-7-5 to allow 2 handicapped parking spaces, where 3 are required; and
7. Article 28-7-7(g)(1) to allow off-street parking in a front yard of a residential district, where such parking is not permitted.

Testified: Erin Lambert, PE, Wilcox and Barton. Attorney Connie Boyles Lane of Orr and Reno. Chris Emon, Executive Director of Boys and Girls. Also, in the audience available for testimony was Cathy Ferlong, Boys and Girls Club Board, and Executive Director of Penacook Community Center; hereafter noted as PCC.

Attorney Lane showed proposed community center and child care facility. The child care facility was the major reason for the merger between the Boys and Girls Club and PCC. The City approached them to ask if they would include additional square footage to include the community center. The Boys and Girls Club was established in 1944 with 6 locations in Concord, 25 early learning centers and after school programs as well as 1,000 kids a week. PCC was established in 1948, built by the community and opened in 1953. It served for 70 years as a community center. In 1992 they added child care by special exception. They need 7 variances; 2 for uses, 3 for parking, 1 for fencing and 65% lot coverage.

The project contains 2 uses that have been there since 1953 and 1992. They merged the lots and that is what they are here. It is compatible with the neighborhood. It has been there 70 years. It improves traffic flow and aesthetics. It serves the community. A \$750,000 CBDG grant was obtained 7.11.22. This allows the continued uses, which are reasonable.

She showed the existing property. She showed the 4 lots that have been merged, the existing site, and an existing condition survey that Erin Lambert put together.

Erin Lambert, the Civil Engineer, explained the site plan. They highlighted where there is pavement. All parking right now backs out to Community Drive or Dolphin Street. She explained what they are proposing. They are reducing curb cuts to 2 curb cuts. It will be one way through the property from Community Drive. There will be 25 parking spaces; 2 are ADA accessible, which there are none right now. There will be parking for 2 vans/buses. The dumpster will have proper screening and a shed. There will be a playground on the west portion by the shed. 'One way' works well as it will facilitate drop off and pick up in the area. The 2023 Capital Improvement Plan wants to reconstruct Dolphin Street. There will be public spaces on that street. The Boys and Girls Club will build a sidewalk, shown on the plan. There will be ample parking to support the use. The lot coverage, as it exists today, is 32%. There will be 65% lot coverage vs. 50% due to the extensive sidewalks, which are an ADA requirement. All water will be infiltrated on site. There will be more impervious surface. Lighting will be downcast. Lighting will be programmed and lowered in the evening. Landscaping will be robust for the parking parallel to Dolphin Street. They have been working with the City on that. A fence and planting will be on the property line with abutters.

Attorney Lane noted that the 2 uses being asked for are the community center and the day care facility. The uses will not be contrary to the public interest as PCC has been there since 1953. It was built by the community between 1948 and 1953; before ordinances existed. In 1992 they added child care. The ordinance anticipated that the uses were compatible in the RN District. The temporary closure of PCC has been a harm to the parents. They couldn't take all of them and some couldn't find places for their child.

Chris Emons noted that they notified parents they were going to temporarily relocate them. They made a promise to the residence that they would be back to the area.

Attorney Lane noted that PCC has been a critical part of the neighborhood for over 70 years. The City Council believes it will be a benefit to Penacook. Nothing is set in stone for the community center, but it will be similar to the one on the heights. Substantial justice is done by giving the variances as the loss of the community center and child care program is a blow to the parents and residences. Property values will not be diminished as it has existed for 70 years and they are providing an upgrade to the site.

Special conditions of the property there creates a hardship. This is a reasonable use.

A 6 foot fence near the property is required, by licensing, for the day care and provides additional security for the children and is compatible with the neighborhood. The fence will be along High Street and be 75 feet and 55 feet along the northern border with the abutter. The spirit of the ordinance is met by permitting a 6 foot fence as it promotes safety for children and will not affect the character of the residential neighborhood. It will not block traffic. There will be no diminishment of property values. There are 3 front yards on this property. There are special conditions about the property. It is reasonable to provide a safe and secure playground for children and without the fence they wouldn't be able to have the child care center.

There are 3 parking variance requests. They showed the existing parking. There is no striping and no handicapped spaces. They are parking on the lawn. Allowing the parking variances are not contrary to the public interest as they will not allow continued use of property. If you look at the 2 uses alone, they would get 53 parking spaces and they would need 3 handicapped spaces and they are asking for 2 handicapped and 25 spaces. Right now, they have 20 spaces. Between 7 am and 9 am you have people dropping off children and a lot of spaces in the front. Those spaces are parallel spaces. The parents are there for 10 minutes, at most. Then it starts up again about 2:30 pm to 3 pm when people pick up their kids. Most parents come between 4 pm and 5 pm for pick up. After that there is no need of parking, except for staff.

She compared what is existing and proposed. PCC had 20 spaces, they want 25; number of children: 44; they expect 46; after school 35; they expect 45. There will be no summer camp. In the summer there will be a substantial drop. Community programming will be when there is low parking demand for the child care facility.

Location of parking is in 1 of 3 front yards of the property. The northern (back) property is where it would be allowed. They tried various ways to make the driveway work, but they couldn't and comply with the ordinance. They get more parking and a better traffic flow with using this design. Variances do substantial justice as noted in prior information. Variances are consistent with the historical uses there. No negative impact on the property values. Without the community center, that was added to the project when the City approached them, the Boys and Girls Club would only need 30 spaces. They were hoping they would get 10 additional parallel spaces on Dolphin Street. The best they can do is 65% lot coverage with the facility. It's reasonable and without it they could not continue the use of this facility that has existed there for 30

to 70 years.

Erin Lambert testified that they looked at moving the building forward and putting the building in the back, but this driveway wound through and gave them more parking, drop off, dumpster space etc. This orientation is considerate of the neighbors to the north.

Spector-Morgan asked which criterial can they not meet of the special exception criteria for uses? It is not located on an arterial or collector road. He said there is a small section of 6 foot fences installed.

Winters asked if the new structure is roughly comparable in size to the existing structure. Ms. Lambert answered it is bigger. It's all one story.

Wallner asked if they were installing the sidewalk. Ms. Lambert answered they are. Wallner asked if they were required to do the sidewalk. Ms. Lambert answered they were. Monahan asked if there were no handicapped spaces today. Why can't they have 3 for the new design. Ms. Lambert answered that 50 or fewer parking spaces is 2 handicapped parking required.

Mr. Emons noted that there will be a summer program at the facility. Wallner asked what the staffing for summer camp would be? Mr. Emons answered that it is 1 staff per 15 children or if they go on a trip it is 1 staff to 8 children. It won't meet the total demands, and they may be at one of the elementary schools too. He also stated that it would be the same number year round. Wallner asked if there were 14 staff for day care, how many for summer program? Mr. Emons answered 3 staff for school year and 6 for the summer if they were taking trips 5 days a week.

In favor: none.

In opposition: Peter Roth, Elizabeth Stark in audience. He dropped a letter off earlier. They purchased their home on Winter Street 10 years ago. PCC has been a good neighbor. There are some things about the project they don't like. The photos shown you about PCC is a concrete block building. Behind the building is a large green area. He heard a lot of happy laughter coming from their buildings. The vans are usually parked in a parking area, not on a lawn. The character of the neighborhood is all residential. There is no industrial or institutional use there. This facility is going in the middle of a residential neighborhood. There are 2 things of concern. They are taking a nice green space and pushing a big building into it so they can have a parking lot. It looks like they have improved the site a bit. The fencing they showed is a swimming pool fence. A lot of their house looks towards the Pena. Community Center. The new proposal is that they will look at pavement and a light industrial facility. Nothing about the facility is consistent with the neighborhood. It doesn't look like it belongs in the neighborhood. Why do they need such a large parking lot? He didn't realize that along Dolphin Street there are 20 parking spaces. That could be improved. Use along Dolphin Street is traffic in the morning and afternoon, but otherwise not much there. He doesn't feel that they need to build a parking lot in the front of this building. He suggested that the landscaping and lighting issues be a condition to their approval if given. The flat roof is a concern. It may have roof top utilities that may be noisy on it. In the winter time its not a problem as their windows are closed, but in the summer time the noise will carry into their house. He suggested a condition that they build appropriate concealment or sound insulating structures around the a/c, etc. Not objectionable to fencing. This would create a corridor of 6 foot vinyl fences down the street. Concerned with the building design not being consistent with the neighborhood, landscaping, or lighting on parking area and building.

Wallner asked where his house was in relationship to the property. He showed the board.

Lisa Dunn. A lot of her concerns are the same as Peter. When she saw the photo of the building, it doesn't fit in with the neighborhood. She has concerns with lighting. Her deck overlooks this property. It could impact the enjoyment of her house. She is concerned with how it impacts the neighbor. It is a residential neighborhood. She's fine with a white fence. She was concerned with parking on Dolphin Street. It is a busy time for PCC, for the High School and Middle School. It does get congested.

Tracey Houston. She is the abutter. She has a few concerns. Her kids went to PCC for 5 years. In the past 15 years there has been a fence. She is at 81 High St. She has an old new Englander and whether they tear them down or build something else, they are so close, she doesn't know what it would do to the structure of her house. She likes the white fence and feels it is necessary.

Melanie Barker, 102 High Street. She is impacted as she is between this facility and the high school/middle school. Her concern is the building doesn't fit in with the aesthetics with the neighborhood. The day care is a necessity. Parking is and has been an issue. High Street is difficult to access from the Penacook Center end of the street. The request for 65% lot coverage cuts down the size of the lot for parking. 25 parking spaces for the lot doesn't seem adequate if you have 14 staff members. How can they run community center events at the same time as the day care? Lighting is also an issue.

Code: none.

Rebuttal: Attorney Lane. Erin Lambert addressed the concerns. This will be vetted out through the Planning Board process. They had a community meeting earlier this year. It is a 1 story building. One roof line is slightly elevated for the gymnasium. It will be a flat roof. It will be covered by solar panels. Dolphin Street improvements are part of the 2023 Capital Improvement plan, so they will be rebuilt regardless of their project. They are placing parking on the property as it will create a better flow. They feel 25 parking spaces are adequate for the daycare and community center as they are nonconcurrent. They will also have 10 spaces on Dolphin Street. Landscaping and screening is important. Lighting is also important. They will set timers is what they are planning on. The buildings will be demolished.

Attorney Lane testified that the buildings will be demolished this fall. They had concerns with vandalism and homeless inhabitants. Initially they looked at saving the homes, but it wasn't cost effective.

DECISION:

#1 and #2. A motion to approve the request was made by Monahan and seconded by Evans. Monahan felt that there is no material change in the use. The change is primarily where the residential properties were. It's consistent with the current activity on the property. Winters felt it was consistent, but it's a new lot. They are allowed to continue to do it, but now it is entirely a new lot. There is nothing unique about the lot. Monahan asked if he felt it was a self-created hardship. Winters doesn't see any hardship. Monahan asked if they use 3 of the current 4 lots as child care? Spector-Morgan was inclined to grant the variances. The hardship is the past use of the property. It is allowed by Special Exception in the district. It does demonstrate reasonable use for district. It's reasonable. It will not change the character of the neighborhood. She understands the concerns about aesthetics. Substantial justice is done as there is a benefit to the owner and the community. It will not diminish values of property. The motion passed by a 4-1 vote with Winters in the minority.

#3. A motion to approve the request was made by Monahan and seconded by Spector-Morgan. This is consistent with the action taken above for request #1 and #2. Motion passes by a vote of 4-1 with Winters in the minority.

#4. A motion to approve the request was made by Monahan and seconded by Evans. Monahan felt it was consistent with the previous action. Fencing is required for licensing of a child care center. Spector-Morgan noted that there are 3 front yards on the property. Motion passed by a 4-1 vote with Winters in the minority.

#5, #6, and #7. A motion to approve the request was made by Monahan and seconded by Spector-Morgan. Monahan noted that most items of concern that were brought up will be addressed at the Planning Board. #5 is consistent with the action taken in past cases. Reducing the number of parking spaces is consistent. Monahan would have preferred the handicapped parking would have been included in the record, the ratio of handicapped spaces is consistent. Off street parking is to the betterment as there are so many front yards. There needs to be some relief. Motion passed by a 4-1 vote with Winters in the minority.

50-22 14 Fellows Street; RS-Single Family Residential District; by Nancy Stewart for Jane Sullivan, owner:

Applicant wishes to modify a portion of their existing single-family dwelling on a non-conforming lot to provide an attached second dwelling unit for a caretaker and is requesting variances to:

1. Article 28-4-2(j), Table of Principal Uses, Use A-2, to allow a two-family dwelling on a lot where such use is not permitted;
2. Article 28-5-2, Duplex or Two-Family Dwelling, to allow a two-family dwelling on a lot with an area of 10,018.8 square feet where 18,750 is required.

Testified: Nancy Stewart. Her sister has lived there at this property since 1960, when it was built. They would like to convert it to a 2 family. This would create an apartment for a caregiver. It will not change the footprint. They want to change the attached garage to a 1 bedroom apartment. The neighborhood will not change. There are other homes in the area that are 2 family homes. It's a safe neighborhood. There are some 2 bedroom ranches. They have spoken to neighbors who were all encouraging. There will be 2 back doors instead of 1 and a large window where the garage was will be an aesthetic change. Jane plans to live there with a caregiver. Jane has cerebral palsy. This is cheaper than a

facility. This lot is 10,018 s.f. A ramp will be built. This will be a huge inconvenience for Jane to move from her childhood home. She is aging in place in a safe neighborhood. It's not a duplex or an apartment building. Fellow Street lot sizes are from 7,840 s.f. to larger sizes.

Spector-Morgan asked why this wasn't an ADU. Hall answered.

Winters noted that they cannot grant a variance to special exception criteria.

Spector-Morgan asked if this would be the principal place of residence for care taker? Ms. Stewart said it would be.

Monahan asked if it would be a family member? Ms. Stewart said it would be a close family friend. Monahan asked if the 2 units will be connected. Ms. Stewart said they would not be. Her sister uses a walker so the space is tight. The doors will be 3 feet apart. Separate kitchens, etc.

Winters asked if she needed an on-site care taker as she ages? Ms. Stewart answered that right now she and her husband are there 5 to 6 days a week.

Spector Morgan asked if a special exception could not be granted due to minimum lot size. Hall said yes.

In favor: William Norton, 11 Fellows Street. Excellent application and will not negatively affect the neighborhood. There is a 4 unit on Rockingham Street. The new draft Zoning Ordinance anticipates ADU's. He feels it is appropriate to grant the variance.

In opposition: Susan Duley, grew up in the house that abuts this property at 73 Bow Street. Her parents bought that home in 1961. She's not necessarily objecting to this. She doesn't know how this changes the configuration of the house. How will it affect foot traffic or traffic? If the foot print isn't being affected and the roofline is staying the same, it makes a lot of sense to her. She is curious about walk ways and entrances. What happens down the road? Does it get sold as a duplex as she would object to that. It's been a single family home neighborhood. No complaint about it. Her father is 103 years old living in that house behind there.

Letter from Janet Sickler, 8 Fellows Street in opposition. The proposal lacks half the land requirements needed. It will change the character of the neighborhood.

Code: none.

DECISION: A motion to approve the requests was made by Spector-Morgan. It is owner occupied; the second unit will be a permanent place of residence and shall not be converted to condo or conveyed separately from the main unit. Monahan seconded the motion. An ADU would be allowed by Special Exception if the lot were big enough, so he feels it is reasonable. There will be no change to the neighborhood. Substantial justice is done. No diminishing property values. The lot size is the hardship.

Winters asked if they should time limit the duration based on the current owner living there. Spector-Morgan felt that requiring the 2nd unit to be removed when she leaves is too big of a burden to ask for. Winters felt that the hardship is the size of the lot.

The motion passed by a unanimous vote.

52-22 12 Tahanto Street; RN-Neighborhood Residential District; by Michael and Eileen Gfroerer, owners:

Applicants wish to execute a lot line adjustment with adjoining property at 11 Summit Street and then build a 14-foot by 24-foot garage on the revised subject property and request variances to:

1. Article 28-4-1(h), Table of Dimensional Requirements, to permit a structure to be located to within 2 feet to the northerly side property line and 2 feet to the southerly side property line, where a 10-foot setback is required; and
2. Article 28-4-1(h), Table of Dimensional Requirements, to permit a structure to be located to within 4 feet to the easterly rear property line where a 25-foot setback is required; and
3. Article 28-7-7(g)2, Setback from lot lines, to allow the existing driveway, located within 5 feet of the northerly

side property line, to remain on the revised subject property.

53-22 11 Summit Street; RN-Neighborhood Residential District; by Michael and Eileen Gfroerer, owners:

Applicants wish to execute a lot line adjustment with adjoining property at 12 Tahanto Street and request variances to:

1. Article 28-8-1, Purpose and Applicability, to allow modifications to a lot which would result in an increase in nonconformity, by reducing the lot size by 324 sf from 5120 sf to 4796 sf; and
2. Article 28-4-1(h), Table of Dimensional Requirements, to place a lot line creating a 2-foot rear yard setback, where a 25-foot setback is required.

Cases 52-22 and 53-22 were taken up together.

Michael Gfroerer testified. He resides at 12 Tahanto Street. He wanted to consolidate cases 52-22 and 53-22. He'd like to build a garage on his property within 2 feet of the side neighbor.

He submitted a package and is asking the board to go to the picture in the package. Attached to the photo is a tab and that's the garage he wants to build and it is to scale and it crosses the property line between the two houses that he owns. The house at 11 Summit Street in the early 1900's was converted by punching out the living room and dining room and making those two garages. Then an apartment upstairs was created. 1960's both properties came into ownership of Harvy and Mary Kibling. In 1977 the Kibling's sold he and his wife the Tahanto Street property and they stayed in the Summit Street property. He was given a deeded right-of-way and it has been used as his driveway for 45 years. The Kiblings then kindly said why don't you use one of the garages. So, he's had the use of a garage for 45 years but not at his house. There is a garage that has been built on the property line on 93 School Street. That house was built in the 1980's. He agreed that they could built it 2' from the property line, 2' from side and rear property lines. In 2022 Mrs. Kibling died at 101 years old and he was able to purchase the property. The only thing that affects anyone's property is the 2' setback from the side line and all other things affected only apply to his properties. He wants a garage 2 feet from property line and he wants it to serve and attach to 12 Tahanto Street. Then the tax assessors will be happy as the property line will changed and the garage will be part of 12 Tahanto Street. The homes on Summit Street and the houses on the east side of Summit Street all front on Merrimack street. Every one of those homes in that block have a garage on summit street that are too close together and too close to rear property line. All the homes in that neighborhood are old homes. 12 Tahanto Street dates to 1858. They are old, large homes. They all probably exceed lot coverage. All garages on Summit Street are nonconforming for setback requirements. Tahanto Street scape shows no visible garages. Summit Street is unique as it is the only house on that block that fronts on Summit Street. He could put the garage all the way back so it is tucked in. It would destroy his back yard, it would destroy the view of 95 School Street. He could also put the garage in the front yard, which would destroy the street scape. He could take up more of his side yard but it would take away the view of his kitchen.

The purpose of Zoning Ordinance 28-1-5is to promote and protect aesthetics. He doesn't want to destroy Tahanto Street scape. Quality of life; everyone deserves a garage. He had the use of a garage, but he doesn't have one now. Conserve property values as he will enhance that as he will renovate 11 Summit and add a garage to Tahanto Street. He wants to continue to use the 45 year right of way to access the back of his house. If you put the garage where he proposes it has no impact on the closest abutting neighbors. You can't see it. The plan he submitted shows everything he wants to do. He believes he's demonstrated an appropriate reason to grant his request. There are letters from his 3 abutters as well. He plans to renovate 11 Summit to return it to a 2 story house and there will be only 1 garage for 11 Summit.

Monahan asked about the elevation. He said it is perfectly flat.

In favor: none.

In opposition: none.

Code: none.

Letters: Robert and Heidi Nute, 14 Tahanto Street. Jim and Kathy Barkow, 93 School Street.

DECISION:

Spector-Morgan – there are conforming spaces to put the garage. No hardship. Other criteria met, but nothing unique. There are 2 conforming spaces where it goes. Motion to deny lack of unnecessary hardship.

Wallner feels it is unique as he is the only one on the street that doesn't have a garage and he believes he's entitled to one.

Monahan thought he had a pretty good case why placing the garage in other places would interfere with the neighbor's enjoyment of their property. He was concerned with building it anywhere that would be a burden to the neighbors.

Evans thought that the neighbors all seem to approve of this proposed location 2 feet from property line. Would they approve of a compliant garage? Aesthetic consideration he doesn't believe is their prevue.

Winters thought that putting it in other places would be out of character. He is inclined to approve.

Spector-Morgan withdrew her motion.

A motion to reopen the hearing was made by Monahan, seconded by Spector-Morgan and passed by a unanimous vote.

Mr. Gfroerer explained that they could merge the properties and do whatever he wanted, but he doesn't want to merge them as it will cause problems in the future. He would also have to take 2 trees down.

A motion to approve the requests was made by Winters and seconded by Monahan. Winters felt it was an old neighborhood. Monahan explained that because the Tahanto Street garages are on Summit Street so it would be out of character to have it on Tahanto Street. Wallner is inclined to support the request. Motion passes by a 3-2 vote with Evans and Spector Morgan in the minority.

A motion to amend and approve all variance requests for Case #52-22 and Case #53-22 was made by Winters, seconded by Monahan and passed by a 3-2 vote with Evans and Spector-Morgan in the minority.

54-22 13 Curtice Avenue: UT-Urban Transition District; by Volodymyr Spantchak, Owner: Applicant wishes to remove an existing 11-foot by 18-foot garage and replace with a 24-foot by 30-foot garage and requests a variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit a structure to be located to within:

1. 7 feet of the easterly side property line, where a 10-foot setback is required; and
2. 17 feet of the northerly rear property line, where a 25-foot setback is required.

Testified: Volodymyr Spantchak of 13 Curtice Avenue. He is originally from Ukraine. They moved to be closer to their granddaughter. They want to demolish the garage and put in a new 24' x 30' two car garage in the same footprint. He will block the exit to the garage if he doesn't follow the same place as the old garage. Mrs. Spantchak said the old garage is very old. They showed where the garage is located on the lot. They need the storage as Mr. Spantchak has lots of tools.

Winters asked if it were a 1 car garage. Mr. Spantchak said that it was a one car garage. It is 11 x 18. He showed where it would be located on his property. They have a parking lot for the apartment building behind them.

Evans asked if the setbacks will not change to the side lot but will change to the rear. Mr. Spantchak said that was correct.

Spector-Morgan asked if they could move the garage closer to their house. Mr. Spantchak thought maybe a foot and a half closer. Wallner noted that it won't change the distance to the back lot line but closer to the northern lot line. Winters asked if this were a single family home. Mr. Spantchak said it was. Monahan asked when it was built. Mr. Spantchak believes in the 1900's. Evans asked if they considered adding the garage to the back of the house? Mrs. Spantchak explained that they have a beautiful back yard and it's not like they will change anything. It will not move forward to neighborhood.

In favor: none.

In opposition: none.

Code: none.

DECISION:

Evans had concerns. It would be nice to tear down the garage and built it in the same place. The area that is behind the house looks like a perfect compliant place for a garage. He is inclined to move to deny.

Spector-Morgan agrees. There are conforming places on the property it could go. She doesn't see the hardship.

A motion to deny the request was made by Evans and seconded by Spector-Morgan. Motion passes by a 3-2 vote with Monahan and Wallner in the minority.

MINUTES: A motion to approve the Minutes was made by Spector-Morgan, seconded by Winters and passed by a unanimous vote.

Respectfully submitted,

Rose M. Fife, Clerk
Zoning Board of Adjustment