

**ZONING BOARD OF ADJUSTMENT MINUTES  
TUESDAY, JUNE 11, 2002 – 7:00 PM  
TOWN COUNCIL CHAMBERS - DURHAM TOWN HALL**

**Members Present:** Bill Annis, Chair; Henry Smith, Secretary;  
Robin Rousseau, Ted McNitt; John de Campi,  
Alternate; Linn Bogle, Alternate; Robbi  
Woodburn, Alternate; Jane Towle (arrived at  
7:13 PM)

**Members Absent:** None

**Others Present:** Tom Johnson, Code Enforcement Officer;  
Interested Members of the Public

Chair Annis called the meeting to order at 7:03 PM.

Chair Annis introduced the members of the Board for the benefit of the public.

Chair Annis called the attention of the Board members to the information included in the ZBA packets, which was submitted by Robin Rousseau relative to a draft revised Findings of Fact sheet.

John de Campi felt it would be worth trying the revised Findings of Fact form because he felt it would assist the Board in speeding up the process. He suggested that whatever is acceptable language within the Ordinance be put in all caps. In addition, he suggested that on those applications that have been denied, there should be an explanation as to why.

Ted McNitt felt that the process would need to be done during the public hearing, which would tend to slow the Board down, not speed it up.

Robin Rousseau indicated that the form she distributed was provided by the Office of State Planning, and in the lectures, it was recommended that for each variance, the Town provide a “findings of fact” to support the Town if either parties go forward with litigation. She also noted there were some words in the old language that would need to be changed if the Board decided to use the new form. The old language would also need to be changed on the application, specifically relating to item number two on the application. After some discussion, the Board decided to evaluate the form further before adopting it for use.

**I. Approval of Agenda**

***John de Campi MOVED to approve the agenda as presented. Ted McNitt SECONDED the motion and it PASSED unanimously.***

Chair Annis explained the procedure of the Board regarding the duties of the regular and alternate members.

*Jane Towle arrived at this time.*

- II. CONTINUED DELIBERATION PUBLIC HEARING** on a petition submitted by Thomas & Colleen Yoder, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build a deck and a screen porch on a nonconforming lot. The property involved is shown on Tax Map 6, Lot 6-30, is located at 4 Valentine Hill Road, and is in the RA, Residence A Zoning District.

*Chair Annis OPENED the Public Hearing.*

Thomas Yoder, 4 Valentine Road, gave an overview of the design detailing the replacement of the landing with a built deck and a screen porch on his property.

Douglas & Mary Bencks, 6 Valentine Lane, spoke in favor of the project.

Bud Khleif, 11 Garden Lane, questioned nonconforming lots and asked how far the deck would be from the neighbors. Mr. Yoder responded that the porch would be approximately sixty-six feet from the neighbors. Tom Johnson, Zoning Officer, provided a definition of “nonconforming lot” as provided in Section 175-17 of the Zoning Ordinance. He stated that there are many lots in Town which do not meet the 20,000 square foot lot provisions contained in the current Zoning Ordinance.

The Board discussed issues regarding the current Zoning Ordinance relating to nonconforming lots and the language in the Ordinance relating to “grandfathering”. Mr. Johnson said that Mr. Yoder’s house is grandfathered and because of the way in which the Ordinance is written, no additions or major outside renovations can be done to the house. He said someone could live in that house forever, as long as the house is not altered. He said he hoped that the language issue would be addressed and changed during the Zoning rewrite process.

John Davis, 2 Maple Street, disagreed with Mr. Johnson’s interpretation of the Zoning Ordinance. He felt the Ordinance specifically states that the house cannot be changed in anyway that creates a new or additional violation. Therefore, if whatever the Yoders do to the house does not fall within the setback, does not exceed the maximum height and does not create any new or additional violations, the Board cannot do anything about changing the lot size.

Robin Rousseau agreed with Mr. Davis and asked if the Board could take the first case, and at the closure of the public hearing, discuss the language concerning the nonconforming use section of the Zoning Ordinance.

*Chair Annis CLOSED the Public Hearing*

John de Campi felt the Board should go through the criteria and disagreed with Ms. Rousseau’s suggestion that the Board come to a consensus on the interpretation of the Zoning Ordinance language. He felt the Board should acquire a legal opinion.

Robin Rousseau felt that the Board needed to make a legal decision as to whether or not a variance was appropriate in this particular case. She felt this case could and should be dismissed if the Board concluded, based upon its interpretation of the language, that the proposed application is an appropriate use of the space and therefore did not need a variance.

After a brief history from Ted McNitt relating to similar cases of this matter in the past, the Board decided to move forward with the application.

The Board reviewed the following criteria, which must be met before the Board can grant a variance:

1. No decrease in the value of surrounding properties would be suffered. **AGREED 4-0-1 (Robin Rousseau abstained)**
  2. Granting the variance must not be contrary to the public interest. **AGREED 3-0-2 (Robin Rousseau and Henry Smith abstained)**
  3. Denial of the variance would result in unnecessary hardship to the owner seeking it. **AGREED 3-1-1 (Henry Smith disagreed and Robin Rousseau abstained)**
  4. By granting the variance substantial justice would be done. **AGREED 3-1-1 (Henry Smith disagreed and Robin Rousseau abstained)**
- III.** The use must not be contrary to the spirit and intent of the Ordinance. **AGREED 3-0-2 (Henry Smith and Robin Rousseau abstained)**

*Ted McNitt MOVED to GRANT the petition submitted by Thomas & Colleen Yoder, Durham, New Hampshire for an APPLICATION FOR VARIANCES from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build a deck and a screen porch on a nonconforming lot. The property involved is shown on Tax Map 6, Lot 6-30, is located at 4 Valentine Hill Road, and is in the RA, Residence A Zoning District. The Motion was SECONDED by Jane Towle and PASSED on a vote of 3-1-1 (Henry Smith voted against and Robin Rousseau abstained).*

- III. PUBLIC HEARING** on a petition submitted by Wes & Sonya Merritt, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build an addition and a porch on a nonconforming lot. The property involved is shown on Tax Map 1, Lot 4-15, is located at 6 Rocky Lane and is in the RA, Residence A Zoning District.

*Chair Annis OPENED the Public Hearing.*

Wes Merritt, 6 Rocky Lane, gave an overview of the design detailing the two-story addition and a porch on his property.

Paula Roy, 35 Cedar Point Road, spoke in support of the variance request.

Michael Saputo, 5 Rocky Lane, spoke in support of the variance request.

*Chair Annis CLOSED the Public Hearing.*

Henry Smith asked Mr. Merritt if the addition was just for his family or for rental purposes. Mr. Merritt replied it was only for his family.

Chair Annis asked Mr. Merritt how much the entryway would be increased. Mr. Merritt responded it would be increased eight feet wide by two feet deep. Sonya Merritt added that they currently have to stand behind the door in order to greet visitors. The proposed change would allow them to overcome that obstacle.

Robin Rousseau asked Zoning Officer, Tom Johnson, if the lot coverage increase would be an issue. Mr. Johnson replied that it would not be an issue. Robin Rousseau asked Mr. Johnson to identify the increase in violation. Mr. Johnson replied that it was in the size of the lot area and the frontage.

***Robin Rousseau MOVED to DISMISS the variance request by Wes and Sonya Merritt based on her interpretation of Section 175-15(c)(2) of the Durham Zoning Ordinance. The motion was SECONDED by Ted McNitt and DEFEATED on a vote of 1-4-0 (Robin Rousseau voted in favor).***

***Jane Towle MOVED to GRANT the petition submitted by Wes and Sonya Merritt of Durham, NH for an application for variance from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build an addition and a porch on a nonconforming lot. The motion was SECONDED by Henry Smith.***

The Board reviewed the following criteria, which must be met before the Board can grant a variance:

1. No decrease in the value of surrounding properties would be suffered. **AGREED 4-0-1 (Robin Rousseau abstained)**
2. Granting the variance must not be contrary to the public interest. **AGREED 4-0-2 (Robin Rousseau abstained)**
3. Denial of the variance would result in unnecessary hardship to the owner seeking it. **AGREED 3-1-1 (Henry Smith disagreed and Robin Rousseau abstained)**
4. By granting the variance substantial justice would be done. **AGREED 3-1-1 (Henry Smith disagreed and Robin Rousseau abstained)**
5. The use must not be contrary to the spirit and intent of the Ordinance **4-0-1 (Robin Rousseau abstained)**

***The motion PASSED on a vote of 4-0-1 (Robin Rousseau abstained).***

- IV. PUBLIC HEARING** on a petition submitted by Edward Gleason & Anita Remig, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article IV, Section 175-27(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build an addition on a nonconforming lot. The property involved is shown on Tax Map 11, Lot 40-2, is located at 147 Durham Point Road, and is in the RC, Residence Coastal Zoning District.

*Chair Annis OPENED the Public Hearing.*

Edward Gleason, 147 Durham Point Road, gave an overview of the design detailing the addition of a room over the existing garage and breezeway on his property. Since no schematic was included with the application, he sketched the design on the white board so Board members would have a visual concept.

There were no public comments on this application.

*Chair Annis CLOSED the Public Hearing.*

***Ted McNitt MOVED to GRANT the petition submitted by Edward Gleason & Anita Remig, Durham, New Hampshire for an APPLICATION FOR VARIANCES from Article IV, Section 175-27(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build an addition on a nonconforming lot. The motion was SECONDED by Jane Towle.***

The Board reviewed the following criteria, which must be met before the Board can grant a variance:

1. No decrease in the value of surrounding properties would be suffered.  
**AGREED 4-0-1 (Robin Rousseau abstained. She stated her reason for abstaining was that she believed it met the criteria of 175-15(c)(2). Therefore, in her opinion, it is not an appropriate vote and she would abstain on all points).**
2. Granting the variance must not be contrary to the public interest. **AGREED 4-0-1 (Robin Rousseau abstained)**
3. Denial of the variance would result in unnecessary hardship to the owner seeking it. **AGREED 3-1-1 (Henry Smith disagreed and Robin Rousseau abstained)**
4. By granting the variance substantial justice would be done. **AGREED 3-1-1 (Henry Smith disagreed and Robin Rousseau abstained)**
5. The use must not be contrary to the spirit and intent of the Ordinance **4-0-1 (Robin Rousseau abstained)**

***The motion to approve the petition PASSED on a vote of 4-0-1 (Robin Rousseau abstained).***

- V. **PUBLIC HEARING** on a petition submitted by Scott R. Standley, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to add dormers to a single family home on a nonconforming lot. The property involved is shown on Tax Map 1, Lot 5-12, is located at 20 Davis Avenue, and is in the RA, Residence A Zoning District.

*Chair Annis OPENED the Public Hearing.*

Scott Standley, 20 Davis Avenue, gave an overview of the design detailing the addition of two dormers on the property to increase light and ventilation to the second floor. He said it would not increase the size of the house beyond the existing footprint of the home.

Kevin Web, 22 Davis Avenue, spoke in support of the project.

Al Elwell, 19 Davis Avenue, read from a prepared letter supporting the project.

Paula Roy, 35 Cedar Point Road, spoke in support of the project.

*Chair Annis CLOSED the Public Hearing.*

***Jane Towle MOVED to GRANT the petition submitted by Scott R. Standley, Durham, New Hampshire for an APPLICATION FOR VARIANCES from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to add dormers to a single family home on a nonconforming lot. The motion was SECONDED by Ted McNitt.***

The Board reviewed the following criteria, which must be met before the Board can grant a variance:

1. No decrease in the value of surrounding properties would be suffered.  
**AGREED 4-0-1 (Robin Rousseau abstained). She stated her reason for abstaining was that she believed it met the criteria of 175-15(c)(2), therefore, in her opinion it is not an appropriate vote and she would abstain on all points.**
2. Granting the variance must not be contrary to the public interest. **AGREED 3-0-2 (Henry Smith and Robin Rousseau abstained)**
3. Denial of the variance would result in unnecessary hardship to the owner seeking it.  
**AGREED 3-1-1 (Henry Smith disagreed and Robin Rousseau abstained)**
4. By granting the variance substantial justice would be done.  
**AGREED 3-1-1 (Henry Smith disagreed and Robin Rousseau abstained)**
5. The use must not be contrary to the spirit and intent of the Ordinance  
**AGREED 4-0-1 (Robin Rousseau abstained)**

***The motion to approve the petition PASSED on a vote of 4-0-1 (Robin Rousseau abstained).***

- VI. PUBLIC HEARING** on a petition submitted by Michael Saputo, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build two sheds on a nonconforming lot. The property involved is shown on Tax Map 1, Lot 4-12, is located at 5 Rocky Lane, and is in the RA, Residence A Zoning District.

Henry Smith recused himself from this item because he has been an acquaintance of the applicant for many years. Chair Annis stated that Robbi Woodburn would be a voting member for this application.

*Chair Annis OPENED the Public Hearing.*

Michael Saputo, 5 Rocky Lane, gave an overview of the design detailing the two sheds he is requesting to build on the property. He explained that the sheds would be used to store lawn care products, gasoline, and other items he would prefer not to store in the garage.

There were no public comments on this application.

*Chair Annis CLOSED the Public Hearing.*

Jane Towle asked Mr. Saputo if the sheds would be sitting on a poured concrete foundation. Mr. Saputo replied that one shed had a plastic foundation and the other shed had a treated wood floor upon which it sits.

After some discussion, and upon reviewing the Zoning Ordinance, it was determined that the two sheds did not meet the criteria for “structure”.

***Jane Towle MOVED to DISMISS the petition submitted by Michael Saputo, Durham, New Hampshire for an APPLICATION FOR VARIANCES from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build two sheds on a nonconforming lot because the sheds are not considered a “structure” as defined in Section***

***175-6 of the Zoning Ordinance. It was further MOVED that the \$100.00 application fee be refunded to the applicant. The motion was SECONDED by Robin Rousseau and PASSED unanimously.***

Chair Annis declared a five-minute recess.

Henry Smith returned to the table.

- VII. PUBLIC HEARING** on a petition submitted by John & Ruth Davis, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build a shed on a nonconforming lot. The property involved is shown on Tax Map 2, Lot 1-7, is located at 2 Maple Street, and is in the RA, Residence A Zoning District.

*Chair Annis OPENED the Public Hearing.*

John Davis, 2 Maple Street, gave an overview of the design detailing the shed he is requesting to build on the property. He explained that the shed did not have a foundation and is a manufactured shed, which sits on blocks. He said the shed would be used to store garden tools, lawnmowers and gasoline. He said he did not currently have a garage on the property for storage.

There were no public comments on this application.

*Chair Annis CLOSED the Public Hearing.*

After some discussion, it was determined that the shed did not meet the criteria for “structure”.

***Robin Rousseau MOVED to DISMISS the petition submitted by John & Ruth Davis, Durham, New Hampshire for an APPLICATION FOR VARIANCES from Article IV, Section 175-25(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build a shed on a nonconforming lot because the shed is not considered a “structure” as defined in Section 175-6 of the Zoning Ordinance. It was further MOVED that the \$100.00 application fee would be refunded to the applicant. The motion was SECONDED by Robbi Woodburn and PASSED unanimously.***

- VIII. PUBLIC HEARING** on a petition submitted by Nathan Grove, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article IV, Section 175-28(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build a barn on a nonconforming lot. The property involved is shown on Tax Map 17, Lot 41-2, is located at 91 Packers Falls Road, and is in the R, Rural Zoning District.

Henry Smith recused himself from this matter because he is an abutter of the applicant. Chair Annis stated that John de Campi would be a voting member for this application.

*Chair Annis OPENED the Public Hearing.*

Nathan Grove, 91 Packers Falls Road, gave an overview of the design detailing the barn he is requesting to build on the property. He distributed copies of a schematic to the Board members for their review.

Joe Smath, 89 Packers Falls Road, spoke in support of the project.

Some discussion occurred regarding Mr. Grove's application meeting the fifty-foot setback requirement. Mr. Grove clarified that his application did meet the setback requirement.

*Chair Annis CLOSED the Public Hearing.*

***John de Campi MOVED to GRANT the petition submitted by Nathan Grove, Durham, New Hampshire for an APPLICATION FOR VARIANCES from Article IV, Section 175-28(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to build a barn on a nonconforming lot, with the condition that it meets the setbacks within the Rural "R" Zoning District. The motion was SECONDED by Robbi Woodburn.***

The Board reviewed the following criteria, which must be met before the Board can grant a variance:

1. No decrease in the value of surrounding properties would be suffered. **AGREED 5-0.**
2. Granting the variance must not be contrary to the public interest. **AGREED 5-0.**
3. Denial of the variance would result in unnecessary hardship to the owner seeking it. **AGREED 5-0.**
4. By granting the variance substantial justice would be done. **AGREED 5-0.**
5. The use must not be contrary to the spirit and intent of the Ordinance. **AGREED 5-0.**

***The motion PASSED unanimously.***

Henry Smith returned to the table.

- IX. PUBLIC HEARING** on a petition submitted by Fredrick & Elizabeth Bramante, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article IV, Section 175-27(B), Article X, Section 175-38(A) and from Article III, Section 175-16(A) of the Zoning Ordinance to build a gazebo on a nonconforming lot within the shoreland setback. The property involved is shown on Tax Map 20, Lot 3-1, is located at 587 Bay Road, and is in the RC, Residence Coastal Zoning District.

*Chair Annis OPENED the Public Hearing.*

Betty Bramante, 587 Bay Road, gave an overview of the design detailing the gazebo she and her husband are requesting to build on the property. She said she did not believe the gazebo would decrease any of the abutters' property values because no would be able to see it. Also, they intend to build the gazebo with a natural look and have it fit into the existing slope of the property so as not to cause a disturbance for anyone. Ms. Bramante noted there were existing structures along the cove where she lives, which are far more elaborate. She said she and her husband do not intend to build anything that would be contrary to the shoreline protection rules. Ms. Bramante indicated that she and her husband have not finalized the size of the gazebo, but would like to construct something approximately 10x12 feet in diameter.



The Board discussed with the Bramantes the possible locations of where the gazebo would be placed on the property and how those potential locations may affect the shoreland.

There were no public comments on this application.

*Chair Annis CLOSED the Public Hearing.*

John de Campi felt anytime something is constructed closely to a shoreline, it weakens shoreland protection.

Robbi Woodburn read the purpose and intent of the Shoreland Protection Zone section of the Zoning Ordinance, believing it would be helpful to the Board given other coastal shoreland setback issues that have been brought before the Board in the past. She said she understood the desire of the Bramantes to place a gazebo where they were intending and to use the natural resource of the property. However, she is also felt very strongly about shoreland protection.

Robin Rousseau said that she is usually conservative in her thinking about shoreland protection issues. However, she could not see how this particular application would be harmful or not in keeping with the intent of the Shoreland Protection Zone. She suggested if the Board would like to improve the application request before it, that it give specific guidelines to the Bramante's on how many feet the gazebo would come within the shoreland protection setback area, and the specific size of the gazebo.

John de Campi said that the spirit of the Ordinance is how it implements what is allowed along the shoreline, as was indicated in Robbi Woodburn's previous reading of the Zoning Ordinance. He did not feel the Bramante's request came anywhere close to meeting the requirements of the Ordinance because the gazebo would be built so close to the water.

***Jane Towle MOVED to TABLE action on the petition submitted by Fredrick & Elizabeth Bramante, Durham, New Hampshire for an APPLICATION FOR VARIANCES from Article IV, Section 175-27(B), Article X, Section 175-38(A) and from Article III, Section 175-16(A) of the Zoning Ordinance to build a gazebo on a nonconforming lot within the shoreland setback to the next ZBA meeting, pending a site walk by the Board members. The motion was SECONDED by John de Campi and PASSED unanimously.***

- X. PUBLIC HEARING** on a petition submitted by Chester Dunn, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article IV, Section 175-27(B), Article X, Section 175-38(A) and from Article III, Section 175-16(A) of the Zoning Ordinance to build an addition on a nonconforming lot within the shoreland setback. The property involved is shown on Tax Map 12, Lot 9-8, is located at 30 Mathes Cove Road, and is in the RC, Residence Coastal Zoning District.

*Chair Annis OPENED the Public Hearing.*

Chester Dunn, 30 Mathes Cove Road, gave an overview of the design detailing the addition he is requesting to build on his property. He placed a plan of the house on the corkboard for Board members to view. He explained that his intent was to add on a larger family room as an extension to the existing house. It would be twenty-eight feet long and twenty-four feet wide. He said that he is in violation of the fifty-foot shoreland setback because of the curvature of the land.

Jim Swisher, 9 Mathes Cove, spoke in favor of the variance request. He said that someone cannot see Mr. Swisher's house from the road because of evergreen trees. He felt that Mr. Dunn's proposed addition would enhance the shape of the house.

John Sobel, Deer Meadow, spoke strongly in opposition to the proposed variance request. He noted that he had submitted a letter to the Board for inclusion in the file, as well as a letter from Mr. Hanson Smith, who was also opposed to the variance request. Mr. Sobel said he felt very strongly about the Shoreland Protection Zone Ordinance and the coastal zone. He felt Mr. Swisher's project would violate almost every ordinance the Town has to govern development in that area. He felt it was a very serious potential violation of the viewscape. He listed the specific zoning articles that would be violated by granting the variance: It is a nonconforming lot, it has less than the appropriate amount of frontage, it would encroach upon the Smith's fifty-foot lot setback and it would result in an increased and new violation because it would move a structure even closer to elevation six than what currently exists; therefore, increasing the violation of the home. He further noted that the creek next to the home floods on a regular basis with the tide, and that the corner of the proposed addition would be in a flood zone. Mr. Sobel said from his perspective, the most important violation is the intent of the law to preserve the waterfront and the shoreland protection zone. Therefore, in the spirit of the law, this proposal would detract from the areas that can be seen from the water. Lastly, he noted there is no indication of "hardship", thus there would be no justice in granting the variance.

John de Campi read Hanson Smith's letter for the record opposing the variance request.

Michelle Swisher felt that Mr. Sobel's comment about the potential violation of the viewscape was somewhat overblown. She said that the house is not that visible from the water.

*Chair Annis CLOSED the Public Hearing.*

***Henry Smith MOVED to DENY the petition submitted by Chester Dunn, Durham, New Hampshire for an APPLICATION FOR VARIANCES from Article IV, Section 175-27(B), Article X, Section 175-38(A) and from Article III, Section 175-16(A) of the Zoning Ordinance to build an addition on a nonconforming lot within the shoreland setback. The motion was SECONDED by Robin Rousseau.***

John de Campi agreed with the motion. He felt it would be difficult to justify approval of the variance request because it was so flagrant in terms of violating the existing fifty-foot setback.

Robin Rousseau expressed to the applicant her reason for supporting denial of the variance. She explained that there is specific guidance in the Master Plan regarding shoreland protection areas and read Chapter 4, page 4.2 of the Master Plan.

The Board reviewed the following criteria, which must be met before the Board can grant a variance:

1. No decrease in the value of surrounding properties would be suffered.  
**AGREED 3-2-0 (Ted McNitt and Henry Smith disagreed).**
2. Granting the variance must not be contrary to the public interest. **DISAGREED 5-0.**

3. Denial of the variance would result in unnecessary hardship to the owner seeking it.  
**DISAGREED 5-0.**
4. By granting the variance substantial justice would be done. **DISAGREED 5-0.**
5. The use must not be contrary to the spirit and intent of the Ordinance.  
**DISAGREED 5-0.**

*The motion PASSED unanimously.*

## **XI. Approval of Minutes**

May 14, 2002 Minutes

***Robbi Woodburn MOVED approval of the May 14, 2002 minutes. The motion was SECONDED by John de Campi.***

The following corrections were made:

Page 2, 6<sup>th</sup> paragraph, beginning with Robin Rousseau. Insert the following after the word "would": *...encroach less in the shoreland setback. She also stated that she researched the issue with Epping Septic, and that a system for a four-bedroom versus a two to three-bedroom home would be larger and would result in a greater setback violation.*

Top of page 4: *Change the name David Vallery to read Bruce Pohopek.*

Page 4, 2<sup>nd</sup> paragraph, starting with "proposed structure met the criteria of", add: *...a detached accessory apartment only allowed in the Rural and Residential Coastal Zones.*

***The motion to approve the minutes of May 14, 2002, as amended, PASSED unanimously.***

April 9, 2002 Minutes

The Board directed that this set of minutes be revamped and brought back to the Board for approval at its next meeting.

## **XII. Other Business**

**Discussion with Mike Sievert, MJS Engineering, on possible changes to 110 Dame Road, Map 19 Lot 2-0.**

Mr. Sievert placed a plan of the house located at 110 Dame Road on the corkboard for Board members to view. Mr. Sievert said that he had previously been before the Board, along with Edward Ricker, who was purchasing this property from Charles Gonet. Mr. Sievert reminded the Board that at the last meeting he had talked about the smallness of the house, the structural instability of the house, and how bad the septic system is on the property, which needs to be replaced. He said they also discussed possible locations which would all be in violation of any setbacks, as well as any expansion. He said he talked with Charles Gonet about adding land to the property to make it a nicer lot. Adding of land would then allow for a small three-bedroom house with a real leach field that would not be next to the road. He

said that he would need a variance from the Board because the proposal would be to put the house back on the same footprint, which does not have a fifty-foot side setback or a thirty-foot front setback. He further explained that it was a nonconforming lot. However, he could make it no more nonconforming than it currently is, which was why he was bringing it forward to the Board for review first before moving ahead with a variance request.

- Chair Annis announced that the next regular meeting of the Board would be on July 9, 2002.
- Chair Annis said that Town Administrator Todd Selig would be present at the July 9, 2002 meeting to discuss televising of the ZBA meetings. He noted that the July 9, 2002 meeting would not be televised.
- Robin Rousseau reported that at the lecture seminar conducted by the Office of State Planning, a new law was discussed, RSA 672:3 (HB 1407 pending), which is expected to pass soon. This law relates to properties coming before Town boards requiring the posting of sign notices. She asked Board members if the ZBA wanted to adopt this as its practice. Board members were not interested in doing so at this time.
- The Board scheduled a site walk of the Bramante property for Friday, June 14, 2002 at 12:00 noon.
- The Board scheduled a workshop for Friday, June 14, 2002 at 11:30 AM in the Council Chambers regarding the matter raised by Robin Rousseau pertaining to the ZBA's authority to interpret language within the Zoning Ordinance.

There was no other business to come before the Board.

### **XIII. Adjournment**

*Chair Annis declared the meeting adjourned at 10:25 PM*

Jennie Berry, Administrative Assistant