

D-R-A-F-T

**ZONING BOARD OF ADJUSTMENT
TUESDAY, MAY 13, 2003
TOWN COUNCIL CHAMBERS - DURHAM TOWN HALL
7:00 P.M.**

MEMBERS PRESENT: Henry Smith, Chair; Ted McNitt, Jay Gooze, Linn Bogle, John de Campi

MEMBERS ABSENT: Robin Rousseau

OTHERS PRESENT: Tom Johnson, Code Enforcement Officer; Barbara Stoddard, Recording Secretary; Interested Members of the Public

Chair Henry Smith called the meeting to order at 7:02 P.M.

Chair Smith introduced the members of the board, stated that normally the board consists of 5 voting and 3 alternate members, but that this year there are 5 regular and 1 alternate member and that a quorum consists of 3 voting members. Chair Smith appointed Linn Bogle as a voting member for the evening due to the absence of Robin Rousseau.

I. Approval of Agenda

Ted McNitt made the suggestion that the Board not hear any items after 10:00 p.m.

John Ahlgren, representing Katherine Paine, requested that the two petitions submitted by Katharine D. Paine be continued to the next meeting and that they be first on the agenda at that time.

Chair Smith stated that Item XI, the petition submitted by William and Virginia Beckett, has been withdrawn.

John de Campi MOVED to approve the agenda as amended and to not entertain any new items after 10:00 p.m. The motion was SECONDED Linn Bogle and was unanimously APPROVED.

Ted McNitt MOVED that unfinished business be continued on Tuesday, May 20, 2003. The motion was SECONDED Linn Bogle.

The motion to continue was AMENDED to place the Katharine Paine petitions first on the agenda and that the petition submitted by Fall Line Properties, Inc. be second on the agenda at the meeting on May 20, 2003.

The motion as amended PASSED unanimously.

- I. CONTINUED **DELIBERATION** on a petition submitted by Emtex Realty Trust, Manchester, New Hampshire, for an **APPLICATION FOR VARIANCE** from Article IV, Section 175-6 to change the number of occupants living in an apartment unit from three unrelated to four unrelated individuals. The property involved is shown on Tax Map 2, Lot 10-3, is located on 32 Madbury Road, and is in the RA, Residence A Zoning District.

Chair Smith OPENED the public hearing.

Paul Berton, Durham property owner, said that his firm is hired to night supervise the property in question. Mr. Berton stated that the petitioners are responsible landlords and that he believes granting the petition would be a win-win situation if the application were approved.

John de Campi stated that extensive testimony on this application was given at the last Zoning Board meeting.

Beth Olshansky, 122 Packers Falls Road, speaking against the petition stated that her concern was there are many student rentals in Durham and that the 3 unrelated people was created due to problems with too many students living in various apartments. She stated that she believes that if the board sets a precedent on this petition that every landlord will come before the ZBA to receive waivers.

Don Eaton, representing the applicant, stated that he is available to answer any questions.

Chair Smith CLOSED the public hearing.

Jay Gooze stated that he felt this was a unique situation. The property is not surrounded by residents and would not be against the public interest, and that approval would not set a precedent. He stated that the public interest is further served because of what the owner is planning to do on property found on Lundy Lane.

In response to a question from Ted McNitt, Don Eaton stated that they are requesting to go from 3 to 4 people, an increase of 1 person.

John de Campi stated that he favored the application as it meets the requirements of space for the level of people in the apartment.

In response to an inquiry about the space requirements from Linn Bogle, Mr. Eaton stated that the habitable area is 893-sq. ft. and with space requirements of 1.5 students per 300-sq. ft., there would be enough space for over 4 students.

Linn Bogle stated he was concerned that the Board would be setting a precedent if the application were approved. He also asked for information concerning the other 8 units on the lot and would the Board see a series

of applications from the applicant. Mr. Eaton responded that units 2-9 were standard one and two-bedroom units, that there would be no basis to increase the number of students in the apartment, and that it was not the applicant's intention to overcrowd the units.

Jay Gooze stated that he believed the plans for Lundy Lane outweighed any public interest.

Linn Bogle stated that he believed the board might be setting up a quid quo pro and that there are violations on Lundy Lane that need to be addressed.

Mr. Eaton stated that the applicant is cooperating with the Town's intent to reduce multi-family housing in residential areas. The applicant has agreed to take the current house with 2 units and 8 students and place on the market as a single-family home.

Ted McNitt stated that the Board needs to look at this property simply on its merits and not as quid pro quo.

John de Campi stated that he agreed with Mr. McNitt.

In response to a question about the uniqueness of the situation, Jay Gooze stated that there are no single-family units in the area.

Henry Smith stated that he is concerned with setting a precedent and the increasing problem of the proliferation of student housing.

Ted McNitt stated that the precedent question is secondary and that it is one of the few places in Town where an additional student could be added without creating problems.

Jay Gooze MOVED to accept the APPLICATION FOR VARIANCE from Article IV, Section 175-6 to change the number of occupants living in an apartment unit #10 from three unrelated to four unrelated individuals. The property involved is shown on Tax Map 2, Lot 10-3, is located on 32 Madbury Road, and is in the RA, Residence A Zoning District. John de Campi SECONDED the motion.

The Board reviewed the following criteria, which must be met before the Board can approve a variance.

1. No decrease in value of surrounding properties would be suffered. **AGREED 5-0-0.**
2. Granting the variance must not be contrary to the public interest. **AGREED 3-2-0 (Henry Smith and Linn Bogle disagreed)**
3. Denial of the variance would result in an unnecessary hardship for the owner seeking it. **AGREED 3-2-0 (Henry Smith and Linn Bogle disagreed)**
4. By granting the variance substantial justice would be granted. **AGREED 4-0-0 (Henry Smith disagreed)**

5. The use must not be contrary to the spirit and intent of the ordinance. **AGREED 3-2-0 (Linn Bogle and Henry Smith disagreed)**

The motion was APPROVED by a vote of 3-2. (Henry Smith and Linn Bogle voted against).

I. CONTINUED PUBLIC HEARING on a petition submitted by Emtex Realty Trust, Manchester, New Hampshire, for an **APPLICATION FOR VARIANCE** from Article IV, Section 175-6 to change the number of occupants living in an apartment unit from three unrelated to six unrelated individuals. The property involved is shown on Tax Map 2, Lot 10-3, is located on 32 Madbury Road, and is in the RA, Residence A Zoning District.

Chair Smith OPENED the public hearing.

Donald Eaton, property manager representing the applicant, spoke on behalf of the petition. Mr. Eaton stated that this petition is similar to the petition the Board just approved. He stated that there were 1262 sq. ft. of habitable space and that the petition meets the requirements of the ordinance with respect to size.

Mr. Eaton further stated that there would be no reduction in property value of surrounding properties and there is adequate parking. Mr. Eaton further stated that the property is unique in respect to the size and that it would be in the Town's interest to have more density downtown than in residential neighborhoods.

In response to a question from Jay Gooze, Mr. Eaton stated that the property owner contracted a third party to measure the space.

Speaking in Opposition to the petition:

Annmarie Harris, Durham stated that the Town does not seek to increase the number of students in the downtown area. She stated that the number of visitors an apartment of 6 students would generate concerned her. She further stated that the property is in a setting of frequent civil disturbances in recent times, which has cost the Town a great deal in terms of policing and damage to property. She stated that the density of the neighborhood should be taken into consideration. Increasing the occupancy in this apartment from 3 to 6 does not serve the Town and is unnecessary.

In response to a question from Mr. Berton, Mr. Eaton stated that there has not been any research regarding the idea of creating 2 units from this one unit.

Beth Olshansky stated that she was against this petition as it would set a precedent and that increasing the student population in the downtown area is not in keeping with the Master Plan. She further stated that she was concerned with density of students and that this was an area of frequent disturbances.

In response to Annmarie Harris, Mr. Eaton stated that he did not mean to imply that the Town wanted to bring more students to the Town. He further stated that the property is one of the best-maintained properties in the Town. There is professional landscaping and supervision at night. There have been no police calls to this property. He also mentioned that he has the night logs from the property if the Board wished to review them.

Annmarie Harris stated that her experiences with large apartments is that more people congregate. She stated that if there were 2 smaller apartments there would not be as many people congregating in the area.

Mr. Eaton stated that the lease on the apartment states that there cannot be more than twice the number of residents in the apartment at any time.

Mr. Smith CLOSED the public hearing.

John de Campi stated that 2 units may be a better solution. He also stated there could be a problem with having 6 people and one bathroom.

In response to a question from Jay Gooze, Tom Johnson stated he would have to look at the case to see if any approvals would be necessary if the applicant were to turn the apartment into 2 units.

An attorney for the applicant stated that the Board could limit the number of students and that this would not be objectionable under the statutes.

John de Campi stated that he believed the Board has the right for lesser relief.

After some discussion Chair Smith stated that the Board needs to approve or deny the application as stated and that the petitioner could come back before the Board if they chose.

In response to a question about parking from Linn Bogle, Mr. Eaton stated there is sufficient parking for the units.

Linn Bogle stated that he has concerns about the increased density and car traffic.

Chair Smith stated that he felt the petition goes against the spirit of the ordinance and that it should not be approved.

Ted McNitt MOVED to DENY the APPLICATION FOR VARIANCE from Article IV, Section 175-6 to change the number of occupants living in an apartment unit #1 from three unrelated to six unrelated individuals. The property involved is shown on Tax Map 2, Lot 10-3, is located on 32 Madbury Road, and is in the RA, Residence A Zoning District. Linn Bogle SECONDED the motion.

Jay Gooze and John de Campi stated that they felt the Board could approve a motion for lesser relief on the

petition, but that they agreed to Chair Smith's request to vote on the petition as it is stated.

The Board reviewed the following criteria, which must be met before the Board can deny a variance.

1. The proposed use would not diminish surrounding property values. **AGREE** 5-0-0.
2. Granting the variance must not be contrary to the public interest. **DISAGREE** 0-5-0.
3. Denial of the variance would result in an unnecessary hardship for the owner seeking it. **DISAGREE** 0-5-0.
4. By granting the variance substantial justice would be granted. **DISAGREE** 0-5-0.
5. The use must not be contrary to the spirit and intent of the ordinance. **AGREE** 3-2-0. (**Jay Gooze and Henry Smith disagreed**)

The motion to deny PASSED unanimously.

Chair Smith stated that the petition was denied and that the applicant had the right to appeal within 30 days.

I. PUBLIC HEARING on a petition submitted by Jon and Andrea Yager, Dover, New Hampshire on behalf of Donald and Linnea Hirst, Durham, New Hampshire, for an **APPLICATION FOR VARIANCE** from Article IV, Section 175-25(C) of the Zoning Ordinance to increase the allowable square footage for a first-class home occupation. The property involved is shown on Tax Map 10, Lot 16-3, is located on 42 Coe Drive, and is in the RA, Residence A Zoning District.

Chair Smith OPENED the public hearing.

Jon Yager stated that he has resubmitted his original application as a first-class variance. The request is for an increase in square footage between 800 to 900 sq. ft.

In response to a question from Jay Gooze, Mr. Yager stated there would be a one-bedroom apartment over the studio.

In response to questions from Jay Gooze, Tom Johnson stated that the person must reside on the premises and that 2 buildings are allowed on this size property.

Tom Johnson stated that the building would be a 2nd dwelling unit with home occupation and that there is no restriction on this if the acreage is sufficient in response to questions from Ted McNitt.

Annmarie Harris, speaking in favor of the application, stated she believed this was an appropriate location for this activity.

Beth Olshansky spoke in favor of the application, as she believed the proposed use would benefit the public interest as Mr. Yager had stated at the prior hearing that he would open his studio to school groups.

Don Hirst, speaking in favor of the application, stated that he is the current owner and selling the property for family reasons. He is delighted that the new owner will take care of the property. He believes the plans will be good for the Town, school, and the neighborhood.

Charles Dingle, abutter to the property, spoke against the petition. He stated that he felt this was a commercial enterprise and that it does not mix well in a RA zone. He further stated that he felt the structure would have an effect on the value of residential property in the area. He was also concerned about environmental issues including, high temperatures in a wooded area, and particulates in the area.

Bob Mayer, abutter, speaking against the petition, stated that he was concerned with the accessory apartment and stated that an accessory structure was not permitted in the RA Zone. He stated that accessory apartments cannot be more than 25% of the total size of the unit they are located.

Patricia Tiff, abutter, stated that she was concerned with water waste.

Harold Hopper, interested citizen, stated that he believed this petition was nibbling away at zoning requirements in the RA neighborhood.

In response to many of the concerns stated above, Mr. Yager stated that the kiln gets hot, up to 2380 degrees, but that the hood over the kiln draws in cool air so that the air coming out is warm. The water is city water and there is a sediment tank with gates, which is emptied from time to time. He further stated that there are no particulates as there are forced air gas burners and that there are no real odors.

Dorothy Hopper, interested citizen stated that she does not see the point in zoning if the Board was not going to abide by it. She further stated that she felt the applicant was asking to put another house on the lot and to have a residence and a business. If we wanted to live in a business zone, we would have built our house in a business zone.

Beth Olshansky stated that there was already an apartment in the dwelling.

Harold Hopper asked if there were any hazardous substances in the glazes.

Annmarie Harris stated that there is an approved apartment in the current residence, which will be discontinued, and that it is allowed to have an accessory apartment. She also stated that is a large lot that allows for a 2nd structure.

Mr. Yager stated that he has designed a 24 x 28-ft area, which is 672-sq. ft. area. The extra space is required for the kiln.

In response to a question from Mrs. Tiff, Mr. Yager stated that there is an existing driveway with a turnaround area and that he would not be creating a new driveway.

Mr. Yager stated that there was more than the 50-ft. setback as required in response to a question from Mr. Hopper.

Beverly Hingle, abutter, stated that she was concerned if Mr. Yager moved and sold his property to someone that would build another kind of shop in the area.

Chair Smith CLOSED the public hearing.

With clarification from Tom Johnson, Jay Gooze said that what is being argued is whether to grant a variance for a larger than normal 1st class home occupancy, but that everything else meets criteria.

In response to a question from Linn Bogle, Mr. Yager stated that there would be no space above the apartment. The design would be a saltbox, following the same design of the 1st dwelling. The apartment would be smaller than the 1st floor.

Mr. Yager also stated in response to a question from Linn Bogle that the dimensions would not exceed 40 x 40 ft.

After discussion it was agreed to add limits to the application that this was for a pottery operation at 900-sq. ft. with no provisions for an on-site retail operation.

John de Campi MOVED to grant the APPLICATION FOR VARIANCE from Article IV, Section 175-25(C) of the Zoning Ordinance to increase the allowable square footage for a first-class home occupation with 3 conditions. 1. That this is a pottery studio including the kiln area that would not exceed 900-sq. ft., 2. The operation be limited to a pottery studio, and 3. There are no routine retail sales of product on the premises. The property involved is shown on Tax Map 10, Lot 16-3, is located on 42 Coe Drive, and is in the RA, Residence A Zoning District. Jay Gooze SECONDED the motion.

The Board reviewed the following criteria, which must be met before the Board can approve a variance.

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

The motion was APPROVED unanimously.

Chair Smith called for a recess at 8:47 P.M.

Chair Smith reconvened the meeting at 8:54 P.M.

I. PUBLIC HEARING on a petition submitted by Stephen & Sandra Thorne, 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 a storage shed on a non-conforming lot. The property involved is shown on Tax Map 12, Lot 4-3, is located at 10 Watson Road, and is in the RC, Residence C Zoning District.

Chair Smith OPENED the public hearing.

Sandra Thorne, owner speaking for the application, stated that the applicant wished to build a permanent structure that would match the house in order to store a plow and lawn mower. The applicant prefers the permanent structure to a shed on concrete blocks. She further explained that the applicant wanted to place the shed to the left of the double garage that is attached to the house.

Tom Johnson explained that the proposed structure does not meet the side yard setback.

Sandra Thorne stated that other locations on the lot were not really acceptable in response to questions from various members of the board about relocating the shed so that setbacks would be met.

Lorraine Morong, abutter, stated that she was not opposed to the application but that she felt it would be better if it were not on a permanent foundation, because the lot is only .9 acres and if someone else bought the property they would not be able to remove.

Chair Smith CLOSED the public hearing.

Linn Bogle stated that if the shed was not on a permanent foundation it is not a structure and a variance would not be required.

John de Campi stated that the concept for the permanent structure is good but that there is enough room on the lot to find a place that meets the setback requirements.

Chair Smith stated that the applicant had stated that if the shed is placed in the front yard it is unsightly and that there is a slope in the back yard.

Ted McNitt stated that he was concerned about the location and questioned whether it was feasible to put the shed on 16ft. Long skids so that the structure could be moved. He also stated that the applicant is obliged to do what they can to make the structure more non-conforming.

Linn Bogle questioned if the structure could be moved behind the garage further away from the sideyard line and to a more acceptable distance that may require a slight variance from the 50-ft.

Ted McNitt MOVED to deny the APPLICATION FOR VARIANCES from Article IV, Section 175-27(B)

and from Article III, Section 175-16(A) of the Zoning Ordinance to build a storage shed on a non-conforming lot. The property involved is shown on Tax Map 12, Lot 4-3, is located at 10 Watson Road, and is in the RC, Residence C Zoning District. Jay Gooze SECONDED the motion.

Tom Johnson stated that the Board should consider where it is going with the motion as once the variance is denied, the Board cannot offer solutions.

Tom Johnson suggested that the Board approve the variance for the lot area and the street frontage and if it works out side yard, front yard, and rear yard setbacks then a permit can be granted to the applicant because they got a variance for lot area and street frontage.

Ted McNitt withdrew the original motion.

Ted McNitt MOVED to approve the variance conditional upon locating the shed within the setbacks as described by the Zoning Ordinance. erect a storage shed on a non-conforming lot due to acreage and frontage and to DENY the request for a fixed foundation building on the side setback.

Ted McNitt withdrew the motion after the Board developed new wording.

John de Campi MOVED to grant the applicant's request for a 8 x 16-ft. storage shed conditional upon finding a location on the property that will meet the setback requirements of the Zoning Ordinance. The motion was SECONDED by Jay Gooze and PASSED unanimously.

Chair Henry Smith recused himself from the next issue and turned the meeting over to Ted McNitt.

I. PUBLIC HEARING on a petition submitted by Marilyn Hoskin, 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 screen in the existing deck and extend the deck on a non-conforming lot. The property involved is shown on Tax Map 18, Lot 18-60, is located at 9 Ross Road, and is in the R, Rural Zoning District.

Chair McNitt OPENED the public hearing.

Marilyn Hoskin, speaking for the proposal, stated that she would like to screen in her deck in order to use it more effectively and to extend it by 4 ft.

There was no one to speak against the petition.

Ted McNitt stated the application would not decrease the setbacks and that there are similar screened decks on every house on the block.

Ted McNitt stated that this application fell into the classification that there is no fair and substantial relationship between the general purpose of the ordinance and the specific restrictions.

Chair McNitt CLOSED the public hearing.

Jay Gooze MOVED to approve the APPLICATION FOR VARIANCES from Article IV, Section 175-28(B) and from Article III, Section 175-16(A) of the Zoning Ordinance to screen in the existing deck and extend the deck on a non-conforming lot. The property involved is shown on Tax Map 18, Lot 18-60, is located at 9 Ross Road, and is in the R, Rural Zoning District. John de Campi SECONDED the motion.

The Board reviewed the following criteria, which must be met before the Board can approve a variance.

1. No decrease in value of surrounding properties would be suffered. **AGREED 4-0-0.**
- I. Granting the variance must not be contrary to the public interest. **AGREED 4-0-0**
- II. Denial of the variance would result in an unnecessary hardship for the owner seeking it. **AGREED 4-0-0**
- III. By granting the variance substantial justice would be granted. **AGREED 4-0-0.**
- IV. The use must not be contrary to the spirit and intent of the ordinance. **AGREED 4-0-0**

The motion was APPROVED unanimously.

Chair Smith returned to the table at 9:27 P.M.

- I. PUBLIC HEARING** on a petition submitted by Richard A. Hallett, 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 storage shed on a non-conforming lot and within the 50 foot sideyard setback. The property involved is shown on Tax Map 17, Lot 17-1, is located at 193 Packers Falls Road, and is in the R, Rural Zoning District.

Chair Smith OPENED the public hearing.

Morgan Dudley, would like to build a storage shed closer to the property line than allowed due to aesthetics and to save some trees.

Tom Johnson stated that the request is for an 18 x 20 sq. ft shed, which is a structure and will need a foundation.

The applicant stated that the application is restricted to a storage shed in response to a question from Henry Smith.

There was no one else to speak for or against the application.

Chair Smith CLOSED the public hearing.

There was a brief discussion regarding the location of the shed.

Linn Bogle stated that the applicant needs to clarify the ownership of the strip.

Jay Gooze stated that if there was new information regarding whom owned the strip, that the applicant should request a rehearing.

John de Campi MOVED to conditionally approve the application upon placing the structure within the established setbacks as determined by the Zoning Ordinance. The motion was SECONDED by Ted McNitt and PASSED unanimously.

I. PUBLIC HEARING on a petition submitted by Ben Adams, Complete Graphix, Inc., Dover New Hampshire, on behalf of Wentworth-Douglass Hospital, Dover, New Hampshire, for an **APPLICATION FOR VARIANCES** from Article XII, Section 175-95 and Section 175-102(G) to permit a free-standing sign in a residential zoning district which exceeds the maximum height and square footage allowed. The property involved is shown on Tax Map 2, Lot 10-1, is located at 36 Madbury Road, and is in the RA, Residence A Zoning District.

It was determined that there is no evidence that Mr. Adams can act on behalf of the hospital.

Ben Adams stated that he was not aware that the evidence was needed.

Jay Gooze questioned where an applicant would be told that authorization is required. Tom Johnson stated that the owner's signature is required on the building permit application and that the applicant does not have the building permit application.

Ted McNitt MOVED to continue the petition to the meeting on MAY 20, 2003 pending evidence of authority to act for the hospital. The motion was SECONDED by John de Campi and PASSED 4-1-0. (Jay Gooze OPPOSED.)

I. REQUEST FOR REHEARING on a March 11, 2003, decision to deny a petition submitted by W.D. Flierl, Wolfboro, New Hampshire on behalf of Stephen & Elene Petrovitsis, Durham, New Hampshire, for an **APPLICATION FOR VARIANCE** from Article VIII, Section 175-66 of the Zoning Ordinance to seek relief from the parking requirements for multi-unit housing. The property involved is shown on Tax Map 4, Lot 3-0, is located at 36 Main Street, and is in the Central Business Zoning District.

Attorney Forbes spoke for the request for rehearing.

Chair Smith asked Attorney Forbes for new information that is available for the Board to consider a rehearing.

Attorney Forbes stated that the statute does not require new information. The statute talks about unlawful or unreasonable decisions made by the board.

Chair Smith stated his understanding that both issues need to be considered, that there be new information or that the board acted in error.

Attorney Forbes stated that the statute gives the Board an opportunity to correct errors that it may have previously made. She further stated that the decision that the Board made is not consistent with the Master Plan. Other reasons for the request for a rehearing are included in the Motion for Rehearing submitted by Attorney Forbes.

Linn Bogle stated that there was no new evidence and asked Attorney Forbes to address Fisher vs. Dover.

Attorney Forbes stated that Fisher vs. Dover does not stand for the proposition that new evidence is required. It does not apply in this case as it only applies if applicant is resubmitting a similar or substantially different application.

Jay Gooze read from the Master Plan 3.15 objective #3. He contended that this section of the master plan does not allow for full residential buildings in the CBD. Because of this he does not feel the Board made a mistake in their original decision.

John de Campi stated he felt the Zoning Ordinance is the Board's controlling issue over the Master Plan. He further stated that the Board cannot be legislators.

In response to a comment from Ted McNitt regarding reasonable use, Attorney Forbes stated that reasonable use of the land is not the standard.

Chair Smith read information from H. Vernon Wall for leaders of planning conferences that related to the issue.

It was MOVED and SECONDED to DENY the REQUEST FOR REHEARING on a March 11, 2003, decision to deny a petition submitted by W.D. Flierl, Wolfboro, New Hampshire on behalf of Stephen & Elene Petrovitsis, Durham, New Hampshire, for an APPLICATION FOR VARIANCE from Article VIII, Section 175-66 of the Zoning Ordinance to seek relief from the parking requirements for multi-unit housing. The property involved is shown on Tax Map 4, Lot 3-0, is located at 36 Main Street, and is in the Central Business Zoning District. The motion PASSED unanimously.

Chair Smith called for a recess at 10:10 P.M.

Chair Smith reconvened the meeting at 10:15 P.M.

I. Approval of Minutes - March 11, 2003

Page 2 – change motions on page 1 and 2 from Robin Rousseau MOVED to accept... to read ***Robin Rousseau moved to approve....***

Page 2, motion on bottom of page changeproperty involved....located at 64 Buck ...

Page 3 – add ...SECONDED by Ted McNitt....

Page 3 – 8th paragraph – 4th line from bottom change to read ...showing the way cars used...

Page 3 - last paragraph 2nd sentence change from ...not at setback to readat the setback...

Page 4 – 3rd paragraph – change last sentence – change striping to stripping.

Page 4 – 5th paragraph – 1st sentence, add a comma after....the pavement has not moved,...

Page 4 – 6th paragraph – 7th line – add a period after Zoning Office.

Page 5 – Item VI change from ...Tax May.... to read, ...Tax Map...

Page 6 – 1st line change to read ...already existed when they...

Page 6 – paragraph 4 – 4th line – change ...applicant's... to (plural)applicants....

Page 6 – paragraph 6 – change to read...the deck exists,...

Page 6 – paragraph 7 – line 3 change to read ...and gave several reasons as to why the Zoning Board should...

Page 6 – last line – change to read ...further incursion into shoreline...

Page 7 – change Henry Smith to Ted McNitt

Page 8 – 1st full paragraph - last sentence – change to read ...the first item she will...

Page 8 - 4th line – add ...on the left is presently commercial on first floor and residential on second floor....

Page 8 – 2nd line from bottom – change to read ...same footprint making it two floors. It remains one dwelling but with 4 bedrooms instead of 2...

Page 9 – 1st line change from All residents...., to read, No residents...

Page 9 – 2nd paragraph – 3rd line - ...Forbes stated there are a number...

Page 9 – 2nd paragraph – 2nd sentence, change to read ...one of few lots in the area having 3 buildings dissimilar in use and structure.

Page 9 – 3rd paragraph, 2nd sentence - ...there is some on-site parking but it is not...

Page 9 – bottom - ...deprive individuals of the reasonable...

Page 10- 1st paragraph – 2nd sentence ...that this Board could invoke...

Page 10 – 5th paragraph – 2nd sentence - ...does not say that, but that the zoning...

Page 10 - 5th paragraph – stated that in the argument, the Simplex Case...

Page 10 – 8th paragraph – strike word is ...commercial use for the first...

Page 10 – 9th paragraph – last sentence – board there is no difference between ...

Page 11 – 3rd paragraph – change parallel to analogous.

Page 11 – 6th paragraph - 8^h line change ...granting this variance that would say they alone have reasonable...

Page 12 – top of page - # 1. Change property to properties....

Page 12 – 2nd to last paragraph change to read ...voted or were present...

Page 13 – line 4 ...Fisher vs. the City of Dover talks about...

Page 13 – 2nd paragraph....that under Simplex, to establish unnecessary hardship, an applicant...

Page 13 — last sentence - ...by the Office of State Planning, to use when it is considering rehearing...

Page 15 – paragraph beginning Darien Lauten - ...back of her home behind the garage...

Page 16 – same paragraph – bathroom closet and the back of house...

It was MOVED and SECONDED to APPROVE the minutes as amended. The motion PASSED unanimously.

Chair Smith stated that the minutes of April 8, 2003 would be continued until the meeting on May 20, 2003.

I. Other Business

1. John de Campi and Henry Smith will attend meeting on August 5, 2003.

B. The next meeting of the Board: May 20, 2003

I. Adjournment

Jay Gooze MOVED to adjourn. The motion was SECONDED by John de Campi and PASSED unanimously.

Jay Gooze, Secretary