

These minutes were approved at the April 19, 2005 Meeting.

**ZONING BOARD OF ADJUSTMENT MINUTES
TUESDAY, MARCH 8, 2005
TOWN COUNCIL CHAMBERS – DURHAM TOWN HALL
7:00 P.M.**

MEMBERS PRESENT: Chair Henry Smith, Ted McNitt, John deCampi; Linn Bogle, Jay Gooze, Myleta Eng, Michael Sievert

MEMBERS ABSENT: None

OTHERS PRESENT: Thomas Johnson, Zoning Administrator; Interested Members of the Public

MINUTES PREPARED BY: Victoria Parmele

I. Approval of Agenda

John deCampi MOVED to approve the Agenda as submitted. The motion was SECONDED by Ted McNitt, and PASSED unanimously 5-0.

II. Public Hearings

A. PUBLIC HEARING on a petition by Christopher & Alex Auty, Durham, New Hampshire, for an **APPLICATION FOR VARIANCE** from:

1. Article XIV, Section 175-72(A) of the Zoning Ordinance to allow for the installation of a garage, breezeway and deck within the 125-foot shoreland setback,
2. Article XIII, Section 175-65(A) of the Zoning Ordinance to allow for the construction of a new septic system within the 75-foot wetland setback,
3. Article XII, Section 175-54 of the Zoning Ordinance to allow for the construction of a new septic field within the 50-foot sideyard setback,
4. Article XIII, Section 175-73(D) of the Zoning Ordinance to allow for the tilling of the soil within the 125-foot shoreland setback for restoration and enhancement of the landscaping and planting

The properties involved are shown on Tax Map 12, Lots 21-0 & 22-0, are located at 34 Colony Cove Road and 32 Colony Cove Road respectively, and are in the Residence C Zoning District

Chair Smith opened the public hearing.

Mr. McNitt said he had not been present at the previous meeting on this application, so was willing to yield his position to Mr. Sievert, who had been present at that meeting. He said he had read through the packet, had read the minutes from the previous meeting, and had done a site visit.

Chair Smith said he had thought about this, and said he believed Mr. McNitt would be fully competent to hear this application, and vote on it.

Attorney Peter Loughlin spoke for the applicants.

Chair Smith noted two letters in the packet from neighbors of the applicants, one from Malcolm McNeill and another from Mr. Barstow. He said that both spoke in favor of the variance requests.

Attorney Loughlin also noted there was a letter from NHDES.

Chair Smith said the Board needed some time to read through this letter.

Attorney Loughlin said landscape architect Robbi Woodburn would go through the plans, and he then would explain why the applicant was asking for relief.

There was discussion on how much more the Board needed to hear, given the fact that the application had been presented at the previous meeting, and also the fact that the Board had read the additional packet of materials. Chair Smith asked Ms. Woodburn to be as brief as possible.

Ms. Woodburn described the layout of the properties. She said the Autys were proposing to remove the existing garage, and build a new garage on the property closer to the house connected by a breezeway. She said the amount of asphalt on the property would be reduced based on the new driveway configuration. She also said the existing septic system on this lot would be removed and replaced with a new septic system, and said that the cottage and septic system on the other property would be removed.

She showed a series of overlays that showed the constraints on the property, based on various setback requirements, and said that when all the constraints were put together, one got a sense of how constrained the property was, and why the applicant was asking for a variance.

She provided additional design details on the proposal (see February 8th minutes for these details). She said the applicant felt the result was a win for the neighborhood and the Town, while also resulting in a better use of the property for the applicants.

Chair Smith asked if the deck would be located beside the breezeway, and Ms. Woodburn said it would be located between the residence and the garage behind the primary plane of the residence, as required by the state. She noted that the deck would not be impervious.

Chair Smith asked about the existing septic system, and it was clarified that the design of the system was not known, but had been pumped out occasionally. She said the system was currently functioning, but also noted the cottage was presently not being used. In answer to a question from Mr. Gooze, Ms. Woodburn provided details on the landscape plan, noting it had been reviewed with all the neighbors. She described how the possible impacts from the revised driveway design had been solved by screening.

Mr. Bogle asked if the proposed deck would be on posts, and was told it would be. He asked if the Autys had considered what the deck would be made of, noting it should not be made of pressure treated wood.

Ms. Eng noted that the letter said the septic system was operational, and hadn't had problems. She asked why the Autys wanted to put in a new system when there were no problems.

Ms. Woodburn said this was because they had no idea what it was, but she said one could assume it was not up to current standards.

Mr. McNitt asked when the camp had been expanded to a house, and there was discussion about this. He also asked if the wetland had a stream running through it, and it was clarified that it was an area with poorly drained soils.

Ms. Woodburn noted the applicants' soil scientist had said it was not a functional wetland.

Chair Smith asked how the wetland would be affected by the changes.

Ms. Woodburn said that drainage pitched away from the wetland, so she didn't see that there would be any changes resulting from the moving of the driveway, or the new septic system.

Attorney Loughlin spoke next, and noted his most recent letter where he had gone through the five conditions for granting a variance. He suggested that the Board might prefer that he not go through these again, and said he was, therefore, available to answer questions. He noted a recent zoning case the Board might have learned of involving the Town of Hudson, which said that if a use was allowed, an area variance may not be denied just because the ZBA disagreed with the proposed use of the property. He said it might not be relevant to the present application, but said it could have a far-reaching effect on zoning, broadening the ability of a landowner to make reasonable changes on his/her property. There was discussion about the relevance of this case to the present application.

Chair Smith recommended that the Board move on with the discussion. He asked members of the public if they wished to speak for or against the application. Hearing no response, he closed the hearing.

Mr. deCampi said he had no real problem with this application, noting that one of the ways he viewed a case was whether the relief being sought was the minimum that would accomplish the purpose. He said he could see the design for the garage swung further

inland, but said he didn't find the current design to be a big problem in view of the fact that the cottage and another garage were being sacrificed to accomplish it. He said he was fairly comfortable with what he saw.

Mr. Sievert said it was a pretty large improvement, but said any time something like a septic system could be updated was positive. He said he didn't think the septic system being closer to the wetland would have a negative impact on it, and said he thought the application, all around, was positive.

Ms. Eng said she was comfortable with the explanations she had heard about the septic system. She said another question she had concerned the garage, and said it should not be converted later on to a living space.

Chair Smith noted it was designated as a study in the design.

Mr. McNitt noted it was a fairly high garage, and said he had also had concerns about the possibility of expanding the property to increase occupancy in the shoreland area. He noted the Board had questioned this on a number of previous occasions. But he said this was a reasonable tradeoff in all directions, with no encroachment closer to the major shoreland. He said Attorney Loughlin had done a better job of stating how the application met the variance criteria than he ever could. He said the application clearly met the criteria, on a rather broad basis, recognizing it was a tradeoff situation, and said he had no objection to it.

Mr. Gooze said he agreed with what had been said by other Board members. He said the criteria of substantial justice, spirit, and intent of the Ordinance, and being in the public interest were all met under this circumstance based on the tradeoff of getting rid of the cottage, providing a safer driveway, and the agreement of the neighbors with the plan. He said that in previous applications, the Board had granted variances within the shoreland when there was a tradeoff that was shown to be in the public interest. He noted that if this had been new construction, it would have been a different story.

Mr. Gooze said the application also met the hardship criteria, especially the second part. He also said the proposed changes would increase the value of surrounding properties, and would result in a wonderful use of the property.

Mr. Bogle asked Ms. Woodburn if the proposed breezeway would be open or enclosed, and was told it would be open, with coverage. He then said he had the same question as Ms. Eng about the space over the garage, and said it should not in any circumstance become living space. He said if the variance were granted, he would like the motion to include a condition that it could not.

There was discussion about this.

Mr. Bogle said he didn't think it should become space that could become a rental space, and increase the density of that area in terms of renters and more cars.

Mr. Gooze said it was a legal use to have an accessory apartment in that zone, and asked if Mr. Bogle wanted to include a condition that the property couldn't have one.

Mr. Bogle said that was what he would prefer. He also said he had an issue with the two docks, and said he didn't see that two were warranted. He noted that the two lots were being merged, and that everything on the adjacent lot was being eliminated. He quoted RSA 674:19, as well as Section 175:72:B of the Town code, and said by doing the merger, and creating essentially a new lot under the current code, he would interpret that as restricting the number of docks to one. He asked Ms. Woodburn why she thought two docks could be kept.

Mr. Gooze noted that the application didn't say anything about the docks. There was discussion about whether the Board should be dealing with this.

Chair Smith said the applicants were merging two lots, and removing a cottage, kennel, and an old septic system. He said it seemed to him that in the context of the request, it would make sense to remove everything, including the second dock, in light of Section 175:72:B. He said, as he read this, a second dock was not permitted.

Mr. Sievert said his question was why the garage was such a concern, if it was allowed in that zone

Chair Smith said the issue was increasing occupancy in the shoreland zone.

Mr. Sievert noted the applicant would be giving up some occupancy by taking out the other cottage. He said he agreed the traffic situation would be improved with the new driveway configuration, but said he didn't agree the dock should be taken out. He questioned the wisdom of disturbing this area, and whether the dock was really negatively impacting the area if the property was merged. He noted the dock had been there since the 1950s.

Chair Smith said the key thing was what the Ordinance said.

Mr. McNitt said the Ordinance allowed it to stay there.

Mr. deCampi said he would like to hear what Mr. Johnson had to say about the issue of two docks.

Mr. Johnson said when he originally discussed this with the applicants, the interpretation was that if they removed the house, they would also be taking out the accessory items going along with it. He said the Ordinance said the property could have one access point, and he said if the demolition permit didn't show removal of the dock, he would deny it, and the applicants would have to appeal this.

Mr. deCampi said this conclusion then was that there should be one dock for the combined lot, but he said it seemed to him that the dock issue was not before them, although perhaps it could be. He said the applicants would have to face the dock issue later based on Mr. Johnson's determination, so the Board could address this or not.

Mr. Gooze asked where in the plan it talked about the study for the garage. There was discussion about this. He said the current plans simply showed plans for the study, and said if the applicants wanted anything more, they would have to come back on this.

Mr. Bogle said his concern was that this kind of thing often happened illegally. There was additional discussion about this.

Mr. Sievert asked if the Board should perhaps hear what Attorney Loughlin had to say about state requirements for docks. He said he didn't know that 175:72:B applied. He said the provisions referred to development of access, but the docks already existed.

Mr. Bogle said RSA 674:19 said the zoning ordinance did not apply to a pre-existing use, unless the use was altered. He said in this situation, the use of the lot was being altered, so this brought it under current code, which said one dock.

Mr. Gooze said he would prefer to move ahead with the deliberations, and let Mr. Johnson make the determination on the dock issue.

John deCampi MOVED to grant the APPLICATION FOR VARIANCE from the four provisions outlined in the Agenda, to grant them based on the plans and documents submitted with the application, and that the ZBA finds that the grant is justified because it meets all the variance criteria. Jay Gooze SECONDED the motion.

Chair Smith said it would be wise, since it went with the property, to say that the second floor garage would not become a living space, because this would be an expansion beyond what was requested here.

Mr. deCampi said the Board had a drawing of a room with a bathroom, but no other facilities. He said it was not drawn as living space, so he didn't feel it was necessary to further restrict the application. He also said he wouldn't have a problem if there were a bedroom, because the applicants were getting rid of the cottage. He said he would not like to see the room rented, also noting the applicants wouldn't be able to rent it anyways without kitchen facilities and more. He said granting the plan as written was sufficient coverage.

There was discussion about this.

The motion PASSED 3-2, with Chair Smith and Linn Bogle voting against the motion.

Chair Smith declared a five-minute recess at 7:55 p.m.

The meeting resumed at 8:00 p.m.

- B. PUBLIC HEARING** on a petition submitted by Janice P. Sanborn Living Trust, Durham, New Hampshire, for an **APPLICATION FOR VARIANCE** from Article XII, Section 175-54 of the Zoning Ordinance to allow for the construction of a detached garage within

the frontyard setback. The property involved is shown on Tax Map 13, Lot 2-0, is located at 264 Mast Road, and is in the Office & Research Zoning District.

Chair Smith opened the public hearing.

Jan Sanborn, the applicant, spoke before the Board. She said she wanted to build a garage on the property, and said the request for variance was necessary because of the Zoning change the previous year. She explained that her side of the street had been rezoned from RB to Office and Research, which in turn changed the front setback for her property from 40 ft. to 100 ft. She said she fully recognized and respected the zoning requirements, but said she hoped there could be a quick and simple solution to her problem.

Ms. Sanborn said she didn't feel the variance request was in any way not in keeping with the intent of zoning, or would be detrimental to her neighborhood. She said meeting the current setback requirements would result in significant cost for the construction of a very long driveway, in order to have the garage setback over 100 ft from the pavement.

She said in order to shorten the distance and minimize cost, she would like to put the garage near the new part of the house, but not directly beside it, which would impact her existing yard. She spoke about the old barn on the property that had been removed, and said she believed it was approximately 75 ft. from the road. She said she would like to locate the garage somewhere in front of where the barn had been, and made reference to her diagram.

Ms. Sanborn spoke about the surrounding properties, noting that all three were located less than a 100 ft from the right of way. She said the goal for this Office Research zone was high quality, multi-unit dwellings, which to her suggested the Town wanted the area to be residential. She said given that, she didn't see any harm in what she was asking for, noting that it supported the residential goals of the district, and fit with her neighbors.

There was discussion on where the garage could go.

Mr. deCampi noted that the proposed height of the garage would be 30 ft., and said this seemed high. But he said it didn't cause him a problem.

Ms. Sanborn said 30 ft. would be the peak, and said the house itself was 35 ft.

Mr. deCampi said the back of the house was somewhere around 60 ft. from the right of way, and said a setback distance of 60 ft. as an absolute number would be reasonable. He said he would be comfortable if Ms. Sanborn would say the setback would be at least X distance back from the pavement or right of way.

Ms. Sanborn asked if the setback distance could revert to what was permitted under the previous RB zoning, which was 40 ft. from the right of way.

There was detailed discussion about this between the Board and Ms. Sanborn.

Mr. Bogle noted that the further back one went, the less convenient it would be.

Ms. Sanborn said she would accept 40 ft. as a minimum.

Mr. Bogle said Ms. Sanborn could then locate it further back than that if she wanted.

Mr. Bogle said the design indicated there would be a two-car garage. He asked if Ms. Sanborn wanted a stairway for the attic, and also asked if the attic would be used for storage.

Ms. Sanborn said there would be no living space, and said the upper garage area would be used as a workspace for her son, and for storage.

Chair Smith asked if members of the public wished to speak for or against the request. Hearing no one, he closed the hearing.

Mr. Gooze noted that every house in that area had the same situation, so what Ms. Sanborn was asking for fit with what was there. Concerning the garage height of 30 ft., he noted she could have simply replaced the barn, using the same footprint. He said the change would not hurt the character of the area, and said the application met the criteria of being in the public interest, and that substantial justice would be done. He said it would not be contrary to the spirit and intent of the ordinance, and said the garage would be compatible with what was around it, noting the driveway was asking for a garage.

Mr. McNitt said he saw no objection at all with this variance request, and noted this was brought about by a change in the Ordinance. He said other properties in the area had garages at a similar distance from the road.

Ms. Eng said she agreed with what had been said, and said the garage would probably enhance property values, and would not be contrary to the public interest because it would be similar to what was there now. She also noted that if the driveway length were increased, this would result in more impervious surface, which could be detrimental to the environment. She said she believed substantial justice would be done in granting this variance, and said she didn't believe doing so would be contrary to the spirit and intent of the Ordinance.

Mr. deCampi said he agreed with what other Board members had said.

Mr. Bogle said this was a perfectly reasonable request, and met all the variance criteria, so he had nothing more to add.

Chair Smith said given the fact that the second floor would be an attic and not living space, this satisfied any questions he had. He noted that the application said the current absence of a garage deviated from neighborhood norms, and said he had no objections to the variance request.

Ted McNitt MOVED to approve the APPLICATION FOR VARIANCE from Article XII, Section 175-54 of the Zoning Ordinance to allow for the construction of a detached garage within the frontyard setback, and that the garage not be less than 40 ft. from the right of way in the front yard setback. The motion was SECONDED by John deCampi and PASSED 5-0.

- C. **PUBLIC HEARING** on a petition submitted by Jane Sparks, Durham, New Hampshire for an **APPLICATION FOR VARIANCE** from Article VII, Section 175-53 of the Zoning Ordinance to expand the footprint of a previously approved variance for a new kitchen with basement within an existing Bed & Breakfast Inn. The property involved is shown on Tax Map 18, Lot 12-1, is located at 1 Stagecoach Road, and is in the Rural Zoning District.

Jane Sparks spoke before the Board, and thanked the Board for working with her throughout this process. She noted she had been able to hire an architect to work on the project. She explained that when the Board had approved the variance for the basement based on the footprint, she had been working with a designer from a lumber company, not an architect. She said the new architect saw that existing dining room area where the addition was being put on sat on a slab, and said that if a supporting wall wasn't built, the foundation would be undermined. She provided additional details on this, and said the footprint needed to be extended out to allow the wall to be built at a certain grade in order to protect the building. She said when the basement was poured, they would have to go out 4-6 feet.

There was discussion between Board members and Ms. Sparks about the wall that was needed.

Mr. deCampi asked why the inside staircase couldn't turn.

Ms. Sparks said the issue there was carrying food down to the basement for storage, with a stairway with a right degree angle.

Mr. deCampi said perhaps an elevator could be used, noting this project seemed to be growing.

Ms. Sparks noted the expense of this, and said if she was going to put the addition in now, this design was a timely thing to do.

Chair Smith noted it was the Board's understanding that the stairway would be inside, within the original footprint, and said she was now asking for an expansion of the footprint.

Mr. Gooze asked if the upper floor kitchen was being expanded at all, and not just the basement.

Ms. Sparks said the whole thing would be expanded.

Mr. Gooze said she was, therefore, asking for an expansion of the kitchen from what had been asked for before.

Mr. Bogle said it would expand by 4 ft. in the back, and 2 ft. on one side.

Mr. Gooze said he remembered how the Board had gone around on this issue.

There was discussion about this by Board members and Ms Sparks.

Mr. Gooze said what Ms. Sparks was really asking for was an 8 ft. extension of the kitchen, with the basement under it, and two feet in the other direction.

Mr. Bogle said he thought Ms. Sparks had been asking for a 4 ft. extension on the back, and 2 ft. on the side, when he visited the site.

Ms. Sparks explained that when the architect came back with his plan, this indicated that it would have to be built out 4-6 ft.

Mr. Bogle said the current design presented to the Board indicated that the architect was proposing 8 ft.

Ms. Sparks said the discrepancy was because the original proposal incorrectly calculated the structural needs. She also noted that a small boiler would have to be put in the basement, and asked if a bulkhead could be put in. She said her understanding was that the only way to get down to the basement was to go down the stairs.

Mr. Johnson noted that was the Board's decision at a previous meeting.

Mr. deCampi said he understood the need for the heavy wall, but suggested another design that could work with this.

Ms. Sparks said the problem with this was the impact on some rentable rooms in this vicinity.

Chair Smith referred back to the October approval, which indicated the facility could not be used as a restaurant for serving individuals or groups created by the applicant. He said keeping that in mind, he was concerned by what was meant by "services to the public" in the current application.

Ms. Sparks said this indicated an error by her son in the application. She said she didn't want to have a restaurant, and had no intention of operating it as such. She said she wanted to be able to control the parties held at the Inn.

Mr. deCampi said he had calculated that what had previously been approved by the Board was 395 sq. ft, and what was being asked for now was 624 sq. ft., which represented an increase of 58%.

Ms. Sparks said she had operated the Inn since July, and said it was finally operating on a profit after many years. She said she didn't have another job, and the Inn was their life. She said as the project had progressed, it had gotten bigger, but provided details on why this

would be a good thing for the Town. She said it would be a hardship if she couldn't get the construction going, so she could increase her revenue.

Chair Smith asked how many residents the Inn could currently hold, and Ms. Sparks said there were 18 rooms, generally with 2 people in each.

Mr. Gooze asked how the expansion would affect how the kitchen was used, the use of the Inn, and how the guests would be serviced. He also asked if more people could be served.

Ms. Sparks said at present, she couldn't cook for people, and had to send people out to eat.

Mr. Gooze asked if more people could be served, or more people could eat in the kitchen, with the additional space.

Ms. Sparks said it was more of a service, and storage issue.

Mr. Gooze asked if the limitations the Board had put on, in terms of serving no more than 49 people, etc. would not change.

Ms. Sparks said that was correct, and said this was fair.

Mr. Bogle said he believed that in a previous presentation, Ms. Sparks had said she was presently using the family kitchen for family cooking, and also for guests. He said from what he saw, the family kitchen was totally inadequate.

Ms. Sparks said she would have loved to have used that kitchen, but said she had Mr. Johnson in, and a septic designer in, and was told there was no way a good, affordable system could be put in there.

Mr. deCampi said what he was hearing was that the basement and access needed to be bigger.

Ms. Sparks said that was correct. She said it wouldn't upset her that the upstairs would be bigger, because she needed more storage, and said she would be lying if she said that would not be a good thing. But she noted that this design would cost her more. She said the current plans should take them where they needed to go, so she wouldn't have to come back to the Board again.

Mr. McNitt said it appeared that Ms. Sparks was not asking for any more functions than she had asked for before. He said she had indicated that the architect/engineer said she needed more space for the foundation wall, and said he saw no change in function.

Chair Smith asked if anyone wished to speak for or against the application. Hearing no one, he closed the hearing.

Mr. Gooze said although there would be some change in the kitchen, this wouldn't change the overall function of what was originally allowed. He said there appeared to be no

question from an engineering standpoint, that to get the needed storage in the basement, the increase in the footprint was necessary. He said he was ok with this plan.

Mr. deCampi said he was less comfortable with it. He said there would be an increase of 58% to the footprint in order to get access to the basement. He said this design should be rethought, and said he was not in favor of it. He said there needed to be more thought as to whether there was some other way to accomplish this. He said the quick and easy solution was the present design, and said he was uncomfortable with that. He said he felt the Board should stick with granting the conversion of the porch, and could allow a small variance to allow access to the cellar. But he said this present design seemed to be too much.

Chair Smith said he preferred an external staircase to the substantial increase, and Mr. deCampi agreed.

Mr. Bogle noted that the Board had denied the external staircase previously. He said Ms. Sparks had been laboring under the disadvantage of not having professional help, but said she had finally gotten this, and the architect had identified some of the structural problems involved with the kitchen addition. He said he agreed with Mr. Gooze that the function was not changing, also noting that there were no setback issues, this addition would be on the back of the house, and would be barely visible from Route 108. He said he didn't think the percentage increase was important, and said it would help her to improve the business of the Inn, which was her living. He said he would vote to approve the application for variance.

Chair Smith asked Mr. Bogle if he thought the increase in the footprint was significant.

Mr. Bogle said he thought the increase in the footprint was significant, but not important.

Ms. Eng said she would be against an external staircase. She said she thought the plan was a lot, but agreed with how Mr. Gooze and Mr. Bogle felt about this - that it would be the best remedy for moving forward. She noted the applicant had had great difficulty with the plan, and said she didn't believe any of this was intentional. She said she agreed with the fact that now that there was professional help, there was a plan. She said she didn't know of any way the additional square footage could be reduced, and said she would be in favor of granting the variance. She said although she was concerned about the size increase, it would not be changing the function.

Mr. McNitt said he tended to agree with Mr. Gooze and Ms. Eng. He asked if the original variance was requested because something was being altered that had been approved as a conditional use, and Mr. Johnson said that was correct. He said there were pros and cons to this application, but said the balance was definitely in favor of the applicant.

Chair Smith said he understood the difficulties encountered by Ms. Sparks, but said he agreed the increase in the footprint was huge, even though the functions would not change. He said the percentage of increase was very significant, and might need to be reconsidered before the Board gave final approval. He said the increase made him uncomfortable.

Mr. Gooze said in re-reading the architect's plan, it didn't appear that the design could be cut back, and said he would take this at face value.

Mr. McNitt noted the Board agreed the function wouldn't change. He said that this wasn't an area variance, and said the feet that went back were relatively unimportant. He said the key thing was that the dimensions were not a factor here, noting the application for variance called for altering an approved use of a nonresidential building. He said he didn't see where the objections being raised were pertinent.

Mr. Gooze noted there had previously been discussion by the Board about concerns about increasing the footprint, but he said if this present design had been presented at the time as the only way of doing it, it would have been different.

Jay Gooze MOVED that the ZBA approve the APPLICATION FOR VARIANCE from Article VII, Section 175-53 of the Zoning Ordinance to expand the footprint of a previously approved variance for a new kitchen with basement within an existing Bed & Breakfast Inn. The variance meets all the five criteria required, and the kitchen's total size shall be as presented in the application, 24 ft. by 26 ft. The motion was SECONDED by Ted McNitt, and PASSED 3-2, with Chair Smith and John deCampi voting against the motion.

III. Board Correspondence and/or discussion

There was brief discussion about the case noted by Attorney McLoughlin.

Chair Smith noted the Office and Energy Planning's state planning conference, April 9th in Manchester. There was discussion about which Board members would be going to it, and several of them said they would be attending.

IV. Approval of Minutes – February 8, 2005

Need page #'s

Page 2, 8th full paragraph, should read "...had been pared down...". Last paragraph should read "...said she lived across..."

Page 3, 2nd paragraph, should read "...real disappointment..." 3rd paragraph should read "...asked how Ms. Clyde would feel..." Last paragraph, should read "...the variance criteria, regardless of the fact that that..."

Page 4, 2nd bullet, should read "...the way area and use variances were defined...". Also, fix blank space in that paragraph. 3rd paragraph, should read "...the first criterion that..." Also correct spelling of criterion in the 4th and 5th paragraphs. Last paragraph, should read "...was any question that the decision to deny would not have difficulty if it went any further."

Page 5, 1st paragraph should read "...renters could stay until..." 3rd paragraph should read "...which was so important for..." 7th paragraph should read "...if the Board did this, was it saying.....would then accept this?" 2nd paragraph from bottom should read "...would only be to temporarily allow 4 tenants.....if it contained more than 4 people."

Page 6, 2nd paragraph from bottom should read "Mr. Zagieboylo's property, by going.."

- Page 7, 4th paragraph from bottom, eliminate the second sentence beginning with “He said this was an area variance...”
- Page 8, 3rd paragraph, should read “...detached garage that sat about 85 ft...” 4th paragraph should read “...to create some kind of structure...” Same paragraph should read “...this hadn’t worked very well...” 4th paragraph from bottom should read “But he said the plan Mr. Ward was showing the Board...”
- Page 9, 1st paragraph should read “Mr. Ward said that at some point...” Last sentence in the 1st paragraph should read “...some of its street appeal.” 2nd paragraph should read “...make more sense to work with...” 4th paragraph should read “..was whether this detached structure might be used as...”
- Page 10, 3rd paragraph from bottom should read “...that old could possibly persuade...” 2nd paragraph from bottom should read “..that provisions concerning not allowing..”
- Page 11, 3rd full paragraph, the sentence “Mr. Ward said he would withdraw his request for variance” should be set off in **BOLD**. Also, the bottom, and 2nd from bottom paragraphs, spelling of Weglars should be changed to Weglarz.
- Page 12, check spelling of Hartmann. also should be Ms. Hartmann, not Mrs. Hartmann.
- Page 13, check spelling of Hartmann, also should be Ms. Hartmann, not Mrs. Hartmann. 4th full paragraph should read “...she would prefer it, so in case something was...” 3rd paragraph from bottom should read “Ms. Hartmann said she didn’t know...”
- Page 14, bottom paragraph should read “..Cedar Point Road...” Same paragraph should also read “..the neighbors were very worried about...”
- Page 15, 2nd full paragraph should read “..footprint law went into effect.” Same paragraph should read “..all the way across the attic...” Also check spelling of Weglarz on this entire page, and that 3rd full paragraph says Ms. Hartmann. 5th paragraph from the bottom should read “..Cedar Point Road...”
- Page 17, 7th paragraph should read “Chair Smith said it seemed...” 9th paragraph should read “..Ms. Hartmann..”
- Page 18, 3rd full paragraph should read “He also said he believed the applicant...” 5th paragraph should read “..Ms. Hartmann..”
- Page 20, top paragraph of page should read “..so one had to use...”

John deCampi MOVED to approve the February 8, 2005 minutes, as amended. The motion was SECONDED by Linn Bogle, and PASSED 4-0-1, with Ted McNitt abstaining because of his absence from this meeting.

V. Adjournment

John deCampi MOVED to adjourn the meeting. The motion was SECONDED by Jay Gooze , and PASSED unanimously 5-0.

Adjournment at 9:36 p.m.