

These minutes were approved at the June 12, 2007 meeting.

**ZONING BOARD OF ADJUSTMENT
TUESDAY, APRIL 10, 2007
TOWN COUNCIL CHAMBERS - DURHAM TOWN HALL
7:00 P.M.**

MEMBERS PRESENT: Chair Jay Gooze; Vice Chair John deCampi; Ted McNitt; Linn Bogle; Myleta Eng; alternate Michael Sievert; alternate Ruth Davis; alternate Jerry Gottsacker

MEMBERS ABSENT:

OTHERS PRESENT: Thomas Johnson, Zoning Administrator;
Minutes taker Victoria Parmele

I. Approval of Agenda

Chair Gooze noted that under Agenda Item II F, the Section of the Zoning Ordinance referred to should be 175-139 instead of 175-39.

John deCampi MOVED to approve the Agenda as amended. Ted Mr. McNitt SECONDED the motion, and it PASSED unanimously.

II. Public Hearings:

- A. **PUBLIC HEARING** on a petition submitted by David J. May, Durham, New Hampshire for an **APPLICATION FOR VARIANCE** from Article II, Section 175-7 of the Zoning Ordinance to allow four unrelated people to occupy a single family residence. The property involved is shown on Tax Map 4, Lot 28-0, is located at 45 Woodman Road, and is in the Residence A Zoning District.

Chair Gooze opened the public hearing.

Mr. May spoke before the Board. He said he understood he was not in compliance with the Zoning Ordinance and said he had misunderstood it. He said it would be a grave hardship to ask the tenants or his son to move out of the house, given that there were 5 weeks left of the semester. He said his son would be graduating this year, and said he had no intention of renting the property again to students. He requested a waiver until the end of the lease, and said he would comply with the Ordinance as of May 31st, when the leases were up. He noted that graduation day was May 19th. In response to Mr. Bogle, Mr. May said he would be putting the house on the market.

In response to a comment from Mr. Bogle, Mr. May explained that garage contained a storage area as well as a play area, but he said it was not living area.

Chair Gooze said that at the same meeting where Mr. May had received a variance on another matter, another application that evening was concerned with the occupancy provision of the Ordinance.

Mr. May said didn't recall that.

There was discussion by the Board and Mr. Johnson as to how to proceed concerning the application.

Mr. deCampi said if it was the will of the Board to grant the applicant's request, an expeditious way to handle this would be to continue the application, and it could later be withdrawn. He said this would hold off enforcement over the next several weeks.

Mr. Bogle asked what happened if the Board waited until June and the applicant changed his mind.

Mr. Johnson said if the Board denied the variance request, this would kill that option in the future.

Mr. May assured the Board that he was 100% certain that he would not be back before them, having changed his mind.

Chair Gooze asked if any members of the public wished to speak in favor of the application. He then read a letter from **Chris Warren, 42 Woodman Road**, who said he had no problem allowing the tenants to live there until the end of semester, but was adamantly opposed to granting a permanent variance.

Mr. deCampi noted other letters in Board members' packets which both supported granting the applicant relief through the end of the academic year.

Katie Ellis said she lived behind Mr. May's house. She said she agreed with Mr. Warren, stating that the current tenants were fine neighbors, but that she too would be adamantly opposed to the granting of a permanent variance.

Chair Gooze closed the public hearing.

John deCampi MOVED to deny an APPLICATION FOR VARIANCE from Article II, Section 175-7 of the Zoning Ordinance to allow four unrelated people to occupy a single family residence submitted by David J. May, Durham, New Hampshire, based on the application not being in the spirit and intent of the Ordinance, and not being in the public interest, and will grant temporary relief until May 31st, 2007, with the understanding of the owner that a violation will not recur. Linn Bogle SECONDED the motion. The motion PASSED unanimously 5-0.

- B. **PUBLIC HEARING** on a petition submitted by Van Rich Properties LLC, Durham, New Hampshire for an **APPLICATION FOR VARIANCE** from Article II, Section 175-7 of the Zoning Ordinance to obtain relief from the 300 square-foot, per-person dwelling unit requirement. The property involved is shown on Tax Map 9, Lot 20-0, is located at 277 Mast Road, and is in the Multi-Unit Dwelling/Office Research Zoning District.

Chair Gooze opened the public hearing.

Mr. Gsottschneider spoke before the Board. He summarized that his property was located in the MUDOR district, and he spoke about the intent of the Master Plan as to what land uses were desired for this area, including student housing and office uses. He noted that higher density housing was anticipated as part of this.

He said his property was on Town sewer but not on Town water, and said he had a private well. He said there was an existing office building on the lot, and said he would like to build a duplex, which would have 4 bedrooms on the first floor, and 3 bedrooms on the second floor. He said the variance being requested was for the first floor, to allow 1 person per 300 sf.

Mr. Gsottschneider said the building that had been designed was for an office building and/or apartment building. He said this use was allowed by the Zoning Ordinance, and said there was adequate parking. He said he had received a Conditional Use permit from the Planning Board for the proposed development, but explained that he had run into a dimensional problem.

He noted that the Housing committee and members of the Planning Board were currently looking at the issue of allowable density, and the idea of increasing it in some areas of Town. He said a proposal concerning this would be going to the Planning Board and Town Council in the near future, and said if it already existed, he wouldn't have to be before the ZBA at present. He said his point in bringing this up was that it seemed to be the mood in Durham to allow higher density in certain zones, and he noted that the Housing committee initiative encouraged density of 1.5 to 2 people per 300 sf.

Mr. Gsottschneider said that if he wanted to build more units and have a multi-unit building, he could have 1.5 units per 300 sf., but he noted that he didn't have Town water. He said he was in a position where the zone he was in said he could have that kind of building, but he didn't have the infrastructure to support this. He also explained that if he were to build a bigger building, he would have large, 300 sf bedrooms, which wasn't workable, in terms of keeping one person to a room.

Chair Gooze asked if any members of the public wished to speak for or against the application. Hearing no response, he closed the public hearing.

Ms. Davis noted the fact that if the applicant wanted to build an apartment building, he would need less square footage per person, but couldn't build this kind of building because of water restrictions. She said she thought the application met the variance criteria, and said she thought the variance should be granted.

Mr. deCampi said he was having some difficulty with this variance request, stating that as new construction, a greater effort should be made to meet the requirements of the Zoning Ordinance. He said he tended not to favor granting the variance, and noted that the building could be designed to have 3 bedrooms on the first floor.

Ms. Eng said she agreed with Mr. deCampi, stating that she didn't see any special conditions of the property that created a hardship. She said the applicant could choose to have 3 tenants on the first floor, and said she didn't feel the application met the variance criteria.

Mr. Bogle said he agreed, also noting that the variance would go with the property. He said the project could be redesigned.

Mr. Sievert suggested that there could be 3 bedrooms instead of 4, and this could be changed later if the density requirements in the Zoning Ordinance were changed. But he also said that he knew there was discussion in Town about allowing greater density in this zone, so it seemed crazy not to allow the variance.

Mr. Bogle asked Mr. Johnson whether the concept of encouraging an increase in density meant allowing more people per fewer square feet, or more buildings and more units.

Mr. Johnson said the Housing committee was looking at all of these things, and said the Town Council would be discussing this.

Chair Gooze said he was on the Housing committee, and said they were dealing with a lot of things, including density increases in zones where this was appropriate, in order to encourage development.

Mr. Johnson said that if the proposed changes were agreed to by the Town Council, they would then have to go to the Planning Board and the Zoning Rewrite committee, and then back to the Town Council, so the process would take some time.

Mr. Sievert said he was in favor of allowing this, but said he didn't really think the application met the special conditions criterion concerning hardship. He also said the applicant would still have reasonable use of the property, noting that he had stated that it could be used for a business. He said it would be tough for the application to meet all five variance criteria.

Mr. Gottsacker asked if the variance only involved the interior dimensions, and said that perhaps the design could be reconfigured to meet the Zoning Ordinance now, and then could be reconfigured later if the Ordinance changed.

Chair Gooze said he was leaning toward granting this, but said other Board members had made some good points that there were other feasible things the applicant could do with the design. He said he was having trouble with the hardship criterion. He also said this was an area where the Town was going to want increased density, but he said unless there was something special about

this property, such as the issue with the well, the Board would be changing the Zoning Ordinance in allowing this.

Mr. McNitt said the well issue would tend to make him want to keep the number of occupants down.

There was discussion as to whether the application met the spirit and intent of the current Zoning Ordinance.

Mr. Gottsacker noted that things might even out if the project was several months out, and the recommendations of the Housing committee were also several months out as well.

Chair Gooze re-opened the public hearing to allow Mr. Mr. Gsottschneider to speak.

Mr. Gsottschneider said his project was feasible as he was currently proposing it, and if he was granted a variance. He said that without the variance, he wouldn't do the project, and explained that the project needed to be financially feasible.

Chair Gooze closed the public hearing.

Mr. McNitt said that the proposed use seemed to fit with what was intended in this zone, but said he didn't think there was any choice other than to say the application was contrary to the spirit and intent of the Ordinance right now.

Chair Gooze asked whether, given where the property was located, and the properties surrounded it, the spirit and intent of the Ordinance concerning density really meant anything.

Mr. McNitt said the fact that the property would provide student housing was a plus for it, but he said the Ordinance clearly stated that the requested dimensions couldn't be used.

Mr. Sievert said he felt the application did meet the spirit and intent of the Ordinance because this area of Town was changing. But he said he didn't feel the application met the hardship criteria for an area variance, and said he didn't know how to get over that..

Chair Gooze asked whether there was another, economically feasible way to do what the applicant wanted to do.

Mr. Sievert said his understanding was if an office could go in there, of the same size, this was a reasonable use, and said he didn't see a way around that.

There was discussion about how close the Town water line approached this property, and what the Town's plans were concerning this.

Chair Gooze noted that a project of the same size could be done for an office building.

Mr. Bogle said he doubted that the well would be a limiting factor for long.

Mr. Gsottschneider said the Town's water line was 900 ft. from his property, and said that realistically, it would take a long time to get to him. He noted he only had one acre, and said the cost of bringing water to this property was prohibitive. He said he was dealing with the fact that the well was a constraint. He also said he needed to build a dual use property, noting that this was not a prime office location. He explained that although he wanted to have offices there, it was not certain that offices would always be wanted in that location, so he needed rentals as a backup.

Mr. Johnson said this was not a traditional duplex situation, noting that there were no garages, there was an office setting, etc.

Chair Gooze said when he had visited the site, what was proposed seemed like a reasonable use. He noted that no one had complained at the public hearing about the idea of allowing student rentals there, and said a question was whether this was in some way a unique piece of property.

Ms. Eng noted that the application indicated that there could be either office use or student rentals, so there was another feasible use.

John deCampi MOVED to deny the APPLICATION FOR VARIANCE submitted by Van Rich Properties LLC, Durham, New Hampshire from Article II, Section 175-7 of the Zoning Ordinance to obtain relief from the 300 square-foot, per-person dwelling unit requirement, based on not meeting the spirit and intent of the Zoning Ordinance. Ted McNitt SECONDED the motion.

Mr. McNitt said he had didn't think granting the variance would decrease the value of surrounding properties, or would be contrary to the public interest, but he said that as new construction, the project would clearly be different than what the area restrictions built into the Zoning Ordinance at present.

Chair Gooze said he thought that the water constraint satisfied the hardship criterion. He also said he had walked out there, and didn't think it was against the current spirit and intent of the Ordinance. He said the application met all of the variance criteria.

Ms. Eng said she was against approving the variance application, stating that she didn't feel it met the spirit and intent and hardship criteria. She said she felt the project was workable, as new construction, without the variance.

Mr. Bogle agreed with Ms. Eng.

Mr. Gottsacker said they were arguing over 188 sf. He said he understood the financial feasibility issue concerning the project, and said he thought this was a hardship. He said he if he were a voting member, he would therefore vote in favor of granting the variance.

Ms. Davis said she wouldn't want to deny this application, noting the issue of financial burden. She said this sounded like a deal breaker, if the applicant couldn't build 4 units on the first floor.

She said although the spirit and intent of the Ordinance was to limit the number of applicants, she felt the preference here was apartments. She also there was limited well capacity.

The motion PASSED 4-1, with Chair Gooze voting against it.

C. **PUBLIC HEARING** on a petition submitted by Jeffrey P. Christensen, Durham, New Hampshire for an **APPLICATION FOR VARIANCE** from Article XII, Section 175-54 of the Zoning Ordinance to build a garage within the front yard and side yard setbacks. The property involved is shown on Tax Map 20, Lot 1-0, is located at 595 Bay Road, and is in the Residence C Zoning District.

Chair Gooze opened the public hearing.

Attorney Sharon Somers represented the applicant. She noted that because of how the garage would be sited, the applicant was now only asking for a variance from the frontyard setback

- She said that concerning the hardship criteria, the garage was needed for storage, and explained that it couldn't be constructed in a way that complied with the setbacks. But she said the garage had been sited so there would be minimal encroachment on the front setback. She noted that the garage would be well away from abutting properties, and said she knew of no objections that had been expressed by abutters. She said the size of the garage was not uncommon as an accessory use, and should therefore be considered a reasonable use. She said there was no alternative location for the garage.
- Attorney Somers said there would be no decrease in the value of the four abutting properties, once the garage was completed. She said the garage would be part of the entire package of changes to the building, which it was felt would greatly improve property values. She noted that because of the added storage space in the garage, this would reduce the number of vehicles parked on the site.
- She said the application met the spirit and intent of the Zoning Ordinance. She said that the frontyard setback was designed to avoid a sense of overcrowding, but said that given the slope, together with the distance of the garage from abutting properties, there would be no overcrowding.
- Attorney Somers said granting the variance would not be contrary to the public interest because there was no overcrowding. She also said the size of the garage wouldn't interfere with the essential character of the neighborhood, and noted that there were other garages of this size in the area.
- She said that on balance, there would be substantial justice in granting this variance because of the need for storage space, the fact that the size of the garage was not unusual, and the fact that the applicant would be harmed if the variance were denied while there would be no gain for the public. She also said that if the application were denied, there would be a risk from vehicles parked outside on the property.

Chair Gooze determined that this was to be 3-car garage, and if the variance were not granted, it would be a 2 car garage.

Attorney Somers said Mr. Christensen needed more space for his cars than was afforded by a 2-car garage.

There was discussion of how many vehicles there would actually be on the property. Attorney Somers said this application reflected the fact that this would now be a permanent residence, and that indoor storage would be needed for vehicles and lawn equipment, for aesthetic as well as environmental reasons. She said the goal was to have them all inside.

Chair Gooze asked if there were other properties in that area with garages that size, and with constraints like Mr. Christensen's site.

There was discussion about this, and about the fact that the garage would be larger than the footprint of the house.

Mr. deCampi asked what the second floor would be used for, and Attorney Somers said the plan was to use it as additional storage space. Mr. deCampi asked if perhaps there could be a condition that there could be no kitchen space in the garage. He also said that if it really was a garage, he had no problem with the 9 ft. incursion into the setback.

Attorney Somers said the applicant had no plans to use the upstairs area other than as storage, but she said there was reluctance to put that restriction on it, given that it was a permitted use.

Ms. Davis asked if the septic system was sized to be able to accommodate another dwelling unit, and was told that it was.

Chair Gooze asked if the height variance could be denied if this variance was granted, so that the garage could perhaps be built lower.

Attorney Somers said that regarding the height, it was a question of proportionality, in terms of the space needed, and what the garage would look like. She said that theoretically, it could be build shorter.

Mr. deCampi noted that when he had been at the site, he saw that 6 or so trees had recently been cut down.

Mr. Christensen said that was correct, but said there would be minimal site work involved in putting up the garage.

Richard Gallant said 594 Durham Point Road, said that in terms of maintaining his view of Great Bay, the location where Mr. Christensen wanted to put the garage was the best location. He said there was a hardship because there was a 912 sf house with minimal storage space. He noted that he too had a nonconforming lot, so understood what Mr. Christensen was going through.

Mr. Gallant noted that the previous owner of Mr. Christensen's property had wanted to build a 2700 sf house, and said by limiting the house to the 912 sf footprint, Mr. Christensen was limiting the number of people who could exist there, and was reducing the impact on the land. He said he hoped the ZBA would approve the variance.

A letter from **Robert Blake, 580 Bay Road**, was read into the record, which stated his objection to the variance request. Mr. Blake said the applicant had been granted relief by the ZBA already, and deserved no relief now.

Chair Gooze asked if any other members of the public wished to speak for or against the application. Hearing no response, he closed the public hearing.

Mr. Gottsacker said this variance request involved minimal incursion into the setback, and met the variance criteria.

Mr. Sievert agreed.

Mr. Bogle said he would not vote against the siting of the garage, and its incursion into the setback.

Ms. Eng agreed that the application met the variance criteria.

Mr. deCampi said his was in favor of granting this variance application, but said there should be a condition that there would be no kitchen facilities, so there would not be a second dwelling unit on the property.

Mr. Johnson said an accessory dwelling unit would be a permitted use in this district.

Mr. deCampi said he didn't think this property should have a second dwelling unit on it, and repeated that there should be a condition that there is no kitchen.

Chair Gooze asked Mr. deCampi whether, if the variance wasn't needed, he would still feel there should still be this condition.

Mr. deCampi said he would have no right to ask for this, in that case.

Mr. McNitt noted that at one time, a bigger house was proposed for this site. He said he favored this incursion into the frontyard setback, rather than having more incursions into the shoreland setback, and said he was in favor of granting the variance.

Ms. Davis said she was in favor of granting the variance. She said she understood the point about the kitchen restriction, but said that given the small size of the home, she could see how the space in the garage might be desirable for guests on occasion.

Chair Gooze said he was in favor of granting the variance application because there would be a small incursion, and said the application met all the variance criteria.

Chair Gooze asked if members of the Board wanted to place any conditions on the motion, and Board members agreed this wasn't needed.

Ted McNitt MOVED to grant an APPLICATION FOR VARIANCE submitted by Jeffrey P. Christensen, Durham, New Hampshire from Article XII, Section 175-54 of the Zoning Ordinance to build a garage within the front yard setback, up to a maximum incursion of 9 feet, as shown on the site plan dated March 2007. John deCampi SECONDED the motion, and it PASSED unanimously 5-0.

- E. PUBLIC HEARING** on a petition submitted by Jeffrey P. Christensen, Durham, New Hampshire for an **APPLICATION FOR VARIANCE** from Article XII, Section 175-55(B)(2) of the Zoning Ordinance to build a garage with a height of 26 feet. The property involved is shown on Tax Map 20, Lot 1-0, is located at 595 Bay Road, and is in the Residence C Zoning District.

Attorney Somers said the height variance built upon the previous discussion, so the two variance requests went together. She stated that as a threshold matter, she believed that given the language in the Zoning Ordinance, it was arguable that this variance might not be needed at all.

She said an accessory dwelling unit had a height limitation of 20 ft, but she said if one looked at the performance standards in Section 175-109, the height limitation for accessory dwellings was 20 ft, but there was nothing about the height of an accessory structure. She also noted the definitions for building height and building, accessory structure, and accessory shed. She said the way the Ordinance was set up, the intention appeared to be to measure height of an accessory structure the same way as this was done for the principal dwelling, - calculating the mean roof elevation. Attorney Somers said she thought the applicant actually came into compliance with the 20 ft requirement.

Mr. Johnson said because the garage was in the setbacks, 175-55 B 2 weighed in, which allowed an accessory structure in the sideyard setback without a variance, but limited it to 20 ft in height. He said the Board didn't review the first case under that scenario, so the applicant could theoretically could go to 30 ft.

Attorney Somers spoke further about the Ordinance, and said it was silent on the height of an accessory structure. She said there was clearly some concern, when the Ordinance provisions were developed, about the height of accessory sheds, but she said it was silent on accessory structures. She said that given the absence of any language, one had to look at the definition for building height.

Mr. deCampi said that given what Mr. Johnson had said, the 30 ft. height held in this case, and said he thought the ZBA had no choice but to dismiss this application.
That

There was further discussion on this.

John deCampi MOVED that based on the advice of the Zoning officer, the ZBA has concluded that the applicant has the right to build up to 30 feet in height based on the outcome of the public hearing on Agenda Item II C, and the case is therefore dismissed. Linn Bogle SECONDED the motion, and it PASSED unanimously 5-0.

D. PUBLIC HEARING on a petition submitted by Jeffrey P. Christensen, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article XII, Section 175-54 and Article XIV, Section 175-74(A) of the Zoning Ordinance to pave a driveway within a portion of the Shoreland Protection Zone. The property involved is shown on Tax Map 20, Lot 1-0, is located at 595 Bay Road, and is in the Residence C Zoning District.

Chair Gooze opened the public hearing.

Attorney Sharon Somers went through the variance criteria as they applied to this application.

- She said there would be no decrease in the value of surrounding properties. She said the driveway proposed would connect two driveway entrances that were already there when the applicant bought the property. She said the new driveway configuration would be safer than what had been there before, and would be more aesthetically attractive to abutters and members of the public.
- She said the hardship was that this was a nonconforming structure, on an irregularly shaped lot. She said the setbacks and the location of the septic system all precluded the ability to put in a driveway that would not encroach into the setback. She noted that the drainage system would be sufficient to address runoff generated by the driveway.
- She said there would be substantial justice in granting this variance because what was proposed was a practical solution, which would increase safety for the applicant and other members of the public who used the property. She also said that because of the drainage system, there would be no adverse impact on the environment. She provided details on the slope, and current line of sight difficulties at the property, and said if the variance were denied, Mr. Christensen wouldn't have safe and practical access to his dwelling.
- She said granting the variance would not be contrary to the spirit and intent of the Ordinance, which was to protect health, safety, and welfare in the shoreland area. She noted again that the drainage system would contain runoff, so there would be no adverse impacts. She also said that if the driveway was not there, the alternative situation would be worse, because cars would have to drive into the setback area. She said having one paved loop would be far less detrimental to the land, because it would avoid the continual churning up of the soil.
- She said granting the variance would not be contrary to the public interest, because the driveway design would provide for access and safe entry and exit from the site. She said the drainage system would address runoff, noting that the recent site walk had indicated no erosion issues, which showed that the system was working. She said the paved driveway would not change the essential character of the neighborhood, and stated that there were other driveways like this in the neighborhood.

Attorney Somers noted a NH Supreme Court case, *Malachy Glen Associates, Inc. v. Town of Chichester*, regarding a variance application where the ZBA had found that granting a variance would be contrary to the public interest because of encroachment into a wetland. She said the

Court had found this decision to be unreasonable, and that the public interest would not be negatively impacted. She said with this present variance request, the applicant was providing credible evidence that there would be no impact on the environment.

She noted that in the past, the ZBA had expressed concerns that the drainage system might not work properly, and said the applicant would be more than willing to have a condition of approval that would make the Board comfortable that this system would work on a long- term basis.

Christian Smith, of Beals Associates, summarized the drainage analysis he had presented before the ZBA in March. As part of this, he explained that only a portion of the paved parking area and driveway funneled water into the grate. He also described, with some photos, where the other drainage on the site went. He discussed the drainage trench in some detail, and provided details as to the fact that there was no evidence of erosion and sedimentation on the site. He said the embankment showed no signs of erosion, and said the vegetative stand would only get better in the future, creating an even more stable situation. He provided details on the fact that the pavement would be a lot more stable than a gravel driveway.

Mr. deCampi asked when the driveway had been paved, and was told this had occurred before the winter, in 2006.

There was detailed discussion on the way drainage flowed on the site.

Chair Gooze asked what was to prevent the grate from getting clogged with leaves, etc.

Mr. Smith noted that the grate was located right next to the walkway, and said it would behoove Mr. Christensen to clean it out, or he would have water running into his foundation.

Mr. Sievert said this was a small grate, but said there wasn't really that much water going into it.

Mr. Smith agreed that it was not that large an area that was draining into it. He also noted that the existing grade of the driveway hadn't changed that much when it was paved.

Ms. Davis asked if there was anything that could be done concerning sheet runoff, off of the driveway.

There was discussion about this. Mr. Smith said this flow was not channelized, and said as it came off of the pavement, it sheeted off into the grass, which would function as a vegetative filter strip.

Chair Gooze asked if any members of the public wished to speak in favor of the variance application.

Richard Gallant, 594 Bay Road, said he was in favor of granting the variance, and said he had recommended this plan to Mr. Christensen. He said he thought this was a good plan, which would last.

Chair Gooze asked if there were any members of the public who wished to speak against the variance request.

Chair Gooze read a letter from **Robert Blake, 580 Bay Road**, who stated he was against the paving of the driveway within the shoreland zone.

Chair Gooze closed the public hearing. He noted that the driveway had already been paved, and said he had no qualms, if the variance were denied, requiring that the pavement be taken out. He said he was on the fence as to whether there was hardship in this instance, stating that there might be other possibilities.

Ms. Davis said she could see how there might be greater damage if the area where cars drove on the site were left unpaved. She said she did think people would drive right up to the house, and said she could see that there could be erosion problems as a result of this.

She said she felt there would be no decrease in the value of surrounding properties as a result of granting the variance, and also said granting it would not be contrary to the public interest because there wasn't much opposition to it. She said that concerning the hardship criterion, the special condition was the odd shaped lot, so that if the applicant wanted to pave the driveway, he needed to go into the shoreland. She said in terms of whether there was another feasible alternative, Mr. Christensen could have an unpaved path, but she said there might be greater environmental risk to the Bay as a result of this.

Ms. Davis said that concerning the substantial justice criterion, she wasn't sure what the gain was to the general public. She also said the spirit and intent of the Ordinance was to limit impervious cover, and said this variance request went against that, but she said she was weighing this against the idea of cars driving and parking on an unpaved surface.

Mr. McNitt said he thought that having a driveway to the house was essential, but he suggested that the one of the two driveway entrances that was considered to be unsafe could be closed without any loss. He said he felt the variance met all five criteria.

Mr. deCampi noted that he had once had a house with a gravel driveway, and had wound up paving it, because not having a paved driveway in an area that got a lot of snow was difficult. He said Mr. Christensen's property was now becoming a primary dwelling unit, and said that every reasonable effort had been made to minimize the environmental impact. He said they could discuss the idea of possible using pervious pavement for the driveway, but he said this variance application didn't really bother him much. He said he wished that there wasn't as much impervious cover on the property, since it was located in the shoreland zone, but he said that on balance, this seemed like a reasonable use by the owner.

Chair Gooze said he had two problems with this application. He said the first was the issue of hardship, and he stated that he didn't see that it was essential that the driveway be as it had been designed. He said also said that regarding the spirit and intent of the Ordinance, he was concerned with the grate not being cleaned out while Mr. Christensen was away. He said he didn't think he could vote in favor of granting this, but said he could see leaving the other sections paved.

Ms. Eng said she agrees with Mr. McNitt, that the driveway on the right side wasn't really necessary, and said she didn't see the need for two curb cuts. She said she had some concerns about runoff, stating that the grate was awfully small, but she noted that the driveway had already been installed. She also said that Attorney Somers had spoken about the 125 ft. shoreland setback as being a sensitive area, in the previous application, and said this was contradictory to what she had said about the shoreland setback with this application.

Mr. Bogle said he agreed with Mr. McNitt that the easterly leg of the driveway up to the road could be eliminated, leaving one curb cut, and said he didn't feel a full loop road was necessary. He also said if there was that much concern about the grate, why not put in a larger one.

Mr. Sievert said it sounded like there was a small area draining to it, and said that given the drainage design, putting in a larger grate there wouldn't make much difference. He also said that concerning the driveway, a gravel driveway would develop ruts, and with rain, would change the channelized flow quickly, and start eroding the grass. He said the current situation was probably better, also noting that oils dripping on the pavement would wash off, while this probably wouldn't happen with a gravel pavement.

There was discussion about how oil would be addressed with the grate.

Chair Gooze said it would have been better to have this discussion before the driveway had been built, and said this was weighing heavily on him.

Mr. Gottsacker said that unfortunately, the driveway was already paved, but he noted the pervious asphalt system available, which worked well, even in the winter. He also said he strongly disagreed with Board members who said there shouldn't be a U-shaped driveway. He said he didn't feel there was enough turn around area on the site, and said it would be a really serious safety issue, backing out onto the main road.

Mr. McNitt said there was in fact room to turn around, on the site.

Mr. Gottsacker noted that more paved area was needed in order to allow that. There was further discussion on the amount of turnaround area available on the site, and other options for accessing the garage, given the slope.

Chair Gooze said if the Board thought there was another feasible way to do this, perhaps it should vote against this application from a hardship perspective, and the applicant could then come up with a better approach. He asked if Mr. Smith had any response to comments made by Board members, and re-opened the public hearing.

Mr. Smith said that regarding the curb cuts, these were both already in place when Mr. Christensen bought the property. He also spoke about the limitations and safety issues concerning the ability to turn around within the site, and backing onto Bay Road. He also provided further details concerning the capacity of the inlet grate. He said that Mr. Christensen

would be agreeable to putting in a berm and some gravel around the grate, which would help contain the water and prevent it from missing the grate.

Mr. Smith also explained that if the grate did get clogged, and ponded up, it would end up clearing the leaves out naturally as the water flowed beyond the rim. He also noted that there weren't deciduous trees around that would cause leaves to clog the grate.

Chair Gooze said these were great ideas, and said he wished they had been discussed previously.

Ms. Davis asked if salt was allowed to be put on the driveway, and was told yes

Mr. Christensen explained that he tried to exit the site from the driveway on the Newmarket side for safety reasons. He also said that plowing snow on the site was hard, even with a paved driveway, and said it would be a mess if there were a gravel driveway. He also noted that he hated using salt, and said the driveway melted well after a snowstorm if it was plowed and the sun then shone on it.

Attorney Somers asked the Board if it would feel more comfortable if the applicant provided a plan to address the issues that had been raised. She said the Board could either react to that, that evening, and could develop some conditions of approval, or Mr. Christensen could come back with another plan.

Chair Gooze said he preferred the latter suggestion, stating that he couldn't vote on this application until he felt these issues were taken care of.

There was further discussion on what issues were still to be resolved, the berm and gravel for the grate, access to the garage, etc. It was agreed that the hearing would be continued, and that it would be heard by the Board again at the May 8, 2007 meeting.

John deCampi MOVED to continue the public hearing on an APPLICATION FOR VARIANCES submitted by Jeffrey P. Christensen, Durham, New Hampshire from Article XII, Section 175-54 and Article XIV, Section 175-74(A) of the Zoning Ordinance to pave a driveway within a portion of the Shoreland Protection Zone. Ted McNitt SECONDED the motion, and it PASSED unanimously 5-0.

Mr. deCampi encouraged Mr. Christensen to visit the boat ramp on Adams Point Road, noting that the ramp and the parking area had been covered with pervious pavement for many years.

There was discussion that the ZBA would hold another meeting on April 17, 2007 to do Agenda Items II G through I.

- F. **PUBLIC HEARING** on a petition submitted by Arnet Taylor, Jr., Durham, New Hampshire on behalf of Katharine Paine, Durham, New Hampshire for an **APPLICATION FOR VARIANCES** from Article XII, Section 175-55(E), 175-55(F) and 175-56(D)(3)(a), Article XIV, Section 175-74(D) and Article XII, Section 175-139 of the Zoning Ordinance to obtain relief from certain regulations as pertains to the subdivision of an existing single lot into three separate lots, under the "Porkchop Subdivision" regulations. The property involved is shown on

Tax Map 11, Lot 35-1, is located at 51 Durham Point Road, and is in the Residence C Zoning District.

Mr. McNitt recused himself. Mr. Sievert said that perhaps he should recuse himself, noting that he worked with Doucette Survey, a consultant for this subdivision project, on a daily basis. After some discussion, Chair Gooze said he would appoint alternate Ruth Davis in place of Mr. McNitt.

Attorney F. X. Bruton represented the applicant, Arnett Taylor, and the owner, Katie Paine. He provided a subdivision plan, to do a porkchop subdivision of a parcel of land approximately 50 acres in size, which would create three lots. He provided details on the three lots, noting that one lot, containing a duplex, would have frontage on Durham Point Road and shore frontage on the Oyster River. He said a second lot already contained a single family home with an accessory apartment, and would have a minimum amount of shore frontage on the Oyster River. He said a third lot, which already contained a 2 bedroom dwelling unit, had frontage on Durham Point road and the Oyster River.

Attorney Bruton said the proposed configuration was trying to respect as much of the Zoning Ordinance as possible. He said what was unique about the situation was that the three structures already existed, two of them single unit structures and the other a duplex, and that each of them had separate and independent infrastructure, including a well, septic system, leachfield and electrical service. He also said each structure had its own parking area and yard. He said that because these structures were not dependent on any portion of infrastructure of any other structure, the current larger parcel actually represented a de facto subdivision.

He noted that the property was certainly large enough to support the three structures, and said the subdivision design would not only respect most of the dimensional requirements, but would also create a clearer definition of the infrastructure for each lot. He said this would be one of the better subdivisions the Town would see, in that it would create value, yet no new development would occur.

Attorney Bruton said he would like the Board to consider each of the variances separately. He then went through the five variances that were being requested.

1)Section 175-155-5 Minimum Contiguous lot area. Attorney Bruton said this was a difficult provision, in general, and said the applicant would not be able to meet the requirement, given the existing configuration of the houses and infrastructure on these lots, and trying to respect other Zoning requirements.

2) Section 175-55 F Calculation of Usable Area.

Attorney Bruton said that consistent with a previous applicant, there was some question as to whether this variance was required for this subdivision. He said HISS mapping was done to calculate usable when there was a conservation subdivision, but he said this was a porkchop subdivision, so the HISS mapping shouldn't be required.

3) Section 175-56(D)(3)(a) The minimum length of the shorefrontage shall be 200 ft, exclusive of the width of creeks at mean low tide

Attorney Bruton said there was a requirement of 200 ft of shore frontage for Lot 2, where 35 ft. was proposed.

4) Section 175-74(D) of Article IV, Shoreland Protection Overlay District. Shoreland Frontage
Attorney Bruton said Ms. Paine was seeking relief from the requirement that there be 250 ft. of shore frontage on Lot 1, given the existing duplex on the property. He said 205 ft. of shore frontage was proposed for this lot.

After some discussion, it was determined that the required frontage for both Lots 1 and 2 was 300 ft, given the number of dwelling units on each of the properties

Chair Gooze asked if both Lot 1 and Lot 2 would have the right to have a dock.

Attorney Bruton said there wasn't enough frontage for a dock on Lot 2, but said Lot 1 could meet the state regulations for docks.

Attorney Bruton then went through the variance criteria.

No decrease in value of surrounding properties would be suffered.

Attorney Bruton said granting the variances would allow to exist what already existed on the Paine property, so there would be no diminution in the value of surrounding properties. He noted that the situation would be different if these structures didn't exist. He said the current cottage was used partially as a home occupation, and said with the subdivision, it would not be able to be used that way anymore. He provided details on this, and said that any traffic associated with this current home business use would therefore be reduced.

He also said that allowing this property to be subdivided in an orderly fashion would mean that other development options wouldn't have to be considered. He noted that multi-unit elderly housing was a permitted use in the RC zone, He said the owner was trying to stay with what was there at present.

Granting the variance would not be contrary to the public interest

Attorney Bruton said approving the variances would allow an orderly subdivision process to take place, utilizing what already existed. He said it would result in three defined areas associated with three existing structures, and would permit separate ownership of each structure. He said the granting of the variances would permit lots that would respect significant design criteria associated with porkchop subdivisions. He said granting the variances would have no negative effect on the public interest, as no changes to the property would occur as a result of the subdivision.

Hardship

1) Section 175-55 (E) Calculation of Usable Area

Attorney Bruton said the applicant was not able to meet this requirement, given the odd shaped lots of the porkchop subdivision. He noted that the reason for having these odd shaped lots was to be able to maintain the existing infrastructure for each lot. He said it would serve no purpose that 50% of the newly created lots would have to consist of a rectangle of non-wetland lot area, although noting that if these were vacant lots, it would serve a purpose. He said the variance was needed in order to allow the proposed use, given the special conditions of the property. He also said the benefits could not be achieved by any other reasonable method, in that they couldn't configure these lots in any other way that would respect the infrastructure and other criteria.

Chair Gooze said that in terms of dividing up these variance requests, he would like to know whether, if the Board denied one of them, this would kill the subdivision project.

Attorney Bruton said it might not kill it, but he said it would alter how things could be done. He provided details on this.

Chair Gooze said he was simply to get some clarity as to whether these were separate hearings for each of the variances being requested, and he asked Board members how they felt about this.

Board members said they wanted to hear the presentation on all of the variances being requested, and then could decide where to go with this.

Attorney Bruton said the applicant wouldn't be opposed to having five separate public hearings, after his presentation.

2)Section 175-55 (F)

Attorney Bruton said this provision was meaningless regarding this proposed subdivision, and would mean an unnecessary expense for the applicant, for something that wouldn't be used.

3) Section 175-56(D)(3)(a) and

4) Section 175-74(D)

It was clarified that the 3rd variance concerned with Lot 2 and that the 4th variance concerned Lot 1.

Attorney Bruton said that regarding the 3rd variance requested from Section 175-56(D)(3)(a), - to allow 35 ft. of shore frontage when 300 ft was required, the shoreland frontage issues were unique to the property. He also noted that the porkchop subdivision was configured in such a way that it complied with the other dimensional requirements.

He said there was roughly 235 ft of shore frontage for both Lots 1 and 2, when 600 ft. was required, and said that increasing the shorefront of Lot 2 would only make the shore frontage of Lot 1 less compliant.

He said without relief, access to the shorefront could not be provided, noting that easements could be used for this, but that this would result in a lack of clarity. He asked the Board to consider the fact that it was reasonable to provide access, but not a dock, for Lot 2.

Attorney Bruton said that concerning the 4th variance request, that 205 ft of shore frontage be allowed when 300 ft was required, this issue too was unique to the property. He said increasing the shorefront of Lot 1 would only make the shore frontage of Lot 2 less compliant, and also said that the amount of functional frontage on Lot 1 was limited because of marshy areas. He said granting this variance would allow the applicants to use the existing wooden dock.

Mr. Bogle asked why not split the 240 ft of frontage into two lots, so each would have 125 ft of frontage.

There was discussion that this could result in 3 docks. The applicant was asked why he would want the current configuration.

Arnett Taylor said the thinking was that Lot 1 would probably retain a dock in the future, and that it wasn't felt there was enough frontage, overall for 2 substantial docks. He said space was therefore provided for one, and he said access could be provided to the other lot if needed.

5) Section 175-139 Suitability of the Location of the Leachfield.

Attorney Bruton said the unique situation in this instance was that the area where the septic system could be located couldn't meet the Town's 125 ft setback requirement, but could meet the State's 75 ft setback requirement. He said that in other ways, this site exceeded the Town's requirements for septic systems. He said there would be 4 ft, as opposed to 2 ft, above the seasonal water table, and said there would be 72 inches from bedrock. He noted that the soils were sandy loam, and said the percolation rate was 8 minutes per inch. He said this was the only feasible location to put the septic system.

Mr. Taylor said it was highly unlikely that this system would ever be utilized, but said it was a provisional system if the current system failed.

By granting the variance, substantial justice would be done.

Attorney Bruton said granting these variances would allow the creation of a modest subdivision of 50 acres of land, and would result in a situation which, because it was a porkchop subdivision, where the land could not be subdivided further. He said the subdivision would allow the owner the benefit of having separate ownership for the different infrastructures that went with each lot.

The use must not be contrary to the spirit and intent of the Ordinance.

Attorney Bruton said this would be a reasonable subdivision, and wouldn't create overcrowding, with one structure on each lot. He said as a result of the subdivision, the Town would see an increase in taxes, while no new development would occur.

Mr. Bogle asked Attorney Bruton to address the issue of access to the subdivided lots from Durham Point Road.

Attorney Bruton said there was an existing right of way, which goes through the abutter's property. He said this had been granted in 1956, and provided for access for motor vehicles. He said as part of the subdivision, there would be requirement that the 3 lot owners would be responsible for maintenance of this right of way. He said the activity that occurred on the un-subdivided parcel right now would be the same or would decrease.

Mr. Bogle asked if there could be an alternative access up the road.

Attorney Bruton said this had been considered, but said this would involve 100's of thousands of dollars, given the land out there. He said that cost alone, when nothing was really happening, would make this project completely infeasible. He said the only way such a thing could be supported was if an elderly housing development was put in, which was a permitted use. He said this was not what the owner and applicant were looking to do here.

Mr. Bogle asked if there had been any communication with the abutter regarding the right of way.

Attorney Bruton said he understood that the Town had received a letter from the abutter, but that the idea was not mentioned.

Chair Gooze asked about the home occupation issue.

Attorney Bruton said the property was not being used that way now, or soon. He noted that the home occupation couldn't happen if the subdivision occurred, and provided details on this.

Katie Paine said she owned her business, and did work and held meetings at the cabin. But she said she had recently moved her entire business to Berlin because more employees were needed.

Mr. deCampi said if he was Ms. Sandberg, the owner of the right of way, he would see it as a major disadvantage to have 3 separate property owners crossing his property, as opposed to one property owner with tenants. He said he would want to know who to call if there were problems, and said this could be a considerable disadvantage to someone wishing to buy Ms. Sandberg's house.

There was discussion with Attorney Bruton.

Attorney Bruton said Ms. Sandberg didn't even utilize that area in terms of an access point, so the only people affected would be the people using and maintaining the access way.

Mr. deCampi said people going up and down that road would bother Ms. Sandberg.

Attorney Bruton said that could be the case at present as well.

Mr. deCampi noted that the 4 car garage had been carved off the property with the duplex, and asked why this was.

Attorney Bruton said this had to do with setback issues.

Mr. Taylor said it had to sit on one lot or the other, and explained that the garage was used mostly by Ms. Paine. He said the parking area adjacent to it was utilized by both structures.

Mr. Johnson said it looked like the garage was closer than 35 ft from the lot line, which made it nonconforming. There was discussion about this.

Attorney Bruton said they would look at this, but he noted that this didn't affect the variances currently being requested, and said it would be looked at when the Planning Board looked at the subdivision application.

Chair Gooze noted that another variance might be needed for this.

Mr. Bogle noted it had been said there was a potential buyer for Lot 1, and Mr. Taylor said he was the potential buyer.

Mr. Gottsacker said the assumption was that all the existing uses on the property wouldn't change, but he noted that multi-unit elderly housing was a permitted use, so said he didn't believe this assumption was correct. He also said that regarding the driveway issue, if a multi-use development went up, the area could change considerably.

There was discussion about this.

Mr. Johnson noted Section 175-107 (D) (2) - exemption criteria for conservation subdivisions, which noted that all lots had to have "...a minimum lot area of 400,000 sf, and that there will be no potential for the future subdivision of the parcel....." He said the Planning Board would build this into its conditions of approval. He said what Mr. Gottsacker had described therefore could not happen.

Mr. Sievert asked whether, if the variance was given from 175-55 (F) concerning HISS mapping, this variance would go with the land, so that if someone went to develop it, HISS mapping would not be required.

Mr. deCampi said there could be a condition that this variance did not apply to any further development of the land.

Mr. Johnson said there would be conditions developed by the ZBA, which could be rolled into the Planning Board's list of conditions, and would affect all future uses.

Chair Gooze asked if there were any members of the public who wished to speak for the application.

James Bubar, 4 Old Piscataqua Road, said he was also representing 40 and 42 Dover Road. He said this subdivision looked like a good deal, noting that it would increase the tax base, but not cost the Town any money. He said that as an abutter across the river, he liked it that the shoreland

was one piece of property, and said it was good that there was one dock instead of two, but noted that he was used to seeing a lot of docks.

Chair Gooze asked if there were any members of the public who wished to speak against the application.

Betsy Sandberg, 49 Durham Point Road, noted that she was an abutter to the property in question. She presented a detailed letter to the Board, which she read out loud. In the letter, Ms. Sandberg asked the Board to consider having a site walk of this area, beginning at her house, so that it could see the exact location of the right of way that divided her property into two pieces, with approximately ½ acre on one side, and ¼ acre on the other.

She said the right of way was approximately 175 ft long and 20 ft wide, and was located approximately 20 feet from the side of her house, and about 5 feet from her vegetable garden. She said this right of way provided the only access to Ms. Paine's property. She noted that she had determined that there were five dwelling units located on this property, - 2 units located in a duplex, 2 units located in a single-family residence with an accessory apartment, and 1 unit in a smaller building along the shores of the Oyster River.

Ms. Sandberg said the history of this right of way was pertinent to the discussion on this present application. But she first asked what was an acceptable traffic burden on this specific right of way, and at what point it became overburdened. She noted that this question had been raised by each of the owners of her property since at least 1953. She said when a change of use or a division of the Paine property was proposed, a reassessment of this question was required, and the ZBA was asked to weigh the rights and burdens of these two intertwined properties and landowners, in deciding whether variances to the Zoning Ordinance were permitted.

Ms. Sandberg said the complexity of the access and right of way issues might require the involvement of the Town Attorney to answer the question of what happened to a right of way that was granted to one lot when it was then subdivided into 3 parcels. She said it was her understanding that an easement to a parcel couldn't be extended to the lots subdivided from that parcel if it resulted in an unreasonable expansion of the burden. She asked that the Board table voting on the application until that question was answered.

Ms. Sandberg provided a detailed history of her property and the Paine property. She noted that she had reviewed all of the Planning Board and ZBA files for the Paine property. She said that until the mid-1950's, when the formalized right of way was recorded, there was single family use of the 1685 house (now called a Duplex), and neither the barn for that house (now called House on the current proposal) nor the cabin at the river (now called Cottage on the current proposal) were occupied. She said at this time, there was one family, living on the property.

She described the changes in configuration and use of the Paine property over the past 50 years, including the 1685 house becoming a duplex, and the conversion of the barn to living space. She said that within the last 15 years, multiple rental units had come into operation on the property. She also said that when a fire destroyed the barn and Ms. Paine rebuilt her current home, an accessory apartment was included in it.

She reviewed the variance requested for the Paine property in 2003, for a project to tear down the shorefront cabin and build a single-family residence on that site. She said issues raised at that time were concern about the right of way, as well as the intended use of the building, and concerns that it might be used for business purposes. She then provided details on apparent business activities at the structure on the site of the old cabin.

Ms. Sandberg said she had recently contacted Tom Johnson about this, asking him to assess whether the use of the building was considered a “Home Occupation” as defined by the Zoning Ordinance, which was permitted in the RC zone, or was considered “Business Services”, which was not permitted in the RC zone. She then referenced the definition for Home Occupation in the Zoning Ordinance, and asked a series of questions concerning the present use of the building. She also noted the KD Paine and Partners website, with a “staff picture” with 12 people pictured. She said the amount of traffic coming and going from the property was much higher than was usual for a residential neighborhood, and provided details on this.

Ms. Sandberg asked that the Board to table consideration of this application until these issues had been addressed by the Zoning and Code Enforcement Officer. She said that since the current use of the property might be in violation of the Zoning Ordinance, the variances should not be granted, because the owner of the property did not have “clean hands” to have such requests brought before the Board. She said that she had no personal objection to the division of this land, but said that to do so required multiple variances. She said the burden of proof was on the applicant to show that each of the 5 variance criteria were met.

She then went through each of the variance criteria, and provided a rebuttal as to why some of these criteria were not met, for the various variances being requested. (letter is on file at the Planning and Zoning Office.)

Ms. Sandberg then summarized the reasons why this application for variances should be denied.

- She said there would be a decrease in the value of her property because it was encumbered by the right of way that provided the only existing access to the 3 proposed lots.
- She said the “public interest”, “substantial justice” and “spirit and intent of the Ordinance” criteria were not met because of the right of way issues.
- She said the current use of the cottage appeared to be in violation of the Zoning Ordinance, and therefore was in violation of the spirit and intent of the Ordinance.
- She said the hardship argument failed because there were possible configurations for the 3 lots that would not require area variances for the shore frontage requirements.
- She said that waterfront lots fell below the required minimum frontage requirements were contrary to the spirit and intent of the Ordinance.
- She said the applicant (Mr. Taylor) had not met his burden of proof on behalf of the landowner (Ms. Paine).

Ms. Sandberg asked that if the Board did approve these variances, it include conditions of approval that would protect her interests. She asked that there be a statement that there would be no further subdivision permitted under the Porkchop Subdivision Regulations. She asked that the right of way be moved to another location that would not decrease the value of surrounding properties. Finally, she asked that the applicant be required to come into compliance with the permitted uses in the RC Zoning district.

Chair Gooze suggested that there should be a site walk. He said this application needed a lot of thought, and said he thought there should be no further discussion on the application that evening.

Attorney Bruton said this might be a situation where there was a civil matter to address.

There was discussion about this. It was noted that the issue of a possible decrease in the value of surrounding properties was a criterion that the ZBA did consider in reviewing variance applications.

It was agreed that the site walk would take place on Thursday, April 19th, at 5:00 pm, and that the application would be on the May 8 ZBA agenda.

John deCampi MOVED to continue to May 8, 2007 the public hearing on a petition submitted by Arnet Taylor, Jr., Durham, New Hampshire on behalf of Katharine Paine, Durham, New Hampshire for an APPLICATION FOR VARIANCES from Article XII, Section 175-55(E), 175-55(F) and 175-56(D)(3)(a), Article XIV, Section 175-74(D) and Article XII, Section 175-39 of the Zoning Ordinance to obtain relief from certain regulations as pertains to the subdivision of an existing single lot into three separate lots, under the “Porkchop Subdivision” regulations. Myleta Eng SECONDED the motion, and it PASSED unanimously 5-0.

John deCampi MOVED to continue the ZBA meeting to April 17th, 2005. Myleta Eng SECONDED the motion, and it PASSED unanimously 5-0.

Mr. Johnson noted that two of the voting members would no longer be voting members for the May 8th meeting, so it was critical that the alternates be at this meeting.

Meeting ended after 11:00 PM.