

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING
PORTSMOUTH, NEW HAMPSHIRE**

7:00 p.m.

CITY COUNCIL CHAMBERS

March 22, 2005

MEMBERS PRESENT: Chairman Charles LeBlanc, Vice Chairman David Witham, Alain Jousse, Nate Holloway, Bob Marchewka, Arthur Parrott, Alternate Steven Berg and Alternate Duncan MacCallum

MEMBERS EXCUSED: None

ALSO PRESENT: Lucy Tillman

I. OLD BUSINESS

A) Approval of Excerpts of Minutes for the following meetings: October 19, 2004 and November 16, 2004, reconvened November 23, 2004 (150 Greenleaf Avenue).

The designated Excerpts of Minutes were approved, with a minor correction.

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**II. PUBLIC HEARINGS.**

2) Petition of Mary Mirasola and John Mirasola, owners, for property located at **176 Sherburne Road** wherein a Variance from Article III, Section 10-301(A)(9) was requested to allow the construction of a single family dwelling on pre-existing non-conforming lot having access from a private driveway and no frontage on a City street after the demolition of the existing single family dwelling. Said property is shown on Assessor Plan 260 as Lot 4 and lies within the Single Residence B district.

The petition was withdrawn by the applicant.

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3) Petition of Mary Mirasola and John Mirasola, owners, for property located off **Sherburne Road** wherein the following were requested: 1) a Variance from Article III, Section 10-301(A)(9) to allow the construction of a single family dwelling on pre-existing non-conforming lot having access from a private driveway and no frontage on a City street, and 2) a Variance from Article III, Section 10-302(A) to allow: a) a 25' front yard where 30' is the minimum required and b) a 20' rear yard where 30' is the minimum required. Said property is shown on Assessor Plan 260 as Lot 5 and lies within the Single Residence B district.

SPEAKING IN FAVOR OF THE PETITION

Attorney Pelech stated that he was there on behalf of the owners. This request for a variance involves one of Portsmouth's oldest subdivisions. This is property within the Farm Heights subdivision from 1906. This involves a lot off Burkhardt Street, a paper street off Sherburne Road, which goes back to land that was taken by the Pease Air Force Base and later I-95. Lot #5 became a lot that was accessible only by Burkhardt Street. The owner's purpose is to utilize this lot for the construction of a single family residence. This lot did not merge with the other lots into common ownership because it lies across the street from the others. With regard to lot 5, the applicant is seeking 4 variances. The first is to construct a single residence dwelling on the lot that does not have frontage on an accepted city street. The second is to allow construction on a non-conforming lot of record which contains 10,438 sf where 15,000 s.f. is the minimum area size required. The third and fourth variances are requested to allow relief for the front and side yard setbacks.

He stated that the applicant cannot do much with this lot if relief is not granted. If the Board does not grant the first two variances, the second two would be moot. The NH Supreme Court recently attempted to clarify the Boccia analysis, which he handed out to the Board. He stated that they had not changed any of the criteria, but clarified how the Board should apply the Boccia standard to a particular set of facts. This is an area variance and meets the criteria for hardship. The special conditions are the fact that this has no access to a city street. When the lot was created, it was anticipated that the street abutting the lot would one day become a city street. The uses surrounding this lot contribute to its special conditions. The variance requested is needed for the owner's proposed use of the property. Granting the variance would not be contrary to the public interest. This lot is larger than 95% of the lots in Panaway Manor. The 15,000 sf minimum lot area for that area is not reflective of what is actually out there, since they are mostly smaller. This will serve the public interest and provide another unit of housing for the area. This is also consistent with the spirit and intent of the ordinance. This lot does meet the definition of a nonconforming lot.

Mr. Berg asked why, if Burkhardt Street was 100 years old, the lots had not been merged.

Attorney Pelech stated that it was not an abandoned street, but that it was never accepted as a city street. When a paper street is shown on a plan, it is known as a dedicated street for public use. Burkhardt Street was never accepted, nor voted for abandonment.

Mr. Berg asked if the fact that it has previously been used as an access road for lot 4 meant that it had an acceptable use.

Attorney Pelech stated that the direct abutters have a right of way on Burkhardt Street.

Chairman LeBlanc asked if the lots had been surveyed in any way. Do they know where the boundaries are?

Attorney Pelech stated that there was a prior title action in the 1970's that adjusted the boundary between 37 and 38. A court decree established the boundaries. They know the boundaries from that plan.

Mr. Jousse asked if it was the applicant's intent to situate the new dwelling on top of the foundation of the barn after demolition, or to construct a new foundation.

Attorney Pelech stated that it would have to be a new foundation, because the barn doesn't have a proper cellar or foundation. The new structure would envelop most of the barn footprint.

Mr. Parrott asked Ms. Tillman what the status of the private street was, and what was being proposed to change it to the new status.

Ms. Tillman stated that it would not make any change to the status of the road, but simply allow the applicant to build on Lot 5. The other side already has a dwelling unit and accesses it through the paper street and a driveway. This will be the same thing. This will not make it a city accepted street.

Mr. Parrott asked if it was being proposed to the Planning Department that it would change the status from a driveway to a private street. The plan states that it says driveway.

Ms. Tillman stated that that would not change. They were voting on the ability to build on the lot, not to change the status of the road.

Mr. Parrott stated that the planning principle states that they are only allowed to approve structures on lots where there are accepted city streets. This is neither.

Ms. Tillman stated that that was exactly why the Board is being asked to grant a variance.

**SPEAKING IN OPPOSITION TO THE PETITION, OR
SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one further rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. Jousse made a motion to grant the request as presented and advertised, which was seconded by Mr. Marchewka.

Mr. Jousse stated that this variance is not contrary to the public interest or the City. This City needs more dwellings. There is a special condition that exists, particularly its location and depth of the land. To place a house on such a lot is going to require relief from the front and back, which is being sought by the applicant. This is a permitted use in this area of the City. The benefit sought by the applicant cannot be really completed by any other means except making a very long, skinny house. The variance is consistent with the spirit of the ordinance, and substantial justice would be done by granting this request. The opinion has been presented as far as the value of surrounding properties, and he doubts that there will be any diminution since the barn there now is unsafe.

Mr. Marchewka stated that he agreed with Mr. Jousse. This is an allowed use and a reasonable use. There is simply no other way to do this. If a variance isn't granted, then it essentially renders it useless. This is grantable based on the Boccia analysis.

Mr. Parrott stated that his concern was the status of the road. He can support this if it they were also requesting to put in a private road, as it has been done before, but that is not being proposed in this instance. That's the problem, because it sets a precedent of building in backyards and in back lands without any concern for the requirement that houses be sited on a city street.

Mr. Berg stated that he agreed with Mr. Parrott. He is troubled by the road concept. He wonders why they haven't discussed why it hasn't been brought up to City standards. The Board doesn't know why that hasn't or cannot be made into a road. Without that information, he cannot support the motion.

Chairman LeBlanc stated that he was unaware of the ins and outs of creating city streets, but he is sure that there is a financial consideration. The owners of the two lots would have to put up a lot of money, so they would most likely rather keep the road as is. He would support a single residence family dwelling on this property.

Mr. Jousse stated that he is viewing this paper street as a private driveway. He doesn't think that they have a right to demand that the owners of the property pave the road or do anything else with it.

Mr. Berg stated that the Board has done that in the past and he would want more facts.

The motion passed with a vote of 5 to 2, with Messrs. Berg and Parrott voting against the motion.

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4) Petition of Michael J. and Anne T. Coffey, owners, for property located at **86 Haven Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 14' x 24' one story addition with: a) a 20'8" rear set back for the addition and a 19'8" rear setback for the steps from the addition where 30' is the minimum required, and b) 25% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 206 as Lot 27 and lies within the Single Residence B district.

**SPEAKING IN FAVOR OF THE PETITION**

Attorney Bernie Pelech, on behalf of the owners, stated that Haven Road is a neighborhood that has seen a lot of activity with this Board. The neighborhood consists of small lots developed in the 1950's with modest 1.5 story, cape style homes. They are requesting a variance for an expansion which would be a 14' x 22' addition. This lot has special conditions because it is located at the dead end of Haven Road.

The lot is oddly shaped because the school department that did the site work had found a drainage line that was on the property. The owners were not allowed to purchase a land to the rear to even out the lot. As such, it has a very strange configuration that extends out and is not rectangular. The lot is only 7,900 sf, where others are around 12,000 sf. The special conditions are the irregular size of the nonconforming lot, the fact that it is at the end of a dead end street, and that it is surrounded on both sides by the Little Harbor School. This is a reasonable use. It will remain a single family residence. The lot size cannot be expanded, and the addition will be a single story totaling 108 sf. There is no feasible alternative.

He stated what they were seeking, noting that, if the lot were the same size as the other lots in the area, they would not need a rear yard setback. If it were a conventional lot, the lot coverage would not exceed what is allowed. This is not contrary to the spirit and intent of the ordinance. There is obvious light and air. This is also a dead end street. There are big open spaces on either side of the house. It is also not contrary to the public interest. They will not be generating additional school children or strain on municipal services. Substantial justice will be done in granting this variance, and it would be in keeping with the neighborhood. This will not create any diminution in value of any surrounding properties. He passed out several letters from abutters that indicate their approval of the project. The letters say a lot on the issue. The Superintendent also sent a letter stating that the school department has no problem and the fencing can remain without any problem.

Mr. Witham asked if the lot was originally squared off when the City took that corner.

Mr. Mike Coffey stated that the house was built in 1941 and the school was put in 1987. His deed has two parts: the first concerning the main lot, and the second pertaining to the dog leg behind his property. They offered each property owner a little piece of property, so some took it. That corner is blocked because there is a drainage area, which is protected because it drains stormwater.

Mr. Mike Chubrich stated he had lived at 65 Brackett Road for over 23 years. They appreciate the Coffey family, and think that this addition will enhance the value of the other properties in the neighborhood. This lot falls down in the back, and the additions will bring it up to a normal level.

With no one further rising, the public hearing was closed.

## **DECISION OF THE BOARD**

Mr. Marchewka moved to grant the petition as presented and advertised, which was seconded by Mr. Berg.

Mr. Marchewka stated that this is a reasonable request. It is an odd shaped lot and although they are looking at setback relief, it doesn't affect much of anything because there is about 20 to 30' of empty space at the school end. The variance wouldn't be contrary to the public interest, and it is an allowed use. Special conditions exist, such as its odd shape and its border of green space owned by the school. This cannot be achieved in another reasonably feasible way. In order to expand, they need relief. This is a modest sized footprint. The variance is consistent with the spirit of the ordinance and substantial justice is done by allowing the owners to update and expand their property. He did not see how the value of surrounding properties would be diminished.

Mr. Berg stated that he agreed with Mr. Marchewka. The setback relief is intended to prevent overcrowding, yet the applicant's property line to the street is about 55' to 60'. That is a special condition that needs to be taken into account. He will support the motion.

Mr. Witham stated that he agreed with the speakers and will support the motion, but stated that the site plan has some discrepancies between the dimensions drawn on the plan, and the actual addition. They have a site plan that is not written to scale. As part of the application, the applicant is required to

submit a scaled site plan with the correct dimensions. While he would vote without it, he would like to see presentations with accurate scale drawings with applications.

The motion to grant the petition passed by unanimous vote of 7 to 0.

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5) Petition of Wal-Mart Real Estate Business Trust, David N. Glass Trustee, owner, for property located at **2460 Lafayette Road and Jokers Realty One LLC et al**, owner for property located at 2460a Lafayette Road wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow: a) 454.36 sf of attached signage where 300 sf is the maximum allowed, and b) 558.36 sf of aggregate signage where 500 sf is the maximum allowed. Said property is shown on Assessor Plan 285 as Lots 16-1 and 16-2 (to be combined) and lie within the General Business district.

Mr. Berg stepped down for this petition.

SPEAKING IN FAVOR OF THE PETITION

Attorney Bernard Pelech, on behalf of Wal-Mart, showed a larger scale photo of what is in the Boards' packet. He also showed a picture of the freestanding sign. They were there before with over 1,000 sf requested signage, and the Board was not favorable to that request. They reduced the requested signage by about 50%. He pointed out the different areas of Wal-Mart and outlined the amounts of signage they are now requesting. They believe that there are special conditions as it relates to the issue of signage such as the fact that the structure sits 800' back from Lafayette Road. Although the structure is large, visibility of the building is limited. The other condition is that this is a large structure. It is 700' long on roughly 5 acres. It is not a standard structure. Signage is not determined by the size of the building. This request is reasonable. There is no other reasonably feasible alternative. It will not result in any diminution of value of surrounding properties. It is in the general business district and is tastefully done. The public interest is served because it allows the site to be readily identified and directs cars into the lot. The purpose of the expansion of the freestanding sign is because the Supercenter portion sign needs to be replaced. The shape is the same but it is larger. He noted that the fire chief also asked for a small sign at the exit portion near the rear. They will be there next month requesting relief from this, as it is for emergency personnel and clarification. It was already too late to amend this application to account for those sf on the additional signage. This is a reasonable proposal. This is about a 20% increase on what is on the original building, and the building is being increased by 40%.

Mr. Marchewka asked if Jokers had a sign on Route 1.

Attorney Pelech stated that they now have a sign that sits on Route 1, but it will come down. This proposed sign is smaller than that one.

Ms. Tillman stated that sign was on its own lot.

Mr. Witham stated that this is an improvement over what was proposed last time. He still has concern for the signs, such as the one hour photo, deli, garden center, etc. How are these directional?

Attorney Pelech stated that perhaps “directional” would be the wrong word to use. He would call them more “informational” to inform others that those services are there. These signs are 12” in height and vary from 3’ long to 7’. They are just ways of indicating to the public what is in the store.

Mr. Marchewka stated that he felt the same as Mr. Witham. It is nice that Wal-Mart reacted to their comments, but he would like to see a proper plan instead of just a huge amount of footage.

Mr. Parrott stated that they’re talking about a lot of percentages. They are asking for 450 sf where the maximum of 300 sf is allowed. That is 50% over the City limit. That is not a minimal request, that’s a huge violation of the City standard. All the additional signs are unnecessary. ‘Food center’ is self explanatory. These extra signs are not necessary for successful operation of the business.

**SPEAKING IN OPPOSITION TO THE PETITION, OR
SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one further rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. MacCallum moved to deny the application, which was seconded by Mr. Parrott.

Mr. MacCallum stated that he doesn’t think anyone will have a problem finding Wal-Mart. The ordinance is supposed to be the rule, and the variance is supposed to be the exception. He sees no reason to make an exception here. The existing signage is acceptable, and there is no real reason for expansion. There is no indication of a hardship. The applicants present a plan that has a massive request and then is denied. They then come back with a smaller plan that seems better in comparison, but still not within the ordinance. They have exceeded the requirements of the zoning ordinance. There is no hardship here, and it will violate the intent and spirit of the zoning ordinance.

Mr. Parrott stated that they informed the applicant that their previous request was unacceptable because it was too massive. For them to come back and present this as a better option while still exceeding the ordinance limits, is unacceptable. The food center sign speaks for itself. They do not need additional signs for that.

Mr. Jousse agreed. The only directional sign would be the Tire and Lube sign directing cars to the repair shop. The others are superfluous.

Mr. Witham stated that he will not support the motion. He was hoping to approve the application without the seven additional signs on the lot. All the other signs are reasonable and directional.

Mr. Marchewka stated that this was a much better application. He will be supporting the motion because there is no mention of why 300 sf is not enough signage.

The motion to deny the petition passed by a vote of 5 to 2, with Messrs. Holloway and Witham voting against the motion.

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6) Petition of Hayscales Trust, Robert Krieger, Trustee, owner, and Murat Ergin, applicant, for property located at **236 Union Street** wherein a Special Exception as allowed in Article IV, Section 10-401(A)(1)(d) was requested to allow the former use by ProPortsmouth to be changed to 1,000 sf of office space and 2,000 sf of warehouse space for an internet sales business with associated existing parking. Said property is shown on Assessor Plan 135 as Lot 22 and lies within the Apartment district.

#### **SPEAKING IN FAVOR OF THE PETITION**

Mr. James Pappas stated that he represents Mr. Murat Ergin in this application. The petition is asking to use this property as an office/warehouse, as it has been used before. A letter was sent out to the community on Union Street that addressed the concerns of the neighborhood. This is a quiet, internet based business that sells wooden blanks to craft companies. The most noise generated would be a sander and a kiln for drying. The wood is already cut. Most of his business is done by internet, and then shipped by UPS. Hardly any customers come to the site and there will not be any trucks or transportation vehicles. He would like to hire some employees. It is a better use for the building, which is now an automotive repair and storage facility. This will be a benefit to the neighborhood.

In response to questions from Mr. Holloway and Chairman LeBlanc, Mr. Pappas stated that he would like to hire 3 or 4 employees and the hours of operation would be 9 a.m. to 5 p.m. weekdays only. Mr. Ergin might use his office on the weekend, but no employees would be there. The kiln is a no noise factor kiln used for air drying wood. There may be some deliveries 4 to 5 times a year for trucks to deliver wood.

In response to further questions, he stated they had a dust collection system and the sander did not make much noise. The building was 4-units and used mainly for storage at this point.

#### **SPEAKING IN OPPOSITION OF THE PETITION**

Mr. Patrick Malloy, a direct abutter, asked about the current zoning restrictions on this property.

Chairman LeBlanc stated that it was a residential apartment zone. The previous variance there has lapsed.

Mr. Malloy stated that this property was no longer compliant with zoning laws because it is almost a 0' lot line building. There is probably about 2' on the east side and maybe 6' to the driveway on the other side. The structure itself takes up a lot of the property. He points this out because of noise and dust. There are residents on both sides of the property. He detailed his concerns about the woodworking operation and safety and operational controls. He is trying to avoid another eyesore. There is a tendency for these types of business to grow, and they do not want a factory in their neighborhood. He referred the Board to the letter that was submitted, and stated that he agrees with all the points brought up.

Chairman LeBlanc stated that this was considered a Special Exception and that they did not need this type of variance. He explained the 6 criteria used to determine Special Exceptions.



Mr. Malloy stated that he was informed that this was a variance request. He does not think that the impact will be less adverse than the previous business.

Chairman LeBlanc read a letter from Mr. and Mrs. Kohlase, outlining their questions and concerns. They asked the Board to consider situations where variances have allowed businesses to infringe on the neighborhood.

Mr. Jousse asked if they could have the applicant address some of the questions in the letter.

Mr. Murat stated that they do not create that much dust, but they do have a dust collector attached to the sander. They will not have a dumpster. The dust collected would only total about 1 trash bag for every 4 to 5 months. Their deliveries would be a maximum of one per month by a tractor trailer pulling a 20' container. It wouldn't be a problem if he had to bring the trash to a dumpster himself. There would be no outdoor storage. They did not have a sprinkler system. When he refers to the kiln, he is talking about a controlled room that has a dehumidifier and a natural wood heater. The heat dries the wood in the room. There is no fire or open flame.

Mr. Parrott asked if there was any reason that he did not submit the letter to the Planning Department informing the abutters of these plans so that the Board could have a copy of it. That is normal procedure.

Mr. George Carlisle stated that he also represented the seller. He and Mr. Pappas constructed the letter to the abutters, and he apologizes that he did not even think to send it to the Board. He realized it during the meeting. In the letter, they explain the nature of Mr. Murat's business and their plans. Mr. Murat made it clear that he did not want to be unwelcome in the neighborhood.

Mr. Parrott asked if there was anything at all in the letter that differs from tonight's presentation.

Mr. Carlisle stated that there was not.

With no one further rising, the public hearing was closed.

### **DECISION OF THE BOARD**

Mr. Berg moved to grant the petition as presented and advertised, which was seconded by Mr. Marchewka but with the stipulations of no outside storage, no dumpsters and specified hours of the power equipment.

Mr. Parrott also wanted to limit the number of employees to 5.

Chairman LeBlanc stated that the garage door must also be kept closed except deliveries.

Mr. Berg stated that the criteria for the special conditions have been met. There is no fire hazard, and he believes that the stipulations address any possible detriment to value. The applicant will be running a business and noise will not rise above the level of regular use. They are limiting parking by limiting employees, and addressing the view by making sure the garage doors are shut. It is a low impact use.

No drain on municipal services or addition to water runoff would occur. The building has been used similarly in the past.

Mr. Marchewka stated that it was a Special Exception which means that it is allowed provided it meets the Special Exception standards, which it does. It is a low impact business, and the effect on the neighborhood will be limited by the stipulations. He doesn't think that the property adds anything to the neighborhood as it stands now; in fact it's a detriment. The proposed use could be an asset to the neighborhood and could actually clean up the property.

Chairman LeBlanc asked for a vote to grant the petition with the following stipulations:

- That there will be no outside storage.
- That there will be no outside dumpster.
- That the hours of power equipment use will be limited to between 9:00 a.m. and 5:00 p.m., Monday through Friday.
- That the maximum number of individuals working at the site, including the owner, will be five.
- That the garage door will be kept closed, except for deliveries.

The motion to grant the petition was passed by unanimous vote of 7 to 0.

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7) Petition of Anthony Dilorenzo c/o Somersworth Auto Center, owner, for property located at **2219 Lafayette Road** wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow a 7.6 sf free-standing A-frame sign creating 207.6 sf of aggregate signage where 200 sf of aggregate signage is the maximum allowed. Said property is shown on Assessor Plan 272 as Lot 1 and lies within the General Business district.

SPEAKING IN FAVOR OF THE PETITION

Mr. Brian Healy stated that he was seeking a variance for a sign. The property is very large and they are at 200 sf of signage. They have over 400' of road frontage, which is where he would like to put the sign. It would be mainly used for road specials. It will help people see the business better. It is an average A frame sign that looks good on the lot. The signage on the building itself conforms with the present signage restrictions. It is very small and a larger sign would aid his business.

Mr. Jousse asked why he needed an A frame sign to advertise something that is advertised on a flashing billboard.

Mr. Healy stated that the billboard is not that effective. The signs are more effective for his business, and he has had great results in the past.

Mr. Jousse stated that something that is 10' in the air is more visible than 3.5' tall. A 3' sign can be missed because vehicles will be above it. This particular depiction has been used on the billboard in the past.

Mr. Healy stated that that was correct. He will continue to advertise on the billboard, but this sign is more cut and dry. It is simpler, it has less to read on it and it gets the point across. It helps to draw in some service business. There is quite a lot to read on the other one.

SPEAKING IN OPPOSITION TO THE PETITION

Mr. David Paquette is an abutter directly behind the dealership. He doesn't see any benefit to the business to install an additional sign out front. They already have a huge sign, and signs in truck beds. The property already has an overabundance of lighting and no landscaping. It is an eyesore. The lighting glares into his living room. Another additional sign is not necessary.

With no one further rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. Marchewka made a motion to deny the petition, which was seconded by Mr. Parrott.

Mr. Marchewka stated that the regulations state that the property owner is allowed 200 sf of signage, which he has. This is just another sign on the property that is not directional. It doesn't benefit the general public. Another sign on Route 1 is not safe because drivers are distracted. There is no hardship presented or special conditions on the property. The benefit sought by the applicant can be used in another way, which it is – by the changing billboard sign. This would not be consistent with the spirit of the ordinance. The surrounding property values would be diminished by this, as noted by the abutter speaking against it.

Mr. Parrott stated that he agreed with Mr. Marchewka's points. The other signs are used successfully. In terms of the spirit of the ordinance, it is not useful to provide another distraction on the roadside. It is not safe. There simply is no hardship that has been demonstrated.

The motion to deny the petition passed by unanimous vote of 7 to 0.

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8) Petition of Karen Sue Pierce Revocable Trust of 1998, owner, for property located at **275 Meadow Road** wherein a Variance from Article III, Section 10-302(A) was requested to allow a 12' x 22' one story addition to an existing garage with a 23' rear yard where 30' is the minimum required. Said property is shown on Assessor Plan 236 as Lot 27 and lies within the Single Residence B district.

**SPEAKING IN FAVOR OF THE PETITION**

Ms. Sue Pierce stated that she was there to request a variance to build a 12' x 22' side addition to her existing garage that has a 23' rear setback where 30' is required. The front left and right side setbacks are conforming to the zoning requirements. She handed out additional supporting material.

In response to questions from the Board members, Ms. Pierce stated that her property was 220' at the rear, and 229' at the front. She had tried to consult one abutter but that person was unavailable. The

garage will remain a two-car garage, but it will be enlarged to have access to the inside via two garage doors.

**SPEAKING IN OPPOSITION TO THE PETITION, OR  
SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one further rising, the public hearing was closed.

**DECISION OF THE BOARD**

Mr. Marchewka moved to grant the application as presented and advertised, which was seconded by Mr. Witham.

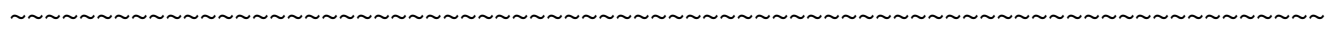
Mr. Marchewka stated that this was a long and narrow lot. The way that the house is situated on it is nonconforming. Any expansion of this house would require a variance. The issue is the rear setback which will be 23', but it is the same setback as the existing garage. This was built prior to the zoning ordinance and the lot would not conform to zoning standards today. In order to do any type of expansion on it, they would have to request a variance. The benefit of a larger garage can not be obtained by any other method. The variance is consistent with the spirit of the ordinance. It doesn't overcrowd anything. The garage is undersized, and it is reasonable that someone would want a larger garage, so substantial justice is done in allowing the applicant to improve her home. The value of surrounding properties will not be diminished. The new garage will be an improvement that could affect property values in a positive way.

Mr. Witham stated that he agreed with Mr. Marchewka. It does meet the Boccia analysis, in that the lot shape creates special conditions. The current garage door is very narrow, and there is no other feasible way to get a better functioning door without a variance.

Mr. Berg stated that he had trouble with this because it was 34' wide. Mr. Marchewka pointed out that the size doesn't matter because the distance from the property line would be the same either way. This is a narrow lot. They are still the same distance away.

Mr. MacCallum stated that he will be supporting the motion with reluctance because it fits within the holding of the Supreme Court decision. This long, narrow lot is essentially the same in character. There isn't enough room to do anything if they were not granted relief. There is about 105' of undeveloped land to the left of the property. This would not contribute to overcrowding. He will be supporting the motion.

The motion to grant the petition was passed by unanimous vote of 7 to 0.



**III. ADJOURNMENT**

The motion was made, seconded and passed to adjourn the meeting at 9:28 p.m.

Respectfully submitted,

Danielle Auger  
Acting BOA Secretary