

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

MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

CONFERENCE ROOM B

7:00 p.m.

February 16, 2010

MEMBERS PRESENT: Chairman Charles LeBlanc, Vice Chairman David Witham, Thomas Grasso, Alain Jousse, Arthur Parrott

MEMBERS NOT PRESENT: Carol Eaton, Charles LeMay, Alternates: Derek Durbin, Robin Rousseau

ALSO PRESENT: Principal Planner, Lee Jay Feldman

Chairman LeBlanc announced that, for Petitions #3 and #4, there would be only four Board members sitting. He offered the petitioners a chance to postpone their applications to the next month as a variance needed four positive votes. Mr. J. P. Nadeau, for 187 Wentworth House Road, and Mr. James Sanders, for 25 South Mill Street, requested postponement to the next meeting, which Chairman LeBlanc stated they should confirm in writing, which was done.

Chairman LeBlanc announced that there was also an earlier request from the applicants for 300 Woodbury Avenue to postpone to the March meeting. It was moved by Mr. Grasso, seconded and passed by unanimous voice vote to postpone the petition.

I. APPROVAL OF MINUTES

A) December 1, 2009

It was moved, seconded, and passed by unanimous voice vote to accept the Minutes as presented.

B) December 15, 2009

It was moved, seconded and passed by unanimous voice vote to accept the Minutes with two clerical corrections.

III. OLD BUSINESS

There was no old business to consider.

IV. PUBLIC HEARINGS

1) Case # 2-1

Petitioner: Kuzzins Bowden Hospitality LLC

Property: 300 Woodbury Ave Assessor Plan 175, Lot 4

Zoning district: General Business

Requests: Variance to allow a freestanding sign of 343 square feet where 100 square feet is allowed

Variance to allow wall signs of 304 square feet where 200 square feet is allowed

Section 10.1251.20

This petition was postponed earlier in the meeting.

2) Case # 2-2

Petitioners: David W. and Bonnie F. Delcourt

Property: 475 Ocean Road Assessor Plan 283, Lot 31

Zoning district: Single Residence B

Request: Special Exception to establish a Home Occupation 2 Massage Therapist

Table 10.440 use #19.22

SPEAKING IN FAVOR OF THE PETITION

Ms. Bonnie Delcourt stated that they were looking to use one room downstairs for massage therapy. They had a nice parking area with a turnaround spot so there would be no backing out onto the street. There would never be more than 1 client at a time two to three times a day at the most. In response to questions from Chairman LeBlanc, she stated that the hours would be Monday through Thursday, from 9:00 a.m. to 7:00 p.m. They would not change the outside and there would be no outside storage or signs. When Mr. Parrott asked why they were going for Home Occupation II as opposed to Home Occupation I, she stated she had spoken to Mr. Feldman. Mr. Feldman stated that, for Home Occupation I, no clients would come to the home and he read the relative definition from the Zoning Ordinance.

SPEAKING IN OPPOSITION TO THE PETITION

Mr. Richard Kent stated that he lived at 489 Ocean Road and stated that he had reviewed the file folder at City Hall and the more he read, the more questions he had and, unless the questions were answered, he would not support the proposal. He stated that the applicants' file included a personal letter written to the Board dated 1-22-10, in which it stated there would be no risk to property values because the business was inside. Mr. Kent stated that approving this petition would open the door to everyone else, commercializing the neighborhood and ruining property values. Citing again the applicant's letter, Mr. Kent stated that it mentioned 6 to 8 hours a week and 9:00 a.m. to 7:00 p.m. was a long way from that. Three clients per day were more than twelve

a week. He questioned whether she had a current massage therapist license and a legal business license. When he questioned weekend hours, Chairman LeBlanc reminded him that she had said Monday to Thursday as her days of operation. Mr. Kent's further questions included where the clientele would come from with no sign and he felt truckers going along the road would come in. It also wasn't clear if there was a separate bathroom.

Mr. Martin Cameron stated he lived at 469 Ocean Road and opposed the petition because once the door was open, it couldn't be closed. He expounded on the neighborhood history and character. When Chairman LeBlanc questioned this relevance to the subject, Mr. Cameron stated he was bringing it all up as background for the traffic situation on the road and continued on about the sidewalks and the sewer lines. Chairman LeBlanc again questioned the relevance, but Mr. Cameron continued with his comments on the general history and a property down the road which at one time had a business.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Ms. Delcourt stated that she was a licensed massage therapist with 840 hours of schooling and this was a legitimate business run by referrals. This was not a massage parlor and they would not be taking clients of the street or internet. She had stated the hours from 9:00 a.m. to 7:00 p.m. so that she had scheduling flexibility within that period. She was not going to be busy all day long. In response to a question from Chairman LeBlanc, she stated that she had friends in business and personal trainers who referred clients for health reasons.

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

DECISION OF THE BOARD

Mr. Witham made a motion to grant the petition as presented and advertised with the stipulation that the business hours of operation be limited to 9:00 a.m. to 6:00 p.m., Monday through Thursday. Mr. Jousse seconded the motion.

Mr. Witham stated that he had heard the abutters concerns and felt the first speaker's reference to a massage parlor was a somewhat unfair projection of an image. Addressing the notion that once granted, the door would be opened, he stated the way zoning existed, the door was open and this owner had property rights and could have a Home Occupation II provided she met the requirements and nothing he had heard led him to believe she did not meet them. He noted that everyone else could have the same if they met the requirements. There had been a reference to a detriment to surrounding property values, but he felt there was nothing behind that except someone's opinion of the type of business that would be brought in, truckers and whatnot. This was not a professional opinion and there was no indication that there actually would be a detriment.

Addressing the criteria, Mr. Witham stated there was no reason to believe there would be any hazard to the public or adjacent properties from fire explosion or toxic materials. There would be no detriment to property values due to smoke, gas, vibration or the other factors listed in that section of the criteria. With three appointments on a busy day, there would be 6 trips on a busy road so there would be no substantial increase in traffic or creation of a traffic safety hazard. He

didn't see a client's going in and washing their hands creating any excessive demand on municipal services or increase in storm water runoff. He felt the application met all the requirements..

Mr. Jousse stated that Mr. Witham had covered it all, but noted that it rubbed him wrong when somebody states that property values would be lowered. He had a porn shop 300' from his house and his values weren't lowered. Having a massage therapy business in someone's home would not affect even the house next door. There was tremendous traffic on that road on a daily basis and three more cars a day would have no impact. The use was allowed by Special Exception and he agreed that all the requirements were met.

Mr. Parrott stated there were a long list of restrictions in the city ordinance with respect to this kind of use and violation could be the basis for bringing an action against the owner. There was also protection for the neighbors in terms of a code compliance officer. Because a Special Exception has a standing provided the requirements were met, the Board was on firm ground to grant it. With respect to establishing a precedent, he stated that this Board looked at the merits of each individual application on a case-by-case basis and because they took a certain action on one, did not bind them to the same action on another as conditions would not be identical.

Chairman LeBlanc stated that Special Exceptions were not like variances and when the property sold, the Special Exception would go away.

The motion to grant the petition, with the stipulation that the business hours of operation be limited to 9:00 a.m. to 6:00 p.m., Monday through Thursday, was passed by a unanimous vote of 5 to 0.

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- 3) Case # 2-3
Petitioners: JP Nadeau, owner and Witch Cove Marina Development, LLC, applicant
Property: 187 Wentworth House Road Assessor Plan 201, Lot 12
Zoning district: Waterfront Business
Requests: Variance to allow the expansion of a nonconforming structure
Variance to allow the expansion of a nonconforming use
Section 10.321
Section 10.331

This petition was postponed earlier in the meeting.

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- 4) Case # 2-4
Petitioner: South Mill Investments LLC, owner James Sanders, applicant
Property: 25 South Mill Street Assessor Plan 102, Lot 16
Zoning district: General Residence B
Request: Variance to allow a second story addition with a 6" side yard setback where 10' is required

Variance to allow a two story addition off the rear of the existing structure with a 5’ side yard setback where 10’ is required

Table 10.521

Section 10.321

Section 10.324

This petition was postponed earlier in the meeting.

5) Case # 2-5

Petitioners: Herring Pond, LLC, owner

Property: 856 Route 1 By-Pass North Assessor Plan 160, Lot 30

Zoning district: Business

Request: Variance to allow a 42’ sign height in a district that allows a maximum height of 12’

Variance to allow a freestanding sign of 100 square feet in a district that allows a maximum freestanding sign of 20 square feet

Variance to allow an aggregate sign area of 240.1 square feet in a district with an allowable aggregate of 152 square feet.

Table 10.1251.10

Table 10.1251.20

Table 10.1253.10

SPEAKING IN FAVOR OF THE PETITION

Attorney Robert Shaines stated that he was representing the petitioner who operated a Citgo station on Route One By-Pass. He asked that the Board review the submitted photographs of the other gas stations along the route, all of which had signs of approximately the same height. He called attention to the photograph showing the applicant’s station noting the sign post which still had been in that location for 45-50 years. He also noted that Section 10.1222.40 provided for miscellaneous business signs mounted on a wall or door. They had counted those in their tally, but suggestion there might be a reduction. They were applying for a variance because the view of the property was blocked by a bridge and trees and you couldn’t see the station until you were on top of it. They were seeking the right to a sign as the Gulf and Shell Stations and Mama D’s Restaurant.

Addressing the variance requirements, Attorney Shaines stated that there would be no denigration of the neighborhood. This was a business zone, not a residential zone and nothing would be affected by it. Mr. Jousse asked the height of the present freestanding sign and Attorney Shaines replied it was 20’. In response to further questions, he indicated that the total sign area as of a permit granted in March of ’09 was 91 s.f. At that time, there was no measurement of the window signs but they were counted this time. Mr. Jousse stated that he had found the reference in the materials to the total and it was 140.06 s.f. Mr. Grasso noted that, in his packet, he had mentioned using the existing pole but there was a proposal to relocate it. Referring to a plan in his packet, Attorney Shaines stated that he had met with the Chief Building Inspector and they had discovered that one of the legs of the existing sign was on the next property. They were proposing to move the leg. The requirement as of January 1, 2010 was a 10’ setback and, when Mr. Grasso asked if

he would accept a stipulation that they meet the 10' setback, Attorney Shaines there would be no problem with doing that. All they were looking for, in essence, was parity with their competitors.

SPEAKING IN OPPOSITION TO THE PETITION

Chairman LeBlanc asked those standing to form a line and requested that, if their comments duplicated those of a previous speaker, they simply that they agreed with those comments.

Mr. Tony Coviello stated that he lived at 341 Dennett street and was not a direct abutter but was one property away. He stated that, right now, the sign did not meet the requirements of the Zoning Ordinance for a reason and that was that it was not wanted next to a residential neighborhood. He stated that, when he bought his house, he knew he was next to a gas station and they were a good neighbor except for the current sign which shined into his kitchen. To add another would really affect his quality of life. He stated that, with the storm that evening, a number of people couldn't come but he read a letter from Michele Vangel of 30 Sparhawk Street describing her problems with the existing signs and how she felt they affected the quality of life and value of property in the neighborhood.

The following spoke in opposition to the petition: Ms. Joan Pohl of 416 Dennett Street, Ms. Diana Gilbert and Mr. John Gilbert of 15 Cortland Street, Mr. Steve Noel of 33 Hunters Hill Avenue and Mr. David Platt of 475 Dennett Street. Their concerns included the following: That the station and the lights could be seen and affected the quality of life; that property values would be negatively affected; that this location already did more business than the other stations with signs ; that this city did not suffer as much from urban landscape pollution and it should be kept away; That a height variance over 300% and aggregate over 60% seemed like a lot to them; that the lack of a sign would not make much of a difference to the business but would impact the neighborhood. One neighbor additionally requested that if the request was granted, there be a green barrier to protect them from noise and pollution. Another stated they were in favor of a sign, just not at 42'.

SPEAKING TO, FOR OR AGAINST THE PETITION

Attorney Shaines reiterated that the sign had been there for well over 50 years and was not removed until 6 and a half years ago. He believed it was there when most of the abutters bought their homes. It was not a lighted sign and was buttressed by trees. It would simply give the owner a better shot at identification from people travelling north. In response to a question from Chairman LeBlanc, he stated that the trees were on both this property and that of the abutter, he believed.

Mr. Parrott questioned his statement that the sign was not lighted when it was coded on the application as internal fluorescent lighting. Attorney Shaines stated that he had checked with someone and it was not lighting. Mr. Parrott stated he was contradicting what he had signed. When Attorney Shaines stated he had not signed it, he noted he was looking right at it. A brief discussion followed regarding the date of the permit application, with Attorney Shaines stating that the application dated November 3, 2009 was not the one before the Board while Mr. Parrott maintained that was the one provided to them. Chairman LeBlanc noted that they could stipulate that the sign not be lighted. There was some additional discussion of applications stamped

January 25, 2010 and January 27. Chairman LeBlanc stated that, in any event, the applicant had just presented that it would not be a lighted sign.

Ms. Pohl stated that once the sign had been taken down, they had lost any grandfathering. There were new ordinances and they should be followed.

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

DECISION OF THE BOARD

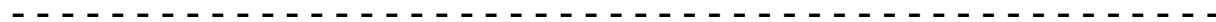
Chairman LeBlanc read into the record an e-mail from Mr. David Schleicher, an abutter, who questioned why the sign had to be so large.

Mr. Witham made a motion to deny the petition as presented and advertised, which was seconded by Mr. Jousse.

Mr. Witham stated that the attorney did a good job of stating the case considering what he had to work with. There were five criteria necessary to grant the variances and there were at least three which were not met. He looked at the spirit and intent of the ordinance, particularly as revised, which was to cut down on sign clutter and lower the heights. While a unique situation with the bridge could be argued, it did not outweigh the detrimental effects of having it so high. Regarding whether granting the variance would be contrary to the public interest, Mr. Witham stated that looking at the negatives for the neighborhood, it would fall into the category of affecting its essential character. There would have to be some diminution in surrounding property values at that sign height. He recalled a presentation on another property where an expert said that 25’ was the optimum height. He felt that 42’ based on posts already there was just too high.

Mr. Jousse stated that one of the factors they needed to consider was hardship and obviously there was no hardship on this particular piece of property. That particular gas station had more business than the other three on the same side so to say that a 42’ high sign was needed to stay in business was not a valid statement. This piece of property was already beyond what was allowed as far as signage and to increase it was not in the public interest.

The motion to deny the petition was passed by a unanimous vote of 5 to 0.



- 6) Case #2 -6
 - Petitioners: Worth Development Corp. owner, Joulain Deiri, applicant
 - Property: Unit 1-2B, Worth Condominium 103-131 Congress Street Assessor Plan 126, Lot 6
 - Zoning district: Central Business B
 - Requests: Variance to allow a 3050 square foot restaurant to operate without meeting parking requirements
 - Section 10.1110.10**

SPEAKING IN FAVOR OF THE PETITION

Attorney Robert Shaines stated that he was appearing on behalf of the applicants. They were really there at the suggestion of City Attorney Sullivan and this was a unique application. He believed that they were entitled to a variance from the provisions of the zoning ordinance which required parking spaces because of the uniqueness of the property. The property was a condominium unit within a building and there was no land with it so that they couldn't provide parking in any practical sense. He asked if the Board had a copy of that unit and Mr. Witham confirmed they did.

Attorney Shaines stated again that the uniqueness of the property presented the reason for the variance. The City of Portsmouth had advised them that the applicant proposing would have to pay a parking impact fee of \$130,000 which he noticed in the Planning Department submission was listed as \$137,000. Under the New Hampshire Statute, which authorized cities to impose impact fees, this fee didn't fit. RSA 674:21:5 provided certain limited items for which a municipality could charge an impact fee to somebody doing a subdivision and parking was not one of them. When they raised that with the City, they were told it was not an impact fee although it was called that. He stated that it was a tax and they could only tax with legislative authority and there was no legislative authority given to a city to impose that on a restaurant. Attorney Shaines stated that part of the function of a zoning board was to find that, if a section was unreasonable, they could grant a variance. He maintained that the Zoning Ordinance said this was an optional discretionary fee, but if it was not paid, you could not get a Certificate of Occupancy so it was a mandated tax. He noted that, up until 2006, the property owners had owned a parking lot which the City was allowed to use as a municipal lot for which the City was taking in significant revenues. In 2006, Worth deeded the property to the City which represented a gift of some 3.2 million dollars and now the City was asking for an impact fee.

Attorney Shaines stated that he was also President of Worth Development as well as a tenant and he felt that it was unfortunate that restaurants were singled out. He stated that it was also illegal because the New Hampshire State Constitution said that taxes had to be fair and proportional. You couldn't single out a certain segment. He reiterated that the tax by the City was illegal without any statutory authority and amounted to a taking of property. At the time of the gift of the parking lot to the City, Worth had been given 128 parking credits so that anybody going into the building didn't have to pay parking fees because there were 128 parking credits with it. He stated that, as of December 31, they had 83 remaining, but the City said maybe 20 something. Whatever the number, if they were worth \$5,000 each, it was a lot of money and was a taking without compensation. They were there to ask the Board to recognize that the imposition of this tax was without authority. He stated that nobody within the City had indicated to him where the authority to impose a parking tax on restaurants came from. The new ordinance said that only restaurants on the ground floor pay a tax; on the second floor there was no tax.

Mr. Feldman stated that residential and non-residential spaces were assessed at one parking space per 1,000 s.f. on the second and third floors. When Attorney Shaines asked "what about a restaurant," he responded that a restaurant would be a non-residential business at one space per 1,000 s.f. on the second or third floor. Attorney Shaines stated it would be \$5,000 per 100 s.f. on the ground floor to which Mr. Feldman concurred. When Attorney Shaines asked what the tax would be for a 5,000 s.f., 250 seat restaurant on the second floor, Mr. Feldman replied that would

be five spaces, or \$25,000. Attorney Shaines stated that was precisely his point, that the imposition was discriminatory.

Attorney Shaines stated that they were asking the Board to grant a variance from the tax, noting again that this was at the suggestion of the City Attorney. He related conversations with the Mayor and City Manager relative to the issue where, he stated, the comment was made that there might be some discrepancies that had to be fixed, which was what they were asking the Board to do.

Mr. Witham stated that the thrust of his argument was that this was a tax and then they had the ordinance which said it was a payment. He noted that Attorney Shaines had stated that this came from City Attorney Sullivan and asked how they bridged the gap between the two. Attorney Shaines replied that what the government called a payment was taxes. If this was an application, it was an outrageous one. He noted that the applicant who wanted to buy the property was attracted to Portsmouth because it had been known as an open door city of which restaurants were a part. He outlined the financial details regarding this unit, stating that the owner adjusted the price as they didn't want to see an empty space and it created a problem if the City interfered with spaces being rented. Even if you bought an existing restaurant, you were not home free.

Mr. Witham stated that he was trying to bridge the terminology in the ordinance with regard to payment and tax. He needed a little more than that and wasn't saying whether it was fair or not. His other question was if they agreed with his argument and said this penalty or tax was unfair, did that mean that everyone assessed for any number of years would want their money back. He was upset by the fact that Attorney Sullivan sent him there and didn't come to provide any guidance. The public eye was on this and they had this little brief which didn't help at all. He was upset that city representatives weren't there to steer things a little. He was not cutting down Mr. Feldman's role who was there to present the facts, but obviously there was a lot more behind this. From what he had also read in the paper, it sounded like someone was being thrown under the bus on this.

Mr. Grasso noted that the proposal was for a restaurant and asked if there were anything else that could go in. Attorney Shaines stated that any retail business could, but it had been vacant for three years and this was the first reasonable proposal to come along. He stated that, historically, the Central Business B district was the biggest tax payer. Was the purpose of the Zoning Ordinance to help or hurt the City? He felt this fee, impact tax, whatever you wanted to call it hurt the City. The fact that it singled out first floor restaurants was indicative that it was discriminatory and they had the authority to grant a variance from it.

Chairman LeBlanc asked if he had the citation where the authority came from. Attorney Shaines replied that, when they took appeals to the court, they cited that the application of the ordinance to the application was unreasonable and unlawful and when the courts issued their decision, that's what they issued. That was how the zoning cases were decided. Chairman LeBlanc stated that, then, what Attorney Shaines was saying was that he felt they had the authority to overturn the ordinance which had been passed by the Council.

Attorney Shaines suggested that they take a look at the ordinance itself and he read, "The Board may authorize upon appeal in specific cases a variance from the terms of this ordinance." He continued, "In order to authorize a variance, the Board must find that the variance meets all of the

following criteria.” He addressed public interest by stating that charging this fee was contrary to the public interest. Regarding the spirit of the ordinance being observed, he stated that the spirit of the ordinance was to promote prosperous activity by the proper use of property. This was a valid use under the ordinance. He read the next criteria, “substantial justice,” stating that would be a great one. Regarding the value of surrounding properties, he did not feel they would be diminished. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship, which could mean one of the following situations, which he read from the ordinance. With regard to the special conditions of the property, he stated that this was a condominium with no land and the land for the building was donated to the City three and a half years ago. No fair and substantial relationship existed between the general public purposes of the ordinance provision and the specific application to the property and the proposed use was a reasonable one. He felt they met all the requirements. The proposed use was lawful and reasonable and the stumbling block was that they had a discriminatory fee which the ordinance provided must be paid in order to use the property in a lawful purpose and the insult was that they owned the parking lot. They gave it to the City as a gift. Chairman LeBlanc interjected, “for which you received an IRS letter, which Attorney Shaines that he had there. He stated that the City did not build the parking lot. Worth Development bought and paved it and provided the lighting at their expense. He returned to his statement that they met all the criteria of the ordinance for a variance.

Chairman LeBlanc stated the problem, as he saw it, was that if they granted this variance, they would essentially emasculate this particular provision of the Zoning Ordinance, overturning what the City Council had approved. Attorney Shaines stated they did that every time they granted a variance. Mr. Feldman stated that one of the options for the Board to consider was that there had been a request from the City Council back to the Planning Board for a recommendation and they could postpone the hearing to allow the Planning Board to do their job. He concurred when Chairman LeBlanc noted that could be a long process.

Mr. Witham asked if the owners had other restaurants and if they had paid the fee over the years and Attorney Shaines stated for the Mediterranean may, but the others not. Mr. Witham stated that he was trying to wrap his arms around the parking credit. Attorney Shaines stated he never really got it and Mr. Feldman stated he would give it a shot. In 1994, there was an inventory of all the properties and parking was based on a given square footage depending on the uses. They would look at a building and decide how many spaces were required and that would be the baseline of the number required as a new business came in, whether retail to office or vice versa. If the baseline was exceeded, then the applicant paid a fee for the spaces, or impact, they were above. If they were below, there was no fee as it didn’t kick up the baseline and the baseline was adjusted for each new use.

Mr. Witham noted that Attorney Shaines was under the impression they had some credits and Attorney Shaines stated they did up until December 31. Mr. Witham stated then they eliminated the whole credit concept and Mr. Feldman stated, “correct.” Attorney Shaines maintained that the ordinance did not say it, but they were told at City Hall that they were gone. Mr. Feldman stated that, when the new ordinance was created, those baselines disappeared in terms of being used for impact.

Mr. Jousse noted that the size of the restaurant was roughly 3,000 s.f., which Attorney Shaines confirmed at 3,050 s.f., and asked what the area would be that was devoted to customers. Mr.

Julian Deiri stated that approximately 1,200 s.f. was for the walk-in cooler and kitchen and about 1,800 s.f. for customers. When Mr. Jousse asked if they were being required to provide a parking space for the cooler, Mr. Deiri stated that they were considering the whole space because the kitchen was used for employees and, according to the Planning Board, the fee or tax applied to the whole space. Mr. Feldman stated that the ordinance clearly cited gross square footage. Mr. Jousse stated that he knew what it said, but just wanted to be sure it was out there. Mr. Deiri stated that Councillor Smith said he opposed the impact fee on the restaurants and he was told to pass it then and tone it later. Something did not add with the whole thing with between the City Council and the Planning Board. In any case, they would like action taken that evening to avoid postponements and putting them months behind. He would appreciate it if they could pass it so they could move on.

Chairman LeBlanc called for those speaking in opposition to the petition, but a number of speakers rose in support.

Mr. Bill McClusy stated that he was a commercial real estate broker and had a lot of involvement in downtown. He outlined the difficulties he has with prospective tenants when he has to explain the parking fee to them. Singling out the restaurants would cause them to go to Dover or Portland as new restaurants that would like to come in don't have the money to write \$100,000+ checks.

Mr. Witham questioned the impact of the \$1,300 fee and asked how long it was in place. Mr. Feldman stated that figure was adjusted on a yearly basis beginning in 1996. When Mr. Witham noted that the \$1,300 had not put the hammer down on development, Mr. McClusy stated it had slowed it down, but this would bring it to a standstill. They would be seeing more vacancies downtown. Mr. Parrott asked what he told potential restaurant people about the availability of parking and Mr. McClusy stated that there was a great parking garage in down which it was rare to see full. He agreed that there generally was parking available in the area in the evening.

Mr. John Wilkinson stated that he was a resident and a lawyer and wished to speak to the disparity between the old and new. The old system did hold back some people but was not prohibitive as was the new fee. In the interest of substantial justice, it was important to grant the variance but also in looking downtown, some retail businesses were having a hard time and it was particularly important to support restaurants coming into Portsmouth.

Mr. Kent White identified himself as a commercial real estate broker who had represented Attorney Shaines and Mr. McClusy. He related conversations with restaurant owners who had expressed an interest in the past and none had any further interest after learning about the parking fee. The Café Mediterraïnee did pay about \$32,000 but never would have gone in if they had to pay \$137,000. He wanted to make it clear that, if the applicant did not receive approval that night, he would not come to Portsmouth.

Mr. Mark Tremont stated that he owned a restaurant in Newburyport and had talked to Mr. Feldman about a small space and his comment was that he'd better sit down. The fee would be approximately \$110,000. They were devastated and decided that they couldn't go in the space. He stated that the restaurants make the downtown and with this all they would get were the Subways and Starbucks, not the independent restaurant owners.

A local realtor stated that the failure rate for restaurants in the first five years was so huge and asking for that much money in that period made things almost impossible. He had walked around the downtown and there were 16 retail spaces on the first floor for rent and here they had someone willing to come in.

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

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. Witham stated that he didn't remember something like this coming before them and would like to have some sort of discussion. Their job was to uphold the Zoning Ordinance and he was trying to grapple with this. On the one hand, the argument was that the fee was illegal. Mr. Jousse stated that a motion was needed.

Mr. Parrott stated that, as he understood it, the variance request was to essentially nullify the application of the fee or whatever they wanted to call it and that was the intent of his motion. His motion was to grant the variance as requested and discussed that evening, specifically to eliminate, to delete, however they wanted to put it, to allow this particular applicant to avoid paying a fee.

Mr. Witham stated that he seconded the motion, but wanted to add a stipulation that the tax or fee be assessed at \$1,300 per 100 s.f.?, 1,000 s.f.

Chairman LeBlanc stated, to clarify, that his stipulation then would be to eliminate the current value being placed on the impact fee and drop it to \$1,300 per unit. Mr. Parrott added to make it similar to what was used in the past and Mr. Witham stated that he was trying to turn back six weeks. Mr. Parrott noted that several people had said they didn't like it but it was at least tolerable and he would agree to the stipulation.

Mr. Feldman stated that the parking ratio was one space per 100 s.f. and asked if he was suggesting one space per 1,000 s.f. as that was what he had mentioned and he wanted to be clear on that. Mr. Witham responded that he meant to use the same formula, but that the assessment go back to \$1,300 instead of \$5,000. There was a brief discussion of whether it would be one space per 100 s.f. or per 1,000 s.f. Mr. Feldman stated that anywhere in the city parking was one space per 100 s.f. and it used to be one space per 75 s.f. He thought Mr. Witham was suggesting one per 1,000, which in the downtown was the upper floor ratio for any and all businesses. Mr. Witham stated that he thought Mr. Feldman knew what his intent was and if he could help him with the wording. Mr. Feldman suggested that the parking fee be assessed at the previous fee and at a ratio of one space per 100 s.f. or would it be one space per 75 s.f. as before. Now it would be one space per 100 s.f., which actually alleviated a little bit of the pressure. Mr. Witham asked Mr. Parrott if he had a preference and Mr. Parrott responded that perhaps given the tough economy, it would be acceptable to go to \$1,300 per 100 s.f. and assessed proportionately, he trusted, less than it had been.

Mr. Witham stated that the basis for his stipulation was that they could grant somebody less than what they asked for. In this one, they were asking for zero dollars and he was granting them less than was requested. He was trying to apply the power that they had for setback requirements. It was a little unusual, but.

Mr. Grasso stated that the variance in front of them was to allow a restaurant 0 spaces where 27 were required and he questioned why they were imposing fees. Mr. Feldman stated that he was getting to that himself because the request was basically to grant a variance for no parking spaces. When Mr. Grasso added, “where 27 were required,” he stated, “yes. It was really not geared toward the fee.” Mr. Grasso added, “right.”

Mr. Parrott asked if that motion would get to the same place and Mr. Grasso stated, “not really,” noting that they were talking about adding \$1,300 and the variance was to allow 0 spaces where 27 were required. They had heard a lot about tax and everything else that night. Mr. Feldman stated that Mr. Grasso was correct.

Mr. Witham stated that was a good point. He almost wished the variance was worded differently and Mr. Grasso agreed. It seemed to Mr. Witham that the variance request had been presented by the attorney almost like an administrative appeal. Chairman LeBlanc stated that the motion, then, would be to grant the application and that they would reduce the fee to \$1,300 per 100 s.f. which came out to... Mr. Feldman interjected \$39,180. Chairman LeBlanc asked Mr. Parrott to speak to his motion.

Mr. Parrott stated that they were granting the variance with the stipulation pertinent to the fee, attached by implication to the variance. He stated that he agreed with Mr. Witham that it was very unusual for them to be asked to do anything like this. In fairness to all, they would be well advised to deal with it that evening rather than putting it off or leaving people hanging. If the City Council wished to take other action, obviously they were a separate body from them. He noted that they had heard from a lot of folks who normally did not appear before the Board, all of whom had the same story; all of whom were in the day to day world of business and spoke with some authority. They could look around town and see the situation. He didn't think the City Council intended this effect when they passed the ordinance which almost quadrupled this fee. He felt the testimony had a lot of credibility and they would be well advised to grant the request with the stipulation to make it similar to what was in the past.

Addressing the criteria, Mr. Parrott stated that they had heard a lot about the public interest as reflected in the vibrancy of downtown, in which restaurants had a n important part. He felt it was a valid argument about treating types of properties with varying uses differently. He felt that the unnecessary hardship was what they had heard a lot about that evening. With respect to dollars, an unsustainable burden would be placed on a small business and they would be well advised to rethink this. The Board's action could force that to happen.

Mr. Parrott continued that the restriction on the property interfered with a reasonable use considering its unique setting, which was a condominium without any associated land where you couldn't park on the property. A reasonable use of the property would be a restaurant and there was evidence that other uses had not come along because the property was vacant for quite some time. He stated that there was no relationship between the general purposes of the ordinance and

the specific restriction. The specific restriction was a restaurant with no related parking and the general purpose was to not make it difficult for businesses to locate downtown. Regarding the public or private rights of others, Mr. Parrott stated that it was hard to see how anyone could be hurt by applying what had been applied to other restaurants in relatively recent times. Granting the variance would be consistent with the spirit of the ordinance, which was to promote good healthy businesses, particularly in the downtown and serve public purposes, which restaurants do. In the justice balancing test, he felt it tipped to the applicant as he didn't think there was any overwhelming public interest in denying the variance. He stated that a vacant storefront was undesirable and a fair argument could be made that the value of surrounding properties would be enhanced by a restaurant in that location.

Mr. Witham stated that, when they got their packet, he was surprised on a lot of levels to see this come before them and he was uncomfortable that it was before them, but if the powers-that-be at City Hall felt it could come before them, they could act on it as they saw fit. He stated that, if you looked at all the complicated language in the ordinance and in case law, this could all get very confusing and, at some point, you just have to apply common sense. In this situation, he felt a mistake was made when they passed the ordinance and he felt the City Council would act on it and that maybe the Planning Board would say this was not quite their intent. Until something was changed, they had to live with it.

Mr. Witham stated that, in order to grant a variance, that variance could not conflict with the implicit purpose of the ordinance. The purposes were the health and welfare of residents and to promote businesses and their ability to survive and provide services to the community. It was clear to him that the way the ordinance was written now didn't work with the general purposes. For that very simple reason, he stated, a variance could be granted in this situation. The intent of his stipulation was just to bring it back to the status quo before this huge change and he felt there was enough testimony that the way the ordinance was previously written seemed to work. It was his understanding from what he had read that the fee jumped up so high because of the demand restaurants put on parking situation and he felt it was unfairly singling out an establishment. That helped define the special conditions of the property which was that this was a restaurant and it was being singled out for that situation. An underlying fact also was that the parking garage filled up maybe five times a year so to have such drastic measures to address a problem which he didn't feel existed that strongly, puts an unfair burden on the restaurant businesses. There was a lot of talk that maybe there were too many restaurants but there was also a lot of turnover in that business. He felt the balance was there before this got passed through and there was talk about going back and fixing it, but the variance was one way to fix it. He thought the City Council would also do that in due time. He didn't think they needed to put this unfair burden on the applicant.

Chairman LeBlanc cited a letter in the Board's packets from Mr. Thomas Ries who requested that it be read into the record, which Chairman LeBlanc did.

Chairman LeBlanc stated that all of them felt that this was a momentous decision and he felt very uncomfortable with overturning the impact fee because its purpose was to provide for better transportation in the City and parking was one of those elements. Although he felt the motion was a great compromise, he couldn't support it.

Mr. Grasso echoed Mr. Witham’s and the Chair’s comments about being uncomfortable, but noted that they were actually asking for 0 parking spaces where 27 were required. He would not support the motion due to its dealing with fees.

Mr. Jousse stated that he felt this was a good compromise and he would have like to have gone even further. As indicated by his question about the cooler, it didn’t make sense to him to require parking spaces for the whole area including the prep area, instead of just the serving area. The fact that restaurants were being singled out also didn’t sit quite well with him. He felt you could usually see a lot of parking spaces in the evening, usually when the restaurants were in business.

The motion to grant the petition as requested and discussed with the stipulation that the impact fee be \$1,300 per 100 s.f. of space failed to pass by a vote of 3 to 2, with a positive motion requiring 4 votes.

Attorney Shaines raised a point of order with the Chairman, stating that on January 10, 2010, RSA 674:33 passed an amendment to provide that three votes were necessary to enact a variance, not four. He stated he had that there somewhere.

Chairman LeBlanc thanked him and Mr. Feldman asked when it had happened and Attorney Shaines reiterated January 10, 2010. There was a brief discussion with several in attendance talking simultaneously. Chairman LeBlanc stated they would take it under advisement.

Chairman LeBlanc advised that the applicants for petition #8 had requested that it be postponed to the March meeting and it was moved, seconded and passed by unanimous voice vote to so postpone the petition.

- 7) Case # 2-7
 - Petitioners: Parade Office LLC, Parade Residence Hotel, LLC/Cathartes Private Investments, owner
 - Property: Portwalk Lot #1 Deer Street Assessor Plan 125, Lot 1
 - Zoning district: Central Business B
 - Request: Variance to allow two (2) parapet signs in a district where parapet signs are not allowed
 - Variance to allow two (2) marquee signs with an aggregate sign area of 70.2 square feet where an aggregate of 20 square feet for marquee signs is allowed
 - Table 10.1241**
 - Table 10.1251.20**

SPEAKING IN FAVOR OF THE PETITION

Attorney Alec McEachern stated that he was representing the applicant. He noted they had elected to go forward with their petition despite the number of Board members sitting. He wanted to submit for the record a point of clarification on the wording of the advertised petition regarding the marquee signs. As submitted, the applicant requested a variance for two marquee signs, each totaling 35.1 s.f. where the maximum for each is 20 s.f. The subject property was located on Deer Street as lot #1 in sign district 3. He described the lot and frontage, noting it was developed a Marriott Residence Inn with associated uses. When complete, it will be a 5-story building, with 190 feet frontage on Deer Street and 210 feet of frontage on Portwalk Place, for a total of 400 feet of linear frontage. Under the sign ordinance, the maximum aggregate was 800 s.f. He stated that the total sign area for both the parapet and marquee signs was 145.4 s.f., or 18.1% of the total allowed. He then introduced the architect for the project.

Ms. Lisa DeStefano stated that they had been working on this project for a long time. She pointed out on the exhibited plans the west elevation, Deer Street and the south, Portwalk Place, stating that they felt for a number of reasons that the signs were appropriate to the size and scale of the building. They were not looking for a variance for quantity but for location. She stated that the parapet signs were set back a few feet from the main plane of the building in a recessed area of the building and were there to break up the length of the structure. The parapet itself helped aesthetics by blocking rooftop units, etc. They designed the signage on the parapet wall to integrate the architecture on both sides and she maintained that it provided way-finding for a visitor. She stated that this was a unique situation with the hotel and there wasn't a sign band or other location where the signage could be placed up higher and be seen. She mentioned another location where it would not be a designed location but would have to be an attached piece. They felt this was the best spot on the both the Deer Street and Portwalk Place sides. Ms. De Stefano continued that the second request was for marquee signs where the size was more to do with proportion at the entryway and provided a visual for the pedestrian level.

Addressing the criteria, Attorney McEachern stated that the purpose and intent of the sign ordinance was to protect from distracting displays. These were appropriate to the scale of the building and in the most architecturally appropriate locations. The signs would not result in any hazardous or distracting display so would be consistent with the public interest. The special conditions resulting in a hardship dealt with use and area. The use was for parapet signs and, he stated, the zoning restriction as applied interfered with a reasonable use considering the unique setting. Given the nature of the principal use, it was reasonable to have a landmark sign capable of identifying the location to the public at large. The available location options were limited by architectural considerations. He pointed out on the exhibit another location where the signs would stick out and be much more obtrusive. They felt the signs would be more in keeping with others downtown. Attorney McEachern stated that there was no fair and substantial relationship between the purposes of the ordinance and the restriction on the property. He reiterated that the purpose was to protect the public from hazardous displays, noting that in this case the parapet face was the least visually obtrusive. To enforce the specific restriction would not foster the purposes of the ordinance. He stated that no public or private rights of others would be injured by granting the variance.

Addressing the marquee signs, Attorney McEachern stated that they were requesting two marquee signs of 35.1 s.f., with 20 s.f. allowed. Under the Boccia analysis, special conditions could be considered. There were very few buildings in the city of this size so the purpose and intent of the

ordinance with respect to the marquee sign size was 20 s.f. based on smaller structures. Based on the property and frontage, the requested size was appropriate. He stated that the benefit sought was a marquee sign which identified the property and was in keeping with scale. There was no other way to make the marquee in scale. Granting the variance would be consistent with the spirit of the ordinance which was to prevent signs which were hazardous or distracting. They felt this condition was met because the signs would compliment the architecture, not provide a distraction.

In the justice balance test, Attorney McEachern stated that the applicant was voluntarily willing to accept a condition that, if the 2 parapet and 4 marquee signs were granted, no additional Residence Inn signs would be placed on the façade. This would not apply to other signs in connection with the other uses in the building nor to Residence Inn signs not located on the façade. He noted that there would be a free-standing sign on the property. They felt that this stipulation would result in substantial justice. Regarding the value of surrounding properties, Attorney McEachern stated that allowing these signs to be located as requested on the building would have no effect on surrounding property values.

Mr. Jousse stated that he saw the marquee signage from the street and asked if that included the signage on the edge as the pedestrians saw it. Ms. DeStefano replied that the signage was rounded. Mr. Jousse added that he understood their intent by suggesting that the Board place restrictions on the remaining square footage, but he recalled a previous hearing on the Walmart property where they could not place a restriction as to what could be put on a sign.

SPEAKING IN OPPOSITION TO THE PETITION

Attorney Jon Springer stated that he was there on behalf of the Sheraton Portsmouth Hotel who objected to the variance request. With all due respect to Attorney McEachern, as an initial matter, he wanted to note that he had cited Simplex and Boccia criteria and he was not sure they were the law anymore. He read the definition of hardship which was in the statute adopted in January of 2010. He was not sure it matter which criteria applied as the hardest thing to get from the ZBA was a sign.

Attorney Springer stated that he had been on both sides of the argument and it was difficult to meet the criteria with a sign. He noted they had heard a lot about the signs working with the architectural design of the building, which was not part of the criteria for granting a variance. He wanted to raise one point which came up when he went through the file that day and looked at an e-mail stream between the Assistant Building Inspector and someone who was a sign consultant. Attorney McEachern had said that evening that there was frontage on Deer Street and Portwalk Place. The building inspector, when he did his calculations, did not include Portwalk Place. Attorney Springer stated he had looked up the definition of frontage and definition of street. He didn't know if Portwalk Place was a thoroughfare and if they had calculated the frontage correctly which was maybe an issue for the Planning Board or for this Board. Attorney McEachern had claimed 800 s.f. allowed based on the frontage of both thoroughfares but the building inspector did not include Portwalk and the sign consultant had not come back to say it should include both streets. The building inspector calculated 365 s.f. of aggregate in an e-mail dated December 15, which the sign consultant didn't question. Attorney Springer didn't know if there were subsequent discussions.

Addressing the criteria, Attorney Springer stated that when Attorney McEachern first quoted the purpose of the sign ordinance, he talked about it being to protect the public from hazardous and distracting displays but the whole purpose, as Attorney Springer read from the ordinance, was to regulate the type, number, location, size and illumination of signs concluding at the end with the phrase regarding protection from hazardous and distracting displays. He stated the main purpose is to regulate the type and nature of signs. The applicant was looking for parapet signs where none were allowed. He had heard nothing that said there were any special conditions on this property which distinguished it from others in the area. He felt there was a fair and substantial relationship between the general purposes of the ordinance and the specific restriction on the property.

Regarding the public interest standard, Attorney Springer submitted that the public had no interest in where the signs were placed on the building. In the justice balance test, he had yet to hear a convincing argument for a sign variance regarding justice. Justice and the public interest were intertwined and there had to be a public element for substantial justice. To support his position regarding the spirit of the ordinance, he cited the comments of one of the Board members earlier that evening regarding cutting down on sign clutter, although he acknowledged each hearing was different. He felt the same argument applied to this application. Attorney Springer stated that the applicant had put forth reasons that, if accepted by the Board, would emasculate the sign ordinance. The applicant could say this worked great for them but that was not the criteria. He respectfully suggested that the Board had successfully and properly applied the sign criteria earlier and asked that it be applied on this petition as well. He maintained that they did not meet at least 4 out of 5 of the criteria.

Mr. Witham stated that he would like Attorney Springer to expand on the comment he had made with regard to the fair and substantial relationship between the general purposes of the ordinance and the specific application to the property. He had referred back to the general concept of the sign ordinance. He asked Attorney Springer to specifically address why he thought the ordinance was written to not allow signs on the parapet wall in this district.

Attorney Springer stated that was because, for whatever reason, the ordinance said it was not allowed; whether they believed it would increase the height, whether they believed it would increase the clutter, he didn't know. He guessed where it said that the purpose of the article was to regulate the type, nature and location, in that district the ordinance said it would not allow parapet signs. He understood about masking the stuff on the roof, but here they had a parapet and wanted to put a sign on it. He maintained there was a fair and substantial relationship between, in his opinion, the prohibition against parapet signs in that district and the application of the ordinance to this property. This was a big property and they were putting a parapet sign on it.

Mr. Witham stated they have to ask themselves on every variance request what the ordinance was trying to achieve and it was up to them to make the interpretation. He had just been curious as to his thoughts. Attorney Springer stated he thought it was height and perhaps visual clutter, the two main ones. He didn't want to answer a question with a question, but why was there not a fair and substantial relationship between that purpose and the project. How do you sever it? He hadn't heard anything other than it fit in with their design.

Mr. Parrott asked Attorney Springer what it was about the proposal in front of them that stuck in the craw of his client the most. He had listened carefully and hadn't heard it except that they didn't like it. Attorney Springer replied that, with all due respect to the Board, it was not up to his client to say why they don't. He didn't have the burden of proof. Mr. Parrott replied that was a given and he understood that. Attorney Springer stated that he wanted to make the record clear because if they didn't like his answer, he wasn't sure it made any difference. His client didn't have to explain why he was there to object. Mr. Parrott interjected, "no argument." Attorney Springer stated that a fair statement was that they wanted this project to observe the ordinance. The ink was barely dry on it and right out of the box they were looking for a variance. All of the projects for the Sheraton were scrutinized and they wanted the ordinance applied in a fair manner.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Attorney McEachern stated that he had an answer for Mr. Witham with regard to parapet signs. The purpose and intent was to prevent hazardous or distracting signage. A parapet was usually the highest and most prominent point on the building and the city in enacting this ordinance was making a value decision that they did not want parapet signs. He stated that they had to look to the general purpose and intent of the ordinance to see if that was accomplished by the enforcement of the specific provision in this case. He pointed out on the display two locations asking which would be more distracting. The sign was going to be there although the Sheraton might not like it, but the question was where it was going to be and they submitted that the proposed location was architecturally and visually the best location and consistent with the general purpose of the ordinance.

Mr. Jousse asked if Portwalk Place was a thoroughfare from Deer Street. Attorney McEachern stated it was subject of an agreement with the City which would allow Portwalk Place to be open to the public and patrolled by the City's Police Department. That was a recorded document of a private street agreement. Mr. Jousse asked if that would make it frontage, Attorney McEachern stated that was their position.

Mr. Jousse asked Ms. DeStefano if, when the designs of the building were approved by the Planning Board and the Historic District Commission, that recessed center section was part of the design. She stated it was. Mr. Jousse asked if what was there without the wording was what everyone approved? She responded affirmatively, noting they were going back in front of the HDC for those signage locations if approved.

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

DECISION OF THE BOARD

Chairman LeBlanc read a letter from Northern Tier Real Estate Acquisition & Development LLC in support of the proposal.

Mr. Witham made a motion to grant the petition as presented and advertised, which was seconded by Mr. Grasso.

Mr. Witham stated that he agreed with the last attorney to speak that a sign variance was challenging to deal with. They knew the general purposes of the ordinance and he was reluctant to grant one, but in this situation, he felt it met the criteria for a variance. What it came down to for him was that he tried to look at the relationship between the purpose of the ordinance and the specific application in this situation. Both attorneys had a chance to address it. The opposing attorney felt it was to control height and visual clutter and the presenting attorney felt it was to keep signs off parapet walls because they were prominent places. He felt that, in this situation, it didn't scream parapet wall to him where the signs were proposed. It didn't feel like visual clutter or reaching way beyond what allowed as to height so the general purposes were not violated. He stated that it did make sense there and not just as being architecturally correct. It also worked well in terms of visual clutter.

Addressing the public interest, Mr. Witham stated it would not be contrary to the public interest, nor change the essential essential character of the neighborhood nor threaten the health, safety or welfare of the general public. He felt that the spirit of the ordinance was observed which was to not allow signs which would be disruptive to the visual landscape. He didn't feel it would be disruptive but would enhance the streetscape as opposed to cluttering. In the justice balance test, Mr. Witham stated he didn't see any harm to the general public in granting the variance that would outweigh the gain to the applicant. In effect, he didn't see that there would be any harm to the Sheraton that would outweigh the benefit to the applicant. He didn't see that there would be any diminution to surrounding property values by the requested signs. Mr. Witham stated that he felt he had addressed the hardship which was the specific relationship between the ordinance and its application to the property and, secondly that the proposal was a reasonable one. Special conditions were difficult to address but with the sheer mass of the building and what it housed as a hotel, with the numbers of people coming to stay who were not from town, the building really needed to identify itself. He felt the proposal was well thought out, reasonable and not overly aggressive. There was no feeling of sign clutter or over-extension of height.

Mr. Grasso agreed and had nothing to add.

Mr. Jousse stated that he would support the motion. He had asked if the protrusion on the top of the building was part of the original design. The applicant confirmed it was and the Planning Board and HDC had signed off. It seemed a logical place to put the name of the building.

Chairman LeBlanc stated that the second part of this project proposed another building in front so the parapet wouldn't be seen once the second phase was in place. He felt this was a reasonable position.

The motion to grant the petition as presented and advertised was passed by a vote of 4 to 1, with Chairman LeBlanc voting against the petition.

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- 8) Case # 2-8
Petitioners: Sarnia Properties Inc., owner and Thomas Woodard, applicant
Property: 933 Route 1 By-Pass Assessor Plan 142, Lot 37
Zoning district: Business

Request: Special Exception to allow an Auto Dealership in the Business zone
Variance to allow an Auto Dealership within 150' of a Residential or Mixed
Residential District where 200' is required
Variance to allow Parking, outdoor storage or display within 40' of the right-of-
way

Table 10.440 use #11.10

Section 10.592.20

Section 10.843.21

This petition was postponed earlier in the meeting.

V. ADJOURNMENT

It was moved, seconded and passed by unanimous voice vote to adjourn the meeting at 10:15 p.m.

Respectfully submitted by,

Mary E. Koepenick
Administrative Clerk