

**MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

February 15, 2022

MEMBERS PRESENT: Arthur Parrott, Chairman; Jim Lee, Vice-Chairman; Members David MacDonald, Beth Margeson, Thomas Rossi, Paul Mannle; Alternate Phyllis Eldridge

MEMBERS EXCUSED: None.

ALSO PRESENT: Peter Stith, Planning Department

Chairman Parrott stated that the 53 Green Street appeal for rehearing was placed on hold by agreement from all parties as a result of recent filing in Superior Court.

I. ELECTION OF VICE-CHAIR

It was moved, seconded, and passed unanimously (6-0) to elect Jim Lee as the new Vice-Chairman.

At this point, Mr. MacDonald arrived at the meeting.

II. APPROVAL OF MINUTES

A) Approval of the minutes of the meeting of January 18, 2022.

*The January 18 meeting minutes were unanimously **approved** as amended, 7-0.*

III. OLD BUSINESS

A. **Matthew Beal and Heidi Medlyn - 242 Leslie Drive** request a 1-Year Extension to the Variance from Dimensional Standards granted on February 24, 2020. (LU-20-14)

DECISION OF THE BOARD

*Ms. Margeson moved to **grant** the 1-year extension. She said the zoning ordinance allowed for a one-year extension as long as the application was made before the expiration.*

*Ms. Eldridge seconded. The motion **passed** by unanimous vote, 7-0.*

- B. Rehearing of the **Appeal of Duncan MacCallum, (Attorney for the Appellants)**, of the July 15, 2021 decision of the Planning Board for property located at **53 Green Street** which granted the following: a) a wetlands conditional use permit under Section 10.1017 of the Zoning Ordinance; b) preliminary and final subdivision approval; and c) site plan review approval. Said property is shown on Assessor Map 119 Lot 2 and lies within the Character District 5 (CD5) and Character District 4 (CD4). (LU-21-162)

The rehearing was placed on hold and not heard.

Chairman Parrott recused himself from the following petition, and Vice-Chair Lee was Acting Chair.

- C. Request of **Evan C. Maloney and Jill Maloney (Owners), and Duncan McCallum (Applicant)**, for the property located at **389 Lincoln Avenue** requesting an equitable waiver or variance for approval of a previously constructed tree house which requires the following: 1) A Variance or Equitable Waiver from Section 10.573.20 to allow a) a 0 foot rear yard where 8 feet is required; and b) a 5' left side yard where 8 feet is required. Said property is shown on Assessor Map 135 Lot 17 and lies within the General Residence A (GRA) District. (LU-21-213)

SPEAKING TO THE PETITION

Attorney Duncan MacCallum representing the applicants was present. He said that either a variance or an equitable waiver was needed because the tree house was already built and situated on the back property line. He reviewed the petition and made the following points:

- The applicants had relied on their professional tree house designer and contractor;
- The applicants asked the abutters for their input and got their initial approval; and
- The applicants were told by the Building Inspector that a permit wasn't required because the tree house wasn't a structure, but they later found out that it violated the zoning ordinance.

Attorney MacCallum said the structure was built in good faith and mistakenly placed in the wrong location. He reviewed the criteria for both an equitable waiver and a variance. He distributed photos of other tree houses in the neighborhood that he said also violated the setback requirements. He noted that the tree house would be taken down when the applicants' young son was older and no longer wanted the tree house.

Ms. Margeson asked if the Building Inspector thought the tree house was from a kit. The applicant Jill Maloney said the inspector knew the tree house was built by the contractor. Ms. Margeson asked if the setbacks were discussed. Attorney MacCallum said they were not. He said the application was submitted and the building inspector reviewed it and said a permit wasn't needed. Ms. Margeson said that wasn't the zoning issue and that ignorance of the ordinance wasn't a defense. Ms. Eldridge said the structure was large and did exceed 10 feet in height because the platform itself was eight feet high and the wall above it was another 6-8 feet.

Attorney MacCallum said the wall was an extension to the fence and wasn't connected to the tree house. Mr. Rossi asked if there were any letters in support of the project that stated that the property owners had previously spoken to the abutters and received positive consent for the project. Attorney MacCallum said he wasn't aware of any. Mr. Rossi asked if there would be an enforceable commitment to take down the tree house at a certain point in time. Attorney MacCallum said once the variance was granted, the tree house would stay and the Board would be relying on his client's word that he would remove the tree house when his child was grown. Mr. Rossi said things changed and the property could be sold.

Ms. Margeson said the structure shown in the photo looked more like a deck than a tree house and qualified as a structure under the zoning ordinance. She said the structure could easily be repurposed after the child outgrew it. Attorney MacCallum said his client had no intention of repurposing it and that two trees were one of the structure's main supports.

Acting Chair Lee opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

John Raczek said he was the contractor and that the applicant's neighbors had been fine with the tree house at first. He said the rear neighbor asked him to build a wall to block their view of the children, which he did. He said another neighbor said the structure was bigger than he thought it would be and asked that it be moved, but it was already attached to the tree. He said the neighbor then stated that the structure was too close to his fence line, so Mr. Raczek cut two feet off the deck. He said the rails were for safety and that his clients did everything they could to make the neighbors happy. He noted that he had never needed a permit before to build a similar structure.

Owner/applicant Jill Maloney said she and her husband thought they were doing everything right when they hired a local builder and designer. She said the neighbors initially approved of it but then started complaining later on. She said she filled out a permit request but was told that it wasn't necessary, and then she received a letter from the City saying that the structure violated the zoning. She said some of the abutters couldn't see the tree house.

Kimberly Oaks said she lived five doors down from the applicant. She said the structure was a tree house and had nothing to do with setbacks, variances, and heights but had everything to do with the neighbors not wanting to see or hear children. She said the wall was built because of a neighbor's request and that the neighbor said he approved of the tree house.

SPEAKING IN OPPOSITION TO THE PETITION

Kelly Wright of 409 Lincoln Avenue said she was an abutter and didn't see the plans and wasn't consulted as to the structure's size or impact. She said she expressed her concerns about the setbacks before the construction was done because it was on her property line. She said the total structure was more like 240 square feet of lot coverage, and the typical tree house in the neighborhood was 5'x9', so for the applicant to say that the structure was like the others one in

the neighborhood was misleading. She said the structure was seen from every room at the back of her house and was encroaching and imposing and would be a deterrent if she sold her house.

Mark and Tess Moses of 178 Highland Street said they had no issues with children playing or a normal tree house. Mr. Moses said their backyard abutted the applicant's yard and that the structure was directly along their fence with zero setback and the span was 25 feet along his property line. He said the structure had a profound impact on them because of its size and dominance and that it ruined their views from their backyard, invaded their privacy, and presented safety issues. He said his initial conversations were neighborly but concessions were made without accurate information as to the scope of the structure. He said he and his wife were never fine with the tree house and were shocked to see the final result. He said the applicant's claim that the structure was temporary and wouldn't impair nearby property values was absurd because an unsightly and potentially dangerous structure that wasn't set back from the lot line would adversely impact their property's value. He said if the privacy wall was removed, the balcony would have a direct view into their home. He said it was actually an elevated deck accessory structure as determined by the Planning Board and that the applicant even acknowledged that the structure's placement was a mistake.

Kelly Weinstein of 37 Lincoln Avenue said she was a direct abutter. She said there was no campaign against the applicants and that most of the accusations in the applicant's letter were false. She said she had been misquoted and had called the City about the fence because it didn't meet code and then learned that there was a conflict with the tree house. She said the tree house would have a negative impact on the neighbors' lives and properties.

Carol Hollis of Union Street said the zoning existed to protect the neighbors and neighborhoods and asked that the structure be dismantled and moved to meet code.

Jake Weinstein of 383 Lincoln Avenue said the applicants made many false statements about him and his wife and thought it would set a precedent if the variance was granted.

Sage Clarke of 582 Lincoln Avenue said the structure was big and was a viewing platform into the Wrights' property. He said it was ironic that the applicants were inconsiderate about their abutters' privacy but so concerned about their own privacy, as evidenced by the many cameras on their property. He said the ramp system was also huge and that the entire structure was too big, too high, and too close to the abutters.

Lance Hellman of 228 Highland Street said the structure was a prominent feature of the Moses' beautifully landscaped backyard and was excessive.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Owner Jill Maloney said the security cameras were in place because the police request it after her family was harassed by neighborhood children. She said the neighbor next to Mr. Moses had a play structure with a painted wall so that it didn't glare at the Moses and that she offered to paint

her tree house's wall as well. She said there was no other place to put the platform and that it would still be tall no matter where they moved it, and that anything in its place would be visible.

Christine Hegarty of 202 Highland Street said she could see the structure from her home and was opposed to it because it was very imposing

Attorney MacCallum referred to the letters of opposition received and said he had difficulty understanding how the residents on Sagamore Avenue or South Street had any stake in what happened to the Maloneys because they couldn't even see the tree house from their properties.

W. Clarke of 582 Lincoln Avenue said he spent a lot of time in the abutter's backyard and thought the structure was big.

Edgar Gilchrist of 398 Lincoln Avenue said he wrote a letter in opposition to the project.

No one else spoke, and Acting Chair Lee closed the public hearing.

DISCUSSION OF THE BOARD

The Board discussed whether they should do the equitable waiver or the variance.

Ms. Eldridge moved to consider the petition as a request for a variance, and Ms. Margeson seconded.

Mr. Stith said a motion wasn't necessary and that it could just be determined to do either the variance or an equitable waiver.

Ms. Eldridge withdrew her motion.

Ms. Eldridge said she was willing to hear the petition as if it were coming to the Board for the first time as a variance. She said there was a lot of emotion but that the petition had to meet the five criteria. She said the project wasn't in the public's interest or in the spirit of the ordinance. Mr. Rossi said the structure was being viewed as kind of a platform and kind of a tree house and asked what would be accomplished by denying the variance because the applicants could do it as a freestanding platform and relocate it. He said they would need a 10-15' rear setback and he didn't see how that would enhance the privacy for the surrounding properties. Ms. Eldridge said her objection was that the structure was too intrusive on the abutting property and didn't meet criteria 1 and 2, and she wasn't sure there was a real hardship. She said if it was a platform, it didn't need trees and could go elsewhere on the property.

DECISION OF THE BOARD

*Ms. Margeson moved to **deny** the variance request.*

She said it failed on a few things, including that there was no fair and substantial relationship between the general public purpose of the ordinance and the specific application of that provision to that property. She said the proposed use was a reasonable one because having a tree house or a deck in a residential neighborhood was fine, but there was nothing specific to the property that allowed it to be exempt from the zoning ordinance. She said she agreed with Ms. Eldridge that it conflicted with the explicit and implicit purposes of the ordinance, which was for setbacks in neighborhoods and was sort of a bedrock principle of zoning ordinances, and that it would probably do more harm to the general public than it would benefit the applicant, so it failed the substantial justice prong.

Ms. Eldridge seconded the motion.

The motion was further discussed. Acting Chair Lee said the structure's size was in the eye of the beholder, and in that particular neighborhood, one would see anything no matter what the circumstances were. Mr. MacDonald said it was a difficult decision because he didn't think it was clearly addressed by the ordinances. He said the purpose of the ordinances was to ensure that property owners maintained the use and enjoyment of their properties, and when that use and enjoyment infringed on the abutters' and neighbors' use and enjoyment of their property, there was a hard decision. He said that, given that the need for the tree house would expire when the child grew up, the Board should first consider the importance of the child's well-being and allow the tree house, and when the time expired, the neighbors would no longer have to put up with it. He said he would support a variance to allow the tree house to remain until the child was too old to need it. Acting Chair Lee said a variance stayed with a property forever.

Ms. Margeson said the request was for an accessory structure, even though it was being called a tree house. She said her reason for denying it was that she thought it just had to fail one prong. She said the property didn't have special conditions for which there was no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property. She said it was an accessory structure built within the setbacks. She also thought, for the same reasons, that it failed the public interest and spirit of the ordinance because it was directly in conflict with the explicit and implicit purposes of the ordinance for side yard setbacks. Ms. Eldridge said she wasn't sure if it was an either/or situation – the tree house or an unhappy childhood – and that there were other ways to have fun.

*The motion to deny the variance **passed** by a vote of 4-2, with Mr. MacDonald and Acting Chair Lee voting in opposition.*

IV. NEW BUSINESS

Chairman Parrott resumed his seat as Chair and Acting Chair Lee resumed his position as Vice-Chair.

- A) The request of **Cyrus Beer and Erika Caron (Owners)**, for the property located at **64 Mount Vernon Street** whereas relief is needed to add a condenser unit which requires the following: 1) A Variance from Section 10.515.14 to allow a 4 foot setback where 10

feet is required. Said property is shown on Assessor Map 111 Lot 30 and lies within the General Residence B (GR-B) and Historic Districts. (LU-21-210)

SPEAKING TO THE PETITION

The applicant Erika Beer was present and said the condenser unit would be away from the street and would not be seen by any neighbor and that her husband would built a structure to conceal the unit. She said seven out of nine houses on her street had central air conditioning. She said their house was 200 years old and was very hot in the summer.

Mr. MacDonald asked about the plan to screen the condenser. Ms. Beer said the unit would be placed against the back side of City Hall and wasn't even sure that it needed to be screened, but that her husband offered to do it. She noted that some neighbors screened their units with bushes. In response to further questions from Mr. MacDonald, Ms. Beer said the City had not discussed the emergency accessibility and that she wasn't sure how much clearance was in the front of the house other than they had two cars parked there.

Chairman Parrott opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chairman Parrott closed the public hearing.

DECISION OF THE BOARD

*Vice-Chair Lee moved to **grant** the variance as presented, and Mr. Mannle seconded.*

Vice-Chair Lee said granting the variance would not be contrary to the public interest and the spirit of the ordinance would be observed. He said it was just a condenser that would be placed out of the public's view and wouldn't bother anyone. He said substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the general public. He said granting the variance would not diminish the values of surrounding properties, and literal enforcement of the ordinance would result in an unnecessary hardship. He said the houses on the applicant's street were built 200 years ago with little thought for ventilation, which raised the necessity for air conditioners. He said the property couldn't be used reasonably in conformance with the ordinance. Mr. Mannle concurred and had nothing to add. Ms. Margeson noted that the right yard setback wouldn't be increased and would still be four feet.

*The motion **passed** by unanimous vote, 7-0.*

Chairman Parrott recused himself from the following petition, and Vice-Chair Lee was Acting Chair.

- B) The request of **Treadwell House INC (Owner)**, for the property located at **70 Court Street** whereas relief is needed to convert the building into an 8 room inn with caretaker

residence which requires the following: 1) A Variance from Section 10.440 Use #10.30 to allow an Inn where the use is not permitted. 2) A Variance from Section 10.114.21 to allow a 13' maneuvering aisle where 24' is required. Said property is shown on Assessor Map 116 Lot 49 and lies within the Character District 5 (CD5) and Character District 4-L1 (CD4-L1). (LU-22-10)

SPEAKING TO THE PETITION

Attorney Chris Mulligan was present on behalf of the applicants and introduced the project team. He said the proposal was to convert the Treadwell House from the existing office use to an 8-room boutique inn with a caretaker residence. He briefly reviewed the home's history, noting that it had significant architectural features, and he said the goal was to utilize the property as an inn to take advantage of those unique features and the building's history. He named a few of the similar-sized boutique inns nearby. He noted that the building had been relocated in the 1950s to save it from demolition. He reviewed the requests for the variances and said there would be no external changes to the property. He noted that the C1 site plan that was submitted showing the proposed use had an inaccurate note stating that the property would be used for a restaurant. He said they would go before the Planning Board for a Conditional Use Permit (CUP) for parking. He reviewed the criteria and said they would be met.

Mr. Rossi asked what the CUP status was. Attorney Mulligan said they had a work session with the Technical Advisory Committee (TAC) the previous week and had submitted an application for a formal review before TAC that would be decided by the Planning Board mid-March.

Acting Chair Lee opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Chuck Doleac of 365 Little Harbor Road said he was one of the owners of 82 Court Street. He said the proposed inn was a preferable use over a residential house or office. He said the structure was saved by his partners in the 1950s because it was a house of enormous importance with architectural features not really seen anywhere else in Portsmouth. He said the house was going back to its original historic nature as an inn and was the only house in Portsmouth that had a relationship to the War of 1812. He said he highly endorsed the project.

SPEAKING IN OPPOSITION TO THE PETITION

Jason Jenkins said he was a direct abutter and wasn't necessarily opposed to the project but had questions about how trash and dumpsters, how the parking would be handled, and whether the guests would check in at the front of the home or in the back.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Bob Marchewka of 327 Sagamore Avenue said he represented the Treadwell House and also owned a property on The Hill that once had a similar situation. He said the existing restaurant

there was replaced by an inn that didn't have as much impact on the neighborhood as a restaurant or office would have, and the parking had never been an issue.

Attorney Mulligan said the final parking configuration hadn't been set but that there were three municipal lots less than a half mile away as well as two parking garages, and the applicant's principals' office building parking lot on Middle Street could be utilized for overflow and offsite parking through a shared arrangement. He said there no plans for a dumpster because municipal services would be used.

No one else spoke, and Acting Chair Lee closed the public hearing.

DISCUSSION OF THE BOARD

Ms. Margeson said the parking and the building's history were not the Board's purview. She said she would support the application because the character district was about streetscape and facades and there would be no change to that. She said a use variance was usually hard to get but less so in a character-based zoning district, and she couldn't see that the change in use would have any impact on that area. She noted that Court Street had a lot of municipal and civic lots and alternating CD4L1 and CD5 zones, so to a certain extent there were special conditions to the property because it was right on the edge of the CD5 district where it would be allowed by right. She said there was also another inn within the CD4L1 district, so she didn't see that the proposed inn would change the area's character. Acting Chair Lee agreed and said preserving the character of the building was an admirable effort by the applicant.

DECISION OF THE BOARD

*Mr. Macdonald moved to **grant** the variances for the petition as proposed, and Mr. Mannle seconded.*

Mr. MacDonald said the proponents said everything that could be said in favor of the application and that he would depend on their competence to do it and not add anything to what was already completed. Mr. Mannle concurred and said it was a great reuse of the property. He said he remembered the character district meetings and how they changed from block to block and house to house, and he noted that there were other boutique inns on the same street. He said granting the variance would not be contrary to the public interest, and the spirit of the ordinance was observed. He said substantial justice would be done, the values of surrounding properties would not be diminished, and literal enforcement of the ordinance would result in unnecessary hardship. He said all the criteria were met and that the project should be approved.

*The motion **passed** unanimously, 6-0.*

Chairman Parrott resumed his seat and Acting Chair Lee went back to Vice-Chair status.

- C) The request of **Mastoran Restaurants Inc.** (Owner), for the property located at **2255 Lafayette Road** whereas relief is needed to demolish the existing Burger King and

construct a 5,555 square foot convenience store with drive-thru and fueling island which requires the following: 1) A Variance from Section 10.5B33.20 to allow 0% front lot line buildout where 75% is required. 2) A Variance from Section 10.5B22.40 to allow a building to be constructed outside of the 70 - 90 foot setback from the centerline of Lafayette Road. 3) A Variance from Section 10.1113.20 to allow parking to be located between a principal building and a street. 4) A Variance from Section 10.1114.31 to allow more than one driveway. 5) A Variance from Section 10.835.32 to allow a bypass lane for a drive thru to be set back 24 feet from a lot line where 30 feet is required. 6) A Variance from Section 10.1251.20 to allow a 160 square foot freestanding sign where 100 square feet is the maximum allowed. Said property is shown on Assessor Map 272 Lot 3 and lies within the Gateway Corridor (G-1) district. (LU-22-13)

SPEAKING TO THE PETITION

Attorney John Bosen was present on behalf of the applicant, along with Common Man Restaurants Managing Partner Brad Pernaw and project engineer Nicole Duquette. Attorney Bosen said the proposal was to have a roadside restaurant and fueling area. Mr. Pernaw said the market and deli was an offshoot of the Common Man Restaurants and would be more of a deli than a convenience store. Ms. Duquette said the property had several non-conformances and was separated from the back wetlands by one foot, so a CUP was needed. She said they met with the Conservation Commission and TAC as well as the Department of Transportation. She said the proposed development was a 5,555-sf convenience store/deli with a drive-thru and ten fueling locations and that the parking would be reduced to 25 spaces. She said the site plan was revised several times and that the Conservation Commission asked them to remove some parking spaces on the side and place them on the back, to relocate the underground storage tanks further away from the wetland, and to move the loading area to the side. She said they would also have stormwater treatment devices. Attorney Bosen reviewed the criteria. He said the property was surrounded by similar uses and would be brought more into compliance and improve the impacts on the wetland buffer. He said the new sign would be consistent in size with the existing sign.

There were no questions from the Board. Chairman Parrott opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chairman Parrott closed the public hearing.

DISCUSSION OF THE BOARD

The Board discussed whether the sign proposal should be addressed separately. Ms. Eldridge said six variances were a lot but thought the project was perfectly suited for the location. Mr. Mannle said the applicant needed six variances because the zoning on Lafayette Road had changed to promote more pedestrian-friendly buildings. Mr. MacDonald said a drive-thru gas station/restaurant combination was a perfect use for the property. Chairman Parrott said the sign would be a freestanding one.

DECISION OF THE BOARD

*Mr. Rossi moved to **deny** the sign variance due to the increased size. No one seconded it. Ms. Margeson said she preferred to address the main variances first. Mr. Rossi withdrew his motion.*

*Vice-Chair Lee moved to **grant** variances 1 through 5, and Ms. Eldridge seconded.*

Vice-Chair Lee said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said the existing building had everything needed except for the proximity to the road and the two driveways, and there would be a canopy for the gas pumps that would be closer to the road, but he had no heartburn about that. He said substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the public. He said the values of surrounding properties would not be diminished because the area was a heavy commercial zone and he thought the proposal would probably enhance surrounding values. He said literal enforcement of the ordinance would result in unnecessary hardship to the applicant due to the property's special conditions that included the huge amount of pavement draining directly into the wetlands, and because of those conditions one could not reasonably use the property in strict conformance with the ordinance because it was already nonconforming. He said reconfiguring and redoing the existing site would make it less nonconforming. For those reasons, he moved to approve the project.

Ms. Eldridge concurred and had nothing to add.

*The motion **passed** by a vote of 5-2, with Ms. Margeson and Mr. Mannle voting in opposition to the motion.*

The Board then addressed Variance Request #6 for the sign.

*Ms. Eldridge moved to **grant** the variance for the sign as presented.*

She said the variance request seemed appropriate, given the size of the property and the other signs along Lafayette Road. She said all the lights and traffic on Lafayette Road constituted a hardship and required a sign that was a little larger than life. She said she didn't feel that it would affect surrounding property values or would be against the public's interest. She said it would observe the spirit of the ordinance for the reasons she previously stated. She said granting the variance would do substantial justice because it wouldn't take away anything from the public or surrounding businesses and would not diminish the values of surrounding properties. She said she would approve the sign, especially given the competition for attention on Lafayette Road.

Mr. MacDonald seconded and said he concurred with Ms. Eldridge.

*The motion **failed** by a vote of 5-2, with Vice-Chair Lee, Mr. Rossi, Ms. Margeson, Mr. MacDonald, and Mr. Mannle voting in opposition.*

*Mr. Rossi moved to **deny** the variance request for the sign, on the basis that it was for a 160-sf sign, and to approve a 100-sf sign as guided by the ordinance and on the basis that having a 100-sf sign would not present an undue hardship.*

Attorney Bosen explained that the existing sign was 160 square feet but that 32 square feet of it was the base and that the base could be reduced so that the entire sign was only 130 square feet. Vice-Chair Lee said that made him feel better about the request.

Mr. Rossi withdrew his motion.

*Vice-Chair Lee moved to **grant** Variance #6 for the sign as presented and advertised, with nothing added to the sign's wording and no moving parts. Ms. Eldridge seconded.*

Vice-Chair Lee said that, based on the new information and his better understanding of it, granting the variance would not be contrary to the public interest and substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the public. He said it would be an attractive sign in a commercial zone, so he didn't see any diminution of values of surrounding properties because they were all commercial and all had signs. He said granting the variance would not alter the essential character of the neighborhood and the proposed use was reasonable. Ms. Eldridge concurred and had nothing to add.

*The motion **passed** by a vote of 5-2, with Mr. Rossi and Mr. Mannle voting in opposition.*

V. ADJOURNMENT

The meeting was adjourned at 10:24 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary