

Dover Zoning Board of Adjustment
Thursday, October 20, 2005
MINUTES

Members Present: Richard Callaghan, Bill Colbath, Frank Landford, John Levasseur, Sam Reid, Masi Denison
Members Absent: Ruth Gorton
Staff Present: Thomas Clark; Building Official, Christopher Parker; City Planner, Jean Glidden;
Recording Secretary

ITEM # 1: CALL TO ORDER

Richard Callaghan brought the meeting to order at 7:04 p.m.

ITEM # 2: APPROVAL OF MINUTES

A. Approval of the minutes for regular meeting of September 15, 2005.

Motion: Bill Colbath made the motion to accept the minutes. John Levasseur seconded the motion.

VOTE: U/A

Sam Reid will be voting.

ITEM # 3: OLD BUSINESS

A. Z 05-27 Jeffrey & Kari Grimes, 90 Stark Ave., a/k/a Tax Map 17, Lot 116, zoned R-12, requests a variance from the terms of Article IV, Section 170-12, Table I, Part A, to establish a four-family dwelling.

Jeffrey Grimes stated that new information has been submitted that was a concern at last months meeting. He stated that he has a parking plan prepared by Tritech Engineering and two broker opinion letters written by Matt Mayberry and Bob Kelley concerning the advantages to the abutters to creating condominiums opposed to the rental scenario that is currently being used. Pictures of the interior of the property show the historical significance of this property. He stated that he believes that the house was built in the late 1700's not the 1850's and also included why he believes four units is sufficient opposed to three or five units. He stated that he has a number of neighbors that are present to speak in favor of this variance.

Public Hearing Open

Carolyn Antell abutter at 2-A & B Governor Sawyer Lane owns the duplex located next to the mansion. She stated that this is an exceptional historic property and is confident that the Grimes will take this property and convert it into magnificent and beautiful historic condominiums. She does not want this to be a dormitory. Because Dover does not have a historic society, it behooves the City of Dover to protect this historical property in the best use and the best way they can.

Scott Myers abutter at 4 Governor Sawyer Lane stated that he is in favor of this variance request. A condominium comes with a level of ownership interest and upkeep certainly reflects what is in the neighborhood and encourages the Board to grant the variance.

Kevin Murphy abutter at 100 Stark Avenue stated that he is here to support the proposal. This is a huge property and it is not realistic to think that it will ever be purchased by a single family. Given the options, this is the best plan. Mr. Grimes has done a great job of informing the neighbors of this project. He is doing the best he can to maintain the integrity of the property, therefore is in support of this variance request.

Carrie Keech abutter at 1 Woodland Road stated that her backyard abuts the property and is in favor of this variance request. She stated that she has five children and currently the tenants that reside at this property are in their backyard and they have to deal with a lot of coarse language and loud noises. The best use of that property would be to turn it into condominiums.

Joan Douglas abutter at 3 Woodland Road stated that she is in support of the desired occupancy.

Chris Parker stated that at the previous meeting the Planning Department had some questions with the parking, screening, and snow removal. The department feels that the updated plan does meet the parking requirements. The revision has taken care of the concern with backing out onto Stark Avenue, however they are still concerned with the screening, and it is the department's impression that all the trees between the Keech property and this property would be removed in order to accommodate the parking spaces. The department would encourage the Board and Mr. Grimes to put up some sort of fence screening or vegetative screening. The fear would be that people would be getting into their vehicles at night and the lights would be pointing right into the back of the abutting house. The department is also asking that parking spaces 1 through 8 be dedicated as the resident spaces and 9, 10, and 11 be dedicated as the visitor spaces. In the winter, you could use 11 for snow storage and if needed 9 and 10 would be available for a turn around area. If there were dedication of those spaces, as visitor spaces, a lot of that problem would be alleviated. This is a unique property and has many unique characteristics and they have made the best attempt with this parking plan to rectify the problem that was a concern at last months meeting.

Public Hearing Closed

Frank Landford stated that he was in favor of this request at the last meeting and is still in favor this month. This is a good use of the property and it is better for the neighbors.

John Levasseur stated that he was concerned with the parking but it appears that the problem has been rectified.

Sam Reid stated that he agrees with all of the abutters that spoke and said the pride of ownership would stop many of the things that occur with tenants. A condominium conversion is appropriate. The parking was a major concern last time, and it appears it has been resolved.

Bill Colbath stated that he still has an issue with the parking. It appears it would almost work. He stated his question at last months meeting was why does this need to be four units?

Jeff Grimes stated that the greatest reason was the number of bedrooms that would be impacted. If this were to be three units, they would only go from the current 14 bedrooms to 13 bedrooms. Four units would cut it down to 11 bedrooms, which seemed to be appropriate of this being accepted. The property has four separate exits and entrances that already create four units and five units would involve chopping up the building.

Richard Callaghan stated that he is happy with the new information submitted. The parking plan shows more than the minimum number of parking spaces required. Pictures were presented as requested that showed the inside of the building as well as a number of abutters speaking in favor of this request. It would be a shame to let it continue to be a rental property.

Richard Callaghan stated that he would be using a new form for criteria that will bring the Board into compliance with the requirements listed in the application and the latest changes in the zoning decisions from the Courts.

FIVE CRITERIA:

1. The Applicant was to provide proof that special conditions exist and that literal enforcement of the ordinance would result in an unnecessary hardship. b) USE: i. Did the Applicant demonstrate that the ordinance interferes with the reasonable use of the property, considering their unique setting of the property in its environment? Yes, Vote U/A. ii. Did the Applicant demonstrate that no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction of the property? Yes, Vote U/A. iii. Did the Applicant demonstrate that the variance would not injure the public or private rights of others? Yes, U/A. This conclusion is based on the following findings of fact: Size of and historical character of building will be best as owner occupied rather than rented out as two-unit multi bedroom housing.
2. Did the Applicant provide proof that demonstrates how granting the variance will result in substantial justice? Yes, Vote U/A. This conclusion is based on the following findings of fact: Preserves the house and allows a good use.
3. Did the Applicant provide proof that demonstrates how a variance would be consistent with the spirit and intent of the ordinance? Yes, Vote U/A. This conclusion is based on the following findings of fact: More consistent with owner occupied nature of the neighborhood.
4. Did the Applicant provide proof that demonstrates the variance will not result in a diminution in value of surround properties? Yes, Vote U/A. This conclusion is based on the following findings of fact: Neighbors support and real estate letters.
5. Did the Applicant provide proof that demonstrates the variance would not be contrary to the public interest? Yes, Vote U/A. This conclusion is based on the following findings of fact: Neighbors support, maintaining historical structure and improvement to property.

Therefore, based upon the foregoing, it is ordered that the application for the variance be granted with the following conditions.

Discussion ensued regarding conditions, screening, and TRC.

Mrs. Antell felt that a TRC meeting was not needed. She asked that the Board not involve another committee. However, would like to be notified if the applicant needs to attend.

Richard Callaghan stated that normally during the closed session the Board does not listen to the public. If you have concerns, you could voice an opinion at the TRC meeting.

Chris Parker stated that this is not a public notice although the applicant could inform the abutters. He stated that they would be notified.

Bill Colbath stated that a variance that is granted goes with the property forever.

The Board agreed upon the following conditions:

1. Parking spaces 1 through 8 designated as owner parking and 9, 10, and 11 designated for visiting and snow storage.
2. Screening will be erected and maintained around the boundary side of the parking areas.
3. Go to TRC for drainage, parking, and screening.

Motion: Bill Colbath made the motion to approve the conditions. Sam Reid seconded the motion.

VOTE: 4 to 1 (Frank Landford opposed)

Richard Callaghan announced that ZBA case Z 05-16 Churchill Realty Trust was requested by the applicant to be tabled to next months meeting.

- B. Request for motion for rehearing regarding ZBA Case Z 05-12 George Georgakilas, 70 Silver St., a/k/a Assessor's Map 12, Lot 79, zoned RM-10, requests a variance from the terms of 1) Article I, Section 170-6 definition of lot to have two principal buildings on a lot; 2) Article VI, Section 170-25.1.A to have approximately 7,100 square feet of open space where the average amount on surrounding developed lots is 10,100 square feet; and 3) request a special exception as provided by the terms of Article VI, Section 170-25.1 and Article XII, Section 170-52.C (3) to establish a fourth dwelling unit.**

Richard Callaghan stated that the request has been submitted by Attorney Schulte and if granted will be heard at next months meeting.

Bill Colbath stated that he has not seen different information in the request for a rehearing.

Richard Callaghan stated that in the motion, Attorney Schulte states that the Board failed to separately consider the two components of the Boccia test as noted on page 7, item 21.

Sam Reid stated that he does not see new evidence and believes the Board did consider the two components of the Boccia test, but they went through the old questionnaire at that meeting and it should be completed correctly using the new questionnaire.

Motion: Sam Reid made the motion to grant the request for rehearing. Bill Colbath seconded the motion.

VOTE: U/A

Richard Callaghan explained to the general public how the cases should be represented to the Zoning Board of Adjustment. A decision may be postponed if additional information is needed.

Masi Denison will be voting.

ITEM # 4: NEW BUSINESS

- A. Z 05-29 Temple Israel, 515 Sixth St., a/k/a Tax Map A, Lot 45 A-2, zoned R-40, requests a variance from the terms of Article IX, Section 170-32 E (Sign Table), to install a freestanding sign within zero (0) feet from a property line, where a minimum of ten (10) feet is required.**

Michael Behrendt stated that he lives at 27 Edgewood Road in Durham. He submitted handouts for the Board members regarding the variance criteria. He stated he is a long-standing member of Temple Israel and a few other members are present. He also is a City Planner in Rochester N.H. The synagogue has about 175 families that are members and the membership comes from all over the Seacoast. They have been in the new facility for about a year and the sign that is placed at its current ten-foot setback is not visible. He stated that as he was traveling to the synagogue he could not see it and it was only until he was at the driveway that he noticed the sign. It is a 12 square foot sign and is externally illuminated. Because of the lack of visibility, the applicant is asking for a zero foot setback in order to move it to the front of the property. It would still be about 20 feet off from the road. He proceeded to read through the five criteria as submitted in his handout. He stated that they have a vegetated buffer along Sixth Street and it is their preference not to have to remove that entire buffer to provide for full visibility of the sign and into the site. As you drive here particularly at night, they have to reference a white rail fence that is located beside them at the single-family property. They inform people that they should turn before the white fence and it does not seem appropriate that they use a neighbor's property to identify Temple Israel. A member recently went out and did some clearing in the buffer to try to improve visibility but could not do much more without removing a number of trees. It is a significant hazard for drivers. Many visitors to the synagogue are first time visitors coming out of town or state for bar mitzvahs, weddings, and other special events. Such a unique

community resource warrants a sign. Visibility is very important and it is a problem if they cannot move their sign forward.

Chris Parker asked if they considered placing a granite or wood post with the address on the marker at the end of the driveway. Why is the sign perpendicular as opposed to parallel to Sixth Street?

Michael Behrendt stated that they would probably do that, but unless you have an enormous number, it does not provide great visibility. It is better for people to find the synagogue based on the sign. The vast majority of people visiting are traveling north and if it were parallel, it would be very difficult to see.

Motion: Bill Colbath made the motion to accept. John seconded the motion. **VOTE: U/A**

Richard Callaghan confirmed with the applicant that it is their preference not to touch the vegetation as they have wetlands located on this property and may need a wetlands permit.

Discussion ensued regarding the right of way and the wetlands located on this property.

Public Hearing Open

Lorraine Goren resides at 12 Sunset Drive and is a longtime member of Temple Israel. Most of the functions are in the evening and it is very difficult to see. The neighbors white fence is their guideline to find the driveway and feels moving the sign would be helpful.

Patty Diengott resides at 35 Rutland Street stated that this is a very dark area and many people come from out of town. Her son is having a bar mitzvah with 150 people attending and has to place balloons at the end of the driveway so they do not drive by the synagogue. She hopes in the future, this will be something people will not have to deal with.

Jeff Bean abutter at 517 Sixth Street stated that he is the owner of the white fence and the way the sign sits now is not offensive in any way, but for multiple reasons he feels that moving this sign forward would be a problem. Last spring a construction sign was in the same place that they are looking to move it to and it obstructed his view of oncoming traffic. He stated that he made a complaint and the sign was relocated to the other side of the road. Their driveways are located very close together and driving up the road it appears that the sign is for his driveway. He would not be objectionable to having the sign forward if it was on the other side of the entrance away from his property. He stated that he does object to this request.

Chris Parker stated that the Planning Department is opposed to this variance request. The intent of the ordinance is to limit signage that would be offensive in a residential neighborhood. The residential sign ordinance does have a setback intended to protect the residential abutters. The department does not feel this is a hardship. If there is one, it is a self-created hardship since they chose the location of the entrance of the driveway. They could cut down some of the vegetation and clear the visibility. He disagrees that a wetlands permit would be needed because you can cut vegetation and leave the stumps. You would need a permit to extract the vegetation. If you are looking for the synagogue, it is a destination. If you put some sort of granite marker or an acceptable post with an address on it at the end of the driveway, you would have an opportunity to get away from needing the variance. This is one of those situations where you have other alternatives. The hardship is self-created. He stated that this is a 50' right of way. The streets edge of pavement is not centered within the right of way, so the setback is exaggerated.

Debbie Oschmann resides in Durham NH and is a member of the synagogue. When you drive North you almost go by the entrance and she feels that they deserve a sign that is visible from the road so somebody does not stop short and cause an accident.

Richard Callaghan confirmed with Chris Parker that the property line is approximately 15 feet between edge of pavement and the property line and the sign is about 25 feet from the edge of pavement.

Mike Behrendt stated that they did consider placing the sign on the other side of the driveway but that would aggravate the problem because it would be where the buffer is located. It would be a disappointment and quite unsightly if they need to clear the buffer.

Public Hearing Closed

John Levasseur confirmed with Mike Behrendt that removal of the vegetation is a concern with the applicant.

Mike Behrendt stated that apart from the buffer it appears that the sign is placed too far back and asked why it has to be set at that location.

Chris Parker stated that it protects the rural character.

John Levasseur stated that he sees two conflicting arguments from the applicant and the abutter and both of them are valid.

Richard Callaghan stated that he drove by the synagogue when looking for the sign and stated that safety wise it does bother him. He would like to see the sign from both directions. He understands the issue with not having to remove trees.

Masi Denison confirmed with Tom Clark that there is an eight-foot height restriction.

Bill Colbath stated that the sign does need to be more visible and feels that a few trees should be cut down. Do you want to see the sign or do you want to keep the trees. He does not believe a difference of ten feet is going to make a difference.

Chris Parker stated that the trees are the issue and if you were to remove some of them, you would still be able to have some ground cover vegetation.

Richard Callaghan stated that this is a public place and in order to maintain safety for people searching this out he feels the Board has an obligation to try to help that road be safer by getting appropriate signage.

Discussion ensued regarding signage requirements and setbacks.

Mike Behrendt stated that if you grant the variance they would still have 20 to 25 feet from the pavement and it would leave enough room to pull in front of the sign and see around it.

Richard Callaghan asked if he would be willing to come up with other alternatives and relocate the sign to a different area.

Mike Behrendt stated that to move it to the other side of the driveway you would not gain anything. He cannot imagine it would impede visibility, but is open to any suggestions. He stated that if they do not get the variance

they would have to do a substantial clearing of vegetation. Clearing that entire buffer would have a much greater impact than pushing a low-key sign forward.

Discussion ensued regarding location of the sign and the buffer.

Chris Parker stated that they still have a buffer from the residents by having the open field that is along this driveway to the building. They have other alternatives and the variance should be that they have no other alternatives.

Mike Behrendt said that if he does not get the variance he would cut the buffer.

Jeff Bean stated that he has no objection if they need to clear the buffer for visibility.

Mike Behrendt stated that he would accept something other than the request of zero setbacks.

Richard Callaghan stated that the sign is not safe where it is located.

Bill Colbath stated that the choice is to clear some of the vegetation. It would not take that much of clearing to make that sign visible. The sign belongs on the other side of the driveway to be visible from both directions. He does not see a hardship.

John Levasseur stated that it would provide safety for both concerns.

Masi Denison stated that they have a natural setback already. She is okay with zero, although she would not want to exchange one safety issue for another. Even if you clear the vegetation, are you still going to be able to see the sign?

Bill Colbath stated that it does not look like an entry to the synagogue it looks like a driveway.

Frank Landford stated that if you cut the trees down and leave the sign where it is you would have better sight to the sign.

Richard Callaghan asked Tom Clark if the Board could come up with an alternative location.

Tom Clark stated that the request for the variance is for zero setbacks, but you could attach conditions.

Masi Denison stated that it sounds reasonable.

Frank Landford stated that he agrees.

Bill Colbath stated that he does not see a hardship.

Discussion ensued regarding the wetlands located on this property.

Bill Colbath asked if an entry type sign would be an acceptable alternative.

Tom Clark stated that they allow and encourage addresses be close to the road for clear identification and could be placed on a granite post at the edge of pavement at the driveway entrance.

Mike Behrendt asked if he could propose a compromise of at least five feet. It would reduce what they have to cut.

Jeff Bean stated that he is not against the sign moving forward a little bit to the cluster of trees. He would not object to a five-foot setback.

Sam Reid asked what the department would feel about the five-foot setback.

Chris Parker stated that this is a self-created hardship, if there is a hardship at all.

Richard Callaghan stated he still has an issue with not seeing the sign from the other direction. He suggested a post with a number on it and a five-foot setback.

Discussion ensued regarding conditions.

FIVE CRITERIA:

1. The Applicant was to provide proof that special conditions exist and that literal enforcement of the ordinance would result in an unnecessary hardship. a) AREA: i. Did the Applicant demonstrate that the area variance is needed to enable the proposed use of the property given the special conditions of the property? Yes, Vote 4 to 1 (Bill Colbath voted no) ii. Did the Applicant demonstrate that the benefit sought cannot be achieved by some other method reasonable feasible to pursue without the area variance? Yes, Vote 4 to 1 (Bill Colbath voted no). This conclusion is based on the following findings of fact: Wetlands, distance of property line from pavement edge and desire to keep the rural character of the residential neighborhood.
2. Did the Applicant provide proof that demonstrates how granting the variance will result in substantial justice? Yes, Vote 4 to 1 (Bill Colbath voted no). This conclusion is based on the following findings of fact: Increase driver safety in finding the property.
3. Did the Applicant provide proof that demonstrates how a variance would be consistent with the spirit and intent of the ordinance? Yes, Vote 4 to 1 (Bill Colbath voted no). This conclusion is based on the following findings of fact: Maintain residential buffer, and as presented it is a low profile non-obtrusive sign.
4. Did the Applicant provide proof that demonstrates the variance will not result in a diminution in value of surround properties? Yes, Vote 4 to 1 (Bill Colbath voted no). This conclusion is based on the following findings of fact: No evidence to contrary, abutter present and does not object to new proposal.
5. Did the Applicant provide proof that demonstrates the variance would not be contrary to the public interest? Yes, Vote 4 to 1 (Bill Colbath voted no). This conclusion is based on the following findings of fact: To the contrary, proof was provided to increase public safety, thereby acting in the public interest.

Therefore, based upon the foregoing, it is ordered that the application for the variance be granted with the following conditions.

1. Address post be installed at driveway entrance.
2. Allowed setback to be five (5) feet for the sign.

Motion: John Levasseur made the motion to approve the conditions. Frank Landford seconded the motion.

VOTE: 4 to 1 (Bill Colbath opposed)

Recess at 9:28, resumed at 9:36

Bill Colbath left the meeting at 9:36

B. Z 05-30 Lawrence Raiche, 15 Hartswood Dr., a/k/a Tax Map 14, Lot 35, zoned R-12, requests a variance from the terms of Article V, Section 170-16, to subdivide a parcel creating a lot within

zero (0) feet of frontage along a public right of way, where a minimum of one-hundred feet is required.

Lawrence Raiche stated that he is requesting a variance to allow him to subdivide his property in order to build a home for his parents. His driveway continues down Hartswood Road and some people think his driveway is the road. Presently Mr. Slainwhite located on lot 51 has an easement from the applicant to access his lot. He stated that the proposed lot is a wooded area. He stated he could build a cul-de-sac and make it a City street but it would be extremely expensive for what he is trying to do and it may also detract from the area. He proceeded to read through the criteria. This is a quiet minimal traffic street and denial of this variance would render this land useless. This would create a lot that is the same as what exists in this area. He stated that he would like to point out an easement to the City shown on the plan submitted. It is an overgrown turnaround area, which is located on a portion of lot 27 and his proposed lot.

John Levasseur confirmed where the driveway was located on the map submitted.

Frank Landford confirmed that he has a paved driveway that is 200 feet long.

Chris Parker asked if the proposed lot meets the dimensional requirements and if it meets the upland requirements. This would have to be 12,000 square feet of uplands, which means it could not have any wetlands counted within the 12,000 square feet.

Lawrence Raiche stated that he has no wetlands located on this property.

Sam Reid asked about the easement and stated that the applicant would not be able to build a structure within that area.

Chris Parker stated that in 1949 this subdivision was created. Hartswood was supposed to go through and connect down to Sunset. In 1966, the developer went out of business. What is now the applicant's house and lot 34 and 31 were left alone. In 1985, Peter Widmark purchased the property and came forward with this lot and a subdivision of the other three lots. He received a variance from this Board in 1985 to create a lot with only 50 feet of frontage. When it went to the Planning Board, the members said they wanted the road to come in and have a cul-de-sac in order to have the proper frontage. Pete Bouchard, the Public Works Director, at the time was adamant that their needs to be a place to turn around and put the snow because the former owner of 11 Hartswood would complain that they are putting snow in their driveway. Because the zoning Board granted the variance the compromise was reached that instead of making the cul-de-sac, a maintenance easement would be granted. It is depicted as 50 feet deep by 100 feet wide. You cannot build in the easement. Any house would have to conform to setbacks and stay out of that easement.

Sam Reid confirmed with Tom Clark that the maintenance easement as depicted by Trittech Engineering is an accurate location and he would still have a sufficient building envelope.

Larry Raiche stated that the City stops plowing at the end of his driveway.

Chris Parker stated the intent originally was when public works is plowing Hartswood Road, they do not have anywhere to put the snow at the end of the road, but they ideally wanted a place such as a cul-de-sac where snow could be moved through. The City has easement rights and doubts they would ever give it up. The reason the easement came about is that the person that owned 14-5 I, did not like the fact that the City backed into their driveway to turn around.

Larry Raiche stated that snow accumulation has never been a problem and does not believe that it would hurt the situation.

Motion: John Levasseur made the motion to accept. Sam Reid seconded the motion. **VOTE: U/A**

Public Hearing Open

Abutter at 20 Sunset Drive stated he has no objection to this request.

Robert Herlihy abutter at 12 Hartswood Road stated that his property abuts the area that the applicant is seeking. He understands the compromise that was set in 1985 which was intended for a turn around. A major part of it was for snow storage and he believes he has seen it used once. He did not realize that this was a maintenance area but wants to be sure that the easement is maintained if this variance is granted. What would happen to the restrictions that are in the deeds that have been issued to all of the people in this area? The house that is going to be built would have to conform to the houses that surround it. He stated that he and his wife are very much in favor of granting this variance.

Chris Parker stated that the Planning Department does not support this variance request. The lot has already received one variance to have less frontage than necessary. The department is against variances that allow lots to be created without proper public frontage. The applicant has the opportunity to put in a cul-de-sac or a hammerhead so he would not have a hardship. You set the precedent allowing these future lots. This is a situation, which can be rectified within the limits of the ordinance.

Sam Reid confirmed that if he were to place in a City road, he could have up to three lots.

Larry Raiche stated that he would not place three houses on this lot as they would be located almost on the Spaulding Turnpike and it would ruin the value of his lot.

Tom Clark confirmed with Larry Raiche that he would be willing to give up any future subdivision rights if they grant the variance.

Public Hearing Closed

Discussion ensued regarding surrounding lots.

Chris Parker stated that when this goes to the Planning Board and is fully engineered it might change the configuration of the proposed lot.

Discussion ensued regarding the maintenance easement.

FIVE CRITERIA:

1. The Applicant was to provide proof that special conditions exist and that literal enforcement of the ordinance would result in an unnecessary hardship. a) AREA: i. Did the Applicant demonstrate that the area variance is needed to enable the proposed use of the property given the special conditions of the property? Yes, Vote 3 to 2 (Frank Landford and Richard Callaghan voted no) ii. Did the Applicant demonstrate that the benefit sought cannot be achieved by some other method reasonable feasible to pursue without the area variance? Yes, Vote 3 to 2 (Frank Landford and Richard Callaghan voted no). This conclusion is based on the following findings of fact: Size of the lot is unique with context of the neighborhood and installing a cul-de-sac is prohibitively expensive.
2. Did the Applicant provide proof that demonstrates how granting the variance will result in substantial justice? Yes, Vote 3 to 2 (Frank Landford and Richard Callaghan voted no). This conclusion is based on the following findings of fact: Allows him to make reasonable use of the property.

3. Did the Applicant provide proof that demonstrates how a variance would be consistent with the spirit and intent of the ordinance? Yes, Vote 3 to 2 (Frank Landford and Richard Callaghan voted no). This conclusion is based on the following findings of fact: Population density would be minimally increased.
4. Did the Applicant provide proof that demonstrates the variance will not result in a diminution in value of surround properties? Yes, Vote 4 to 1 (Richard Callaghan voted no). This conclusion is based on the following findings of fact: Abutters are in favor of the variance.
5. Did the Applicant provide proof that demonstrates the variance would not be contrary to the public interest? Yes, Vote 3 to 2 (Frank Landford and Richard Callaghan voted no). This conclusion is based on the following findings of fact: The easement will be respected.

Therefore, based upon the foregoing, it is ordered that the application for the variance be granted with the following conditions.

1. There shall be no further subdivision of either lot.
2. New deed shall include the covenants that are in the other lots in Knox Park subdivision.

Motion: Masi Denison made the motion to approve the conditions. Sam Reid seconded the motion.

VOTE: 4 to 1 (Richard Callaghan opposed)

ITEM # 5: OTHER BOARD BUSINESS - NONE

ITEM # 6: ADJOURNMENT

MOTION TO ADJOURN

Sam Reid made the motion to adjourn at 10:34 p.m. and was seconded by Masi Denison. **VOTE: U/A**

List of Members

Term Expires

Richard Callaghan-regular member	04-13-06
William Colbath-regular member	10-23-06
Frank Landford-regular member	04-10-08
Ruth Gorton-regular member	11-12-06
John Levasseur-regular member	11-12-06
Masi Denison-alternate member	09-08-07
Sam Reid-alternate member	04-13-08