

APPROVED
TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
December 8, 2014

The Chairman David Hennessey called the meeting to order at approximately 7:00 pm.

The Secretary Bill Kearney called roll:

PRESENT: David Hennessey, Svetlana Paliy, Bill Kearney, Peter McNamara, Chris LaFrance, Alternate Lance Ouellette, Alternate Pauline Guay, Alternate Darlene Culbert (was present but did not join the Board), Planning Director/Zoning Administrator Jeff Gowan

ABSENT: Alternate Kevin O'Sullivan

CONTINUED HEARINGS

Case #ZO2014-00022

Map 14 Lot 9-132-2

OUELLETTE, Lance & SUPPA, Jamie- 54 Simpson Road - Seeking a Variance concerning Articles V & VI, Sections 307-16 & 307-18 to permit a landscaping business to operate in a residential area.

Mr. Ouellette (applicant in the case) and Ms. D. Culbert (abutter) stepped down.

MOTION: (McNamara/LaFrance) To approve the site walk minutes of November 15, 2014 as written.

VOTE: (5-0-0) The motion carried.

Mr. Jamie Suppa and Mr. Lance Ouellette came forward to discuss the variance application.

Mr. Hennessey stated the Board received a request for a change in the application. There were new answers to the five variance criteria. He explained the Board wasn't bound by legal precedent, but had allowed such in the past (such as in the Raytheon case). He asked if the Board had any comments.

Mr. McNamara saw that the applicant was requesting additional set-back relief to Article III, Section 307-12 to allow the staging structure to stay 7ft. from the property line where 15ft. is required. The applicant noted there was currently well over 300ft. of thickly forested area between the structure and the nearest abutter home. Mr. Hennessey noted the additional relief was with the same variance request. He asked if any Board member had a problem with a change in the criteria.

Mr. Ouellette read aloud the additional relief being sought. He noted this relief was added after the site walk was conducted and questions were raised. They initially didn't realize the staging structure had to be 15ft. from the property line; they felt it was a temporary structure. There was a similar structure on the property prior to it being constructed. There was also one corner of a shed structure that would need to be moved approximately 8ft. Given the nature of the structures, they felt requesting relief and accepting a condition of approval may be appropriate. Mr. Ouellette read aloud the revised variance criteria as submitted. He told the Board they changed some of the verbiage was because prior to filling

out the initial set of criteria, Mr. Suppa wasn't completely aware of how big his lot actually was. He also wasn't aware of the unique shape and having 50ft. of road frontage made the lot non-conforming. During the process Mr. Suppa became educated that Zoning Board relief would be required for him to do anything with the lot. A lot of knowledge was gained between the first application for variance and since through questions raised by the Board and abutters.

Mr. McNamara noted that contained in every answer to the criteria reference was made that a business or businesses existed on the site for years without complaint. He felt that point undercut the applicant's argument. He commented if any businesses were there, they were illegal. The Board had very little evidence of what kind of businesses had been on site; the type of noise they generated, if they were full time, hours of operation, number of employees etc. He felt it was impossible to compare or give credence to the fact that there were no complaints with no information about other businesses, other than reference that they were landscaping, logging or wood cutting. Mr. Ouellette replied they were informing the Board there had been some use on the property dating back to early 2000's. He was only aware of one other business recently at the site. He noted it was hard to determine facts, but felt they had done a good job doing so. The most recent business at the site was a landscaping operation that did wood cutting and things of that nature. Mr. Ouellette believed through abutter testimony it was learned that the previous owner (Mr. Blanchard) operated a vinyl siding/construction business from the location; however the details from which were unknown.

Mr. Kearney asked if Mr. Suppa had any ownership/part ownership of the landscaping. Mr. Suppa prefers to remain private regarding his business, but told the Board he was part owner in the business.

Mr. Hennessey felt the current presentation was more effective than the first. During the site walk he reviewed the general nature of the neighborhood. He asked for an expansion of the testimony that there were other properties in the area with similar uses. During the site walk, Mr. Ouellette took the Board to the back of the property and pointed out the location of the tree removal company, which had been there for quite some time. He believed it may have existed for at least 10 years. He spoke about the first three properties on Simpson Road that were owned by general contractors and/or handymen. Further along Simpson Road on Crescent Circle there's a person who owns heavy equipment (front loaders etc.). The equipment is used for commercial business and has since been moved from that location. Still further along Simpson Road there's a farm where an 18-wheel tractor trailer is located. Mr. Hennessey questioned if any of the location mentioned were granted under variance, home businesses, accessory uses or grandfathered. Mr. Gowan wasn't aware of surrounding property situations. It was his preference to have separation from the present hearing and any possible code enforcement activity. Mr. Hennessey stated the general nature of a neighborhood was pertinent to granting a variance. Through testimony and review during the site walk the nature of the neighborhood was not solely residential, and had similar commercial uses in the area. Mr. Gowan stated he wouldn't research properties unless someone presented a complaint or something was observed by the Code Officer. Mr. Hennessey saw some of the vehicles mentioned, but his general look as a result of the site walk was that the neighborhood was residential.

PUBLIC INPUT

Mr. Eugene Carter, 15 Katie Lane submitted a second letter for the record. He wanted to know the reason the applicant should be granted a variance. Mr. Hennessey noted the Board had received a previous letter from Mr. Carter. He read the most recent submission aloud. The letter questioned what unnecessary hardship the variance request was intended to relieve and how an approval would not be contrary to public interest given the negative effect and creation of hardship for the abutting residential homes, and apparent 'spot' zoning. The applicant's parcel abuts approximately 80 acres of undeveloped land. Mr. Hennessey replied the hardship must be answered in the hardship criteria.

Attorney Joseph Clermont, representing Joseph & Angeline Vivier of 12 Katie Lane (direct abutters to subject property) came forward to speak to the variance request. He stated the applicant alluded to prior business uses at the property, which were not permitted or legal. He expressed the opinion those should be irrelevant. He questioned if the new application was filed during the present day (December 8, 2014). Mr. Hennessey responded it was the first time he saw it. Attorney Clermont told the Board he wouldn't restate what was presented during the previous meeting. He believed it clear that none of the legal criteria for variance had not been met, especially number five. He drew the Board's attention to criteria five, which had new responses. In this case Attorney Clermont felt no special condition existed and it was not distinguished from other properties in the area; notwithstanding perhaps a unique shape, or long driveway. There was nothing distinguishing it from other residential properties in the area. More importantly under criteria 5b, Attorney Clermont reiterated there was no unnecessary hardship or special conditions; he pointed out the property could and was being used in conformity with the current ordinance as a residential property. He felt that alone should be enough to deny a variance. There was no legal right to a variance when a property is being used in strict conformity with the ordinance.

Attorney Clermont told the Board the neighbors were asking for the Board's help. He noted there were reasons why residential and commercial uses were separated. As mentioned by the Chairman during the site walk, the neighborhood is residential. Attorney Clermont stated the neighbors shouldn't be subjected to a landscaping business with loud noisy trucks and stock piling of materials (sand, salt etc). He noted there were appropriate locations in Town for a landscaping business; the proposed location was not one of them. Attorney Clermont respectfully requested that the variance be denied.

Mr. McNamara believed Attorney Clermont was correct with regard to criteria 5b; however he struggled with the proposed use being reasonable. He wanted to know from Attorney Clermont how the proposed use was unreasonable. Attorney Clermont replied there was already a reasonable residential use allowed under the zoning code. He added commercial use was not allowed; the applicant was seeking to add an additional use onto one lot where there was already strict conformity with the zoning ordinance. In his opinion, that alone should be enough to deny the variance request.

Mr. John Sullivan of 35 Simpson Road came forward to express his opinion in opposition to the variance. His wife owned the property since 1994; he moved into the property in 2006. He told the Board up until this year the loudest thing in the neighborhood was his Border Collie. During the past summer he couldn't figure out what was going on. He explained he works from home and the area is louder than it has ever been. He's noticed trucks labeled 'A Handy' were screaming up and down the street and around the corner. He's also noticed noise up in the back that was not previously there. Mr. Sullivan stated it was a residential neighborhood with no commercial uses. He agreed there were tradesmen in the neighborhood. He met the owner of the tree cutting truck who was doing so as a hobby. He learned that gentleman had a full-time job in the State of Massachusetts. Mr. Sullivan spoke of reviewing the applicant's property for purchase as it had been in foreclosure. He found out from the real estate agent there was some discrepancy between what the Town listed for the property and what it really was, which would have put the tax bill through the roof. Mr. Sullivan didn't want a landscaping in the residential area, which would constantly have equipment moving around (with beeping noises from back up alarms) and maintenance. When watching the first hearing on television, he heard testimony that there was no partnership or business interest by the property owner in the landscaping business. He questioned if that information was still correct, or if there was now a partnership. Mr. Hennessey recalled testimony; however at the present meeting the Board heard testimony of a partnership. Mr. Sullivan recalled hearing one reason a variance shouldn't be granted was because the landowner was not the person requesting the variance. Mr. Kearney noted he previously asked a similar question. Mr. Sullivan wanted to know if the Board could ask when the partnership was established. Mr. Hennessey didn't know if it was germane given the Board was reviewing the property use. Mr. Sullivan felt it would be germane if a partnership

was done since the last meeting in an effort to obtain a variance. Mr. McNamara called attention that the hardship would be to the land, not to the two individuals. Mr. Hennessey said the Board sometimes has tenants and owner representatives in front of them, which the Board needs to be sure they speak for the land owner. He believed Mr. Ouellette had done so properly at the beginning of the hearings. Mr. Sullivan reiterated there had been a quality of life change (not for the better) in the neighborhood during the last year. He'd heard more noise and seen more traffic than he previously did. He was concerned with the design and grade of the driveway and if it was capable of carrying the weight of the vehicles and having room for vehicles to stop prior to entering the roadway. He believed a business would bring his property value down.

Mr. Paddy Culbert, 44 Simpson Road, speaking as an abutter not a State Representative requested if the variance was approved for it to stay with Mr. Ouellette. He didn't want the variance to go with the land; he asked that it become null and void if Mr. Ouellette left the property. He didn't feel the situation with the setback was a variance issue; he saw it as a work issue. Mr. Culbert submitted photographs of the curve on Simpson Road with arrows depicting the location of his driveway. His property had a 90ft. sight distance and he was concerned with the dangers of traffic speed. The photograph was displayed for the Board and public.

Mr. Hennessey asked the Board to discuss restricting a variance to the current property owner. He didn't believe doing so was the intent of the ordinance or State law. His understanding was a variance ran with the land, although the Board could attach restrictions. He didn't feel it was possible for a variance to terminate with the current owner. Mr. McNamara recalled the Board in the past having a variance terminate because the owner was also the business operator. He believed the intent of the variance process was for variances to run with the land. He stated the Board had authority to enact reasonable restrictions. Mr. Gowan believed the case being referenced was on McGrath Road for a general home occupation.

Ms. Paliy believed every training session she'd attended during the past few years has indicated the Board could add stipulation, but they weren't enforceable; a variance runs with the land. Mr. Gowan noted Town Counsel has stated differently to the Board, as long as restrictions are ensconced in a Notice of Decision. It was Mr. Hennessey's understanding that the Board could place limitations, such as hours, limit of operation, but to have it terminate after current lease/ownership was not possible.

Mr. Suppa spoke to the comment about heavy equipment travelling up and down the driveway. He told the Board the vehicles were regular sized pickup trucks, similar to what he drove. There was no heavy machinery. He stated Simpson Road was a busy cut through road from one side of Town to the other that already had regular truck traffic.

Ms. Paliy confirmed that the truck weight was under 10,000 pounds. Mr. Ouellette replied all the trucks were under 10,000 gross vehicle weight. He described the vehicles used for business. He commented during the summer months the previous landscaping company was up and down the driveway with their trailers. He noted the driveway was not as steep as some of the roads they accessed, such as in the area of Jeremy Hill Road.

Mr. Ouellette addressed the request. He pointed out one fifth of the property was residential use the remaining four plus acres was on the dog leg portion, which in itself was an odd shaped lot. He noted the non-conforming driveway being 50ft. was a hardship. He felt they had proved there had been a prior use on the lot, although vague, there had been a landscaping/log splitting company. Mr. Ouellette stated he moved to the location in the middle of August, 2014 and didn't feel the noise spoken about by abutters was from his operation. He mentioned Mr. Suppa had installed a swimming pool in recent years and a developer was working on other lots in the area. He reiterated photographs were submitted that showed

the cleared area related to the tree company in the rear of Mr. Suppa's property. Mr. Ouellette told the Board the lot had not changed, other than being cleaned up of debris etc., since he had been there. They will continue to clean the lot and offered abutters during the site walk more buffering. On the west side of the lot there were hundreds of feet of thickly forested area between the nearest home. In the summer months houses can't be seen; in the winter months they are visible.

Mr. Ouellette spoke of each variance being unique with its own application and believed of recent cases the proposed site had the most density. The operation wouldn't be seen from public view, other than one or two abutters. He believed the vehicle back up alarms is during the time he's been cleaning up the lot. During the past month he's been at the lot minimal times. He stated the proposed business was far less intrusive/invasive than any other use previously at the location. They were open to stipulations. Mr. Suppa told the Board that some of the noise may be from his children, who have dirt bikes, go-carts, snow mobiles, dune buggies etc. The Town trail system head is located at the edge of his property. There are constant dirt bikes, four-wheelers etc. turning around on the lot all hours of the night.

Mr. Carter heard testimony there is 300ft. of buffering between the proposed operation and the nearest house, which was his home. He pointed out of the 300ft. , only five of which was cleared space on the applicant's property from the salt and sand shed, the remaining 295ft. was his property. He wanted to know if he would be restricted from cutting trees along his property line or turning his property into a residential home. He stated the 'buffer' was not on the applicant's property, it was on his property. He felt if a variance was going to be allowed there should be a minimum 30ft. buffer (sound proofing) on the applicant's property. Mr. Carter told the Board that the testimony regarding noise was correct; he also heard noise on the property and vehicle back up alarms.

Mr. Mike Wagner 13 Katie Lane told the Board he watched the previous meeting and was familiar with the case. He was concerned with changes that occurred since the last hearing, such as partnerships and changing the buffer zone. He was also concerned with the entire area being a residential and what would follow if one business was allowed. Mr. Wagner had knowledge of the property and was close friends with the original owner who built the house and had a vinyl siding company. That company had one other employee who operated a company vehicle and a couple trailers. The shed was used as a storage area; there was no material processing on site. He said the other business claimed to have been on the property was him. Mr. Wagner owned a part time tree company (2004-2006). He owned equipment and approximately one time each week (not more than 3 times per month) would take the equipment off site and travel to a job and when the job was complete would bring an empty truck back to park on the lot. He used the area as a parking lot; no business was being run from the property. Mr. Wagner spoke of the road salt/sand being stored on bare ground at the property. Being water soluble he was concerned with it ending in the drinking supply. He was also concerned with a daily commercial use (snowplowing, movement of materials) in a residential area. Mr. Wager reiterated concerns of creating a precedent with granting the requested variance. He didn't feel the hardship had been met.

Mr. Hennessey brought the discussion back to the Board. He asked that they review the criteria to determine if the applicant had met such.

Mr. McNamara believed the court had made it clear that criteria one had to conflict with a marked degree; it was a fairly substantial test. He felt an argument could be made both ways on a factual basis of the business threatening public health, safety and welfare or altering central character of the location. Mr. Hennessey felt it was close call that could partially be ameliorated with (approval) conditions to protect the public interest by requiring buffering and non-permeable material under the salt etc.

Ms. Paliy believed there were two ways to view the property, one being the houses were located on huge lots, another being the five acre lot that may have ability to subdivide with a Town road. She said the lot

had potential; the best use was not to have it remain empty. She felt the residential use would possibly be expanded within ten years. She weighed the residential use and possibly allowing a business that would also create noise to the owner or keeping it purely residential and allowing a subdivision. She believed both of those options would present a lot of noise. Ms. Paliy felt it was a hardship having a huge lot and paying for the land. Mr. Hennessey called attention to the fact that the use of the land had been spoken for under zoning. He noted the question in front of the Board was a commercial usage.

Mr. Kearney noted the more restrictions placed on a property the more challenging to enforce. Mr. McNamara said if the variance was approved, the applicant would go in front of the Planning Board, who may place additional restrictions during site plan review.

Mr. Hennessey spoke of the spirit of the ordinance. He said in physically looking at neighborhoods, Simpson Road, despite the traffic, appeared to be residential. Per Simplex it's not just what's contained in zoning, its review of the neighborhood. Mr. LaFrance agreed.

Regarding substantial justice, Mr. Hennessey said it was clear the property had been used commercially in the past. He believed Mr. Ouellette became involved with the property in good faith; however substantial justice was related to the land.

With respect to the testimony, Mr. Hennessey respectfully disagreed that the operation described by Mr. Ouellette would affect property values. He saw no obvious data.

The Board then discussed criteria five. Mr. McNamara stated factually it was a dog legged lot, and on the map of the surrounding area (provided during the course of the hearing) there were many different shapes and formed lots in the vicinity. He didn't feel the Board should focus on previous businesses as they were not legal. Mr. Hennessey agreed it was a weird lot, but in terms of hardship and layout of the lot, he felt a more powerful argument would be a request for two duplexes. Ms. Paliy noted when duplexes are proposed neighbors testify against them. She commented that the size of the lot allowed the proposed business to be shielded from view. She questioned if that point could be favorable to the uniqueness of the lot to look residential. Mr. McNamara replied the lot was being used for its intended purpose; it was a residential lot with an existing residential home. Mr. Hennessey recalled a case to allow a cell tower and the question regarding what other use given the condition of the lot was answered; it was answered that the other use could be grazing animals, which had been the use of the lot. He said the present criteria had to answer if the use could be used as the zoning says it could be. He said in this case it was obvious because there is an existing house. He believed a good argument was made because of the strange configuration of the lot.

Mr. McNamara commented that the second prong addressed if the proposed use was reasonable. He noted an argument was made that the lot was being used in conformance with the ordinance because it was a residence in a residential district. He said they had to somehow judge if the proposed use was reasonable. Mr. Hennessey spoke of other landscaping businesses that had come in front of the Board, there were non-residential uses surrounding those properties. Often abutters are concerned with variances opening the door for other businesses, which Mr. Hennessey looks askance at that argument. However, in this case, he felt it was a real threat to the neighborhood given the types of land/lots/ownership in the area. He reiterated the Board was not bound to precedent, but there may be a real threat to the neighborhood to give a variance to allow explicitly what had been done implicitly.

MOTION: (Kearney/Paliy) Condition to require a 30ft. buffer around the Suppa property where the landscaping business is operated.

VOTE: (5-0-0) The motion carried.

Ms. Paliy offered a motion to fence the lot so the abutters could not see the business operation. There was no second.

BALLOT VOTE
#ZO2014-00022:

Mr. Hennessey – 1) Yes; 2) No; 3) Yes; 4) Yes; 5) No

Ms. Paliy – Yes to all criteria

Mr. Kearney – 1) No; 2) yes; 3) Yes; 4) Yes; 5) No

Mr. McNamara – 1) Yes; 2) Yes; 3) No; 4) Yes; 5) No

Mr. LaFrance - 1) No; 2) Yes; 3) No; 4) Yes; 5) No

VOTE:

(1-4-0) The motion failed.

VARIANCE DENIED

Ms. D. Culbert left the meeting. Mr. Ouellette returned to the Board.

HEARING

Case #ZO2014-00025

Map 16 Lot 8-41

EDWARDS, Robert Sr. - 703 Bridge Street - Seeking a Variance concerning Articles III & V, Sections 307-12 & 307-18 to permit after lot line adjustment the creation of a lot with a 3-family dwelling that will have a lot size of 60,509SF where 130,680SF is required and to allow the continued principal use as a 3-family dwelling, a non-permitted use,, in the residential district.

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Kurt Meisner of Meisner Brem, representing the applicant, came forward to discuss the requested variance. Also present were Keith and Bob Edwards. Mr. Meisner described the plan and outlined the lot lines as they presently existed. Map 16, Lot 8-41 is approximately 2 acres with frontage along Balcom Road and Bridge Street. This lot contains an existing three-family dwelling (for +50yrs) and a garage for small engine and car repair allowed by variance in 1991. Map 16 Lot 8-41-1 in the rear of the property (containing approximately 2 acres) with an existing duplex. There is a 5ft.x200ft strip of land along Bridge Street for frontage and is accessed through a driveway easement (in 1982) across a section of Lot 8-41 beside the garage structure. The Edwards family is seeking to ‘clean up’ the two parcels; separate the three-family home from the garage and have the garage share a lot with the duplex behind the garage. Family members reside in both of the homes and run the business in the garage; all are in agreement with the proposal. Mr. Meisner showed layout of the proposed lot line; Lot 8-41 would stand alone and contain the three-family dwelling (on a lot approximately 60,509SF); Lot 8-41-1 would contain the garage and duplex (approximately 135,449SF). They understood if a variance was approved they would need to go to the Planning Board for site review. Mr. Meisner noted everything currently on the lots would remain as they existed, unless stipulated otherwise by the Planning Board.

Mr. Meisner read aloud the variance criteria as submitted with the application.

Mr. LaFrance questioned if there was a difference between the application in front of the Board and the previous application that was withdrawn. Mr. Meisner replied the configuration of the lots are exactly the same; except the dwelling on Lot 8-41 had been viewed as a 2-family home, whereas it’s actually a 3-family home.

Mr. McNamara asked for confirmation that the variance wouldn't create a non-conforming lot. Mr. Gowan believed the lots were presently non-conforming. He spoke about the duplex structure, which was deemed a single structure by a previous Zoning Administrator because of having a common foundation and attaching structures. He explained zoning didn't have a definition of a duplex, but felt the dwelling was conforming. From his perspective eliminating the manner of frontage (5ft strip of land) for Lot 8-41-1 would be a positive.

There was no public input.

Mr. Hennessey felt it would be a positive for the Town to take non-conforming lots and bring them more into conformance. Mr. LaFrance commented that the variance would allow the lot to gain frontage, but in exchange area would be lost. Doing so would 'clean up' the individual lots; although they would each remain in a non-conforming state. Mr. Hennessey felt the variance would make the lots more conforming to the philosophy of the zoning ordinance.

Mr. Gowan wanted the Board to understand that the variance granted for the car repair facility was on a different lot number than it will be if the requested variance is granted. Currently the variance for the garage was Lot 8-41; after the lot line adjustment, the garage and duplex will be located on Lot 8-41-1. Mr. McNamara questioned if that fact would be noted on a subsequent deed. Mr. Meisner answered yes; the family was trying to clear up the 'oddities' that had grown over the years and make the lots more conforming and eliminating the driveway easement.

Mr. Ouellette understood a variance was granted for the engine repair shop on Lot 8-41. He questioned if that previous variance would transfer to Lot 8-41-1 if the requested variance was granted. Mr. Gowan said it would take both the zoning board and the Planning Board. The variance would allow the Planning Board to take up the lot line adjustment issue. Mr. Ouellette felt the variance was a good thing because it eliminated some of the non-conformity. He questioned if the Board would have to include a stipulation of variance that the previous variance (for Lot 8-41) would then go to Lot 8-41-1. Mr. Hennessey said a motion could be made indicating such. Mr. Meisner told the Board that included in their application was a secondary variance for the continued use of the garage on the 'new' lot. Mr. Hennessey felt Mr. Ouellette's point was well taken and will entertain a motion. Mr. Gowan suggested the variance approval be contingent upon Planning Board relief.

Ms. Paliy wanted to know if Lot 8-41 would maintain a variance, since variances run with the land. Mr. Meisner explained the request was for a number of variances. Included with the approval would be allowing the garage to become part of Lot 8-41-1. In the end the two parcels of land would be flip-flopped to clean up the lots. Mr. Hennessey believed the difficulty was the Board couldn't stipulate the garage going with Lot 8-41-1 until the Planning Board creates newly configured lots.

Mr. Ouellette believed the variance for the garage would have been a 'use' variance at the time it was granted; meaning the variance would have been associated with the specific building. Mr. Hennessey noted there was no such thing as a 'use' variance anymore. He believed incorporating the background statement contained in the application would satisfy the variance request. Mr. Kearney asked for clarification if the original variance would remain in effect for Lot 8-41. Mr. McNamara believed only one variance could exist even if the lot configuration changed. Mr. Gowan believed the Board would have the ability to modify the existing variance, which essentially would occur with the stipulation for Planning Board action. He believed variances ran with the land until such time as the land was 'carved' in a different way, which re-opened that issue.

Mr. Hennessey entertained a motion that the variance approval was subject to Planning Board approval of the lot line adjustment.

MOTION: (McNamara/Kearney) Variance approval is subject to Planning Board approval of proposed lot line adjustments.

VOTE: (5-0-0) The motion carried.

Mr. Hennessey entertained a second motion that variance approval subject to incorporation of the background information as submitted with the application. Mr. McNamara asked that the record reflect the reason for doing so was to make clear there was only one variance for the machine repair shop. Mr. Meisner understood once a property was changed it 'scrubbed' previous stipulations; once a new piece of property is approved, the Board could approve whatever variances went along with that. In this case the applicant has requested separate variances for each of the separate lots as part of one entire lot line adjustment plan. He told the Board that the 3-family home (Lot 8-41) did not have a variance request for the garage; essentially they've asked for the variance to be re-issued for new Lot 8-41-1.

MOTION: (McNamara/LaFrance) To incorporate the background information into the variance approval as submitted with the variance application.

VOTE: (5-0-0) The motion carried.

The background information is found to be germane and shall be attached to all variances approved by the Board for the lots described.

Mr. McNamara questioned if a time limit should be included. Mr. Meisner replied statutorily they had 12-months; however, the intention was to submit to the Planning Board within a week. Mr. Gowan believed the applicant was on the Planning Board's December 15, 2014 agenda.

Ms. Guay pointed out that the letter dated November 20, 2014 submitted by Robert Balquist of Meisner Brem provided further clarification. It read: *Therefore, we are resubmitting for approval on both lots to allow a 3-family dwelling in the residential district with a lot size of 1.39 acres where 3 acres is required on Lot 41 and to allow a commercial use in the residential district on Lot 41-1.* Mr. McNamara offered a friendly amendment to incorporate this language with the motion that incorporated the background information. Mr. LaFrance seconded the friendly amendment. All voted in the affirmative.

BALLOT VOTE Mr. Hennessey – Yes to all criteria
#ZO2014-00025: Ms. Paliy – Yes to all criteria
 Mr. Kearney – Yes to all
 Mr. McNamara – Yes to all criteria; with conditions
 Mr. LaFrance - Yes to all criteria; with conditions

VOTE: (5-0-0) The motion carried.

VARIANCE GRANTED

MINUTES REVIEW

November 10, 2014:

MOTION: (McNamara/Kearney) To approve the November 10, 2014 meeting minutes as written.

VOTE: (5-0-0) The motion carried.

ADJOURNMENT

MOTION: (LaFrance/McNamara) To adjourn the meeting.

VOTE: (5-0-0) The motion carried.

The meeting was adjourned at approximately 9:13pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary