

**Town of Amherst
Zoning Board of Adjustment
Tuesday, July 15, 2014**

ATTENDEES: Joe Taggart- Vice Chair, Jamie Ramsay, Alex Buchanan (Alt), Rob Rowe, W. Sullivan (Alt), Charlie Vars (Alt) and Colleen Mailloux- Community Development Director

J. Taggart called the meeting to order at 7:05pm, explained the ZBA process and introduced the board members.

The first case was read by J. Ramsay.

1. Continuation of Case #PZ4938-042114-Variance

William & Dorothy Larson, 37 Broadway, PIN# 025-061-000- requests relief from §III, 3.2,E of the Zoning Ordinance to demolish and rebuild family home in the Residential/Rural Zone.

A. Prolman, representative for the applicants, came forward and asked which board members will be sitting for the case. A. Buchanan recused himself from the case. C. Vars stated that he is willing to sit on the board to hear the case in an unbiased manner so that the applicants do not have to wait for yet another meeting.

A. Prolman discussed the options with the applicants and they decided not to have C. Vars sit the case tonight to keep a clean, consistent thread. (Since he recused himself from the case last month) Because of that, the applicants did not present their cases to the four remaining board members. They requested a continuance of their three cases until the August 19th meeting.

J. Ramsay moved to go into deliberations. R. Rowe seconded. Vote: All in favor.

All board members voted in favor of the continuance of cases PZ4938-042114, PZ4939-042114 and PZ4940-042114.

J. Ramsay moved to come out of deliberations. R. Rowe seconded. Vote: All in favor.

J. Ramsay read the next case:

4. Continuation of Case #PZ5038-052314- Variance

Randall Neukam, 5 Pavilion Road, PIN #006-005-000-requests relief from §IV, 4.3, D3 of the Zoning Ordinance to locate a structure within seven (7) feet of the side property line in the Residential/Rural Zone.

J. Taggart asked for the applicant or a representative to come forward. Mr. Neukam stepped forward and stated that his builder was not yet in attendance, and could the other case proceed ahead of him. The board agreed that his case could present at a later time.

J. Ramsay read the next case.

5. Case #PZ5089-061314-Variance

Roger and Betty LaBonte, 2 Ponemah Hill Road, PIN #001-008-001-requests relief from §IV, 4.3, C.I of the Zoning Ordinance to create a new lot in the Residential/Rural Zone that has less than the required two acres.

Morgan Hollis came forward as the representative for the applicant. Betty LaBonte was also in attendance. J. Taggart asked Mr. Hollis if he would like to proceed with both cases at the same time and he replied in the affirmative.

50
51 J. Ramsay read the other case.

52 **6. Case #PZ5090-061314- Variance**

53 **Roger and Betty LaBonte, 2 Ponemah Hill Road, PIN #001-008-001—requests relief from §IV, 4.3, D.3 of**
54 **the Zoning Ordinance to allow an existing shed to encroach within the side setback in the**
55 **Residential/Rural Zone.**

56
57 Mr. Hollis described the property as being at the intersection of Ponemah Hill Rd and Hollis Rd.
58 Currently the lot is 4.09 acres which includes a house, barn, garage, shed, pond and brook. Mr. Hollis
59 passed out maps to the board.

60 The owners are proposing to subdivide their lot into two lots. One lot will have the house and the shed
61 and the other lot will have the barn. No demolition is planned. When the lots are divided (by using the
62 natural boundary of the brook) the lot with the house will be just under the necessary two acres
63 because there is a pond on part of the lot which reduces the buildable acreage.

64 The existing home has a septic and a well. The new lot would have to have its own septic and well.
65 The proposed use of the new lot is for residential use.

66 Mr. Hollis addressed the tests in his application and summarized the points on his application as follows:

67
68 1. The Variance will not be contrary to the public interest.

69 In NH, the key element is permitted use under the zone. That will not be an issue in this case as the use
70 would remain the same. Regarding health, safety and welfare, there is already an approved septic and
71 well on the site and if a new home is built on the new site, all regulations would be followed. The
72 character of the neighborhood will remain.

73
74 2. The Variance is consistent with the spirit and intent of the Ordinance.

75 The applicant is seeking variance to sub-divide their property and, after the property is divided, for the
76 shed to remain where it is which will be too close to the new property line. The plan is for the owners to
77 build a new house for themselves on the new lot. The shed already exists and they would not move it. If
78 new owners purchase the home in the future, they will purchase knowing that the shed is there.

79
80 3. Substantial justice is done.

81 What needs to be weighed is the harm to public if the variances are granted verses the harm to the
82 owner if the variances are denied. This is a four acre lot that used to be sufficient for two lots, but with
83 new regulations, it does not meet the standards by a small amount of square footage. These owners
84 have owned the lot for a long time and have kept it well-maintained. There will be no harm to the
85 public by granting the variances.

86
87 4. The values of the surrounding properties will not be diminished.

88 Mr. Hollis reviewed the neighboring properties and there should be no problems. The abutter was in
89 attendance and will speak later.

90
91 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.

92 This property is unique – it is bisected by a brook. Also, there is a pond on the side, which if drained,
93 would provide enough acreage to subdivide the lot without need of a variance.

94
95 Mr. Hollis stated that the owners tried to acquire some neighboring property to make up for the lack of
96 square footage needed, but it is not an option. The shed being near the brook is unique because the
97 brook acts as a natural boundary that divides the two lots.

The board members asked some follow-up questions. R. Rowe asked for further clarification regarding who the owners approached to purchase neighboring square footage. Mr. Carlson was the only neighbor approached and he was not willing to sell any land. Acquiring land from other neighboring properties would shift the boundaries in an unhelpful direction.

Abutter, Mr. Werner Carlson, came forward and explained that in the future he may need the land, so he doesn't want to sell it. He further stated that he has no objection to the proposed plans for the site. C. Vars asked about the flood plain and the flow direction of the brook. He also asked what the two small buildings are in the SW corner of the lot. B. LaBonte replied that they are chicken coops and if the variances are granted, they will come down.

J. Taggart asked what the shed distance is from the setback. The board did some calculations and A. Buchanan stated that it is 12 feet into the 20 ft. setback.

J. Taggart clarified that the shed is preexisting and nonconforming to the brook as is the barn. It is not preexisting and nonconforming to a property line.

No further questions from the board or public were asked.

R. Rowe recused himself from the next case since he did not receive a copy of the application.

4. Continuation of Case #PZ5038-052314- Variance

Randall Neukam, 5 Pavilion Road, PIN #006-005-000-requests relief from §IV, 4.3, D3 of the Zoning Ordinance to locate a structure within seven (7) feet of the side property line in the Residential/Rural Zone.

Todd Cote, the builder for Mr. Neukam represented Mr. Neukam for the presentation. Mr. Neukam joined him at the table to answer questions as necessary. Mr. Cote stated that the key issues with this case are the topography of the Neukam's lot, the placement of the house on the lot and the side setback from neighbors in relation to the Neukam's house location. Mr. Cote addressed the five tests and read from the presented application as follows:

1. The requested variance will not be contrary to the public interest.

This request does not conflict with nor pose any threat to public health, safety or welfare, nor does it infringe on the neighbor's use of their property. Granting the 7 foot setback requested, allows for the garage to be built over the existing parking area currently used by the homeowner. This allows the homeowners to continue using the property in accordance with the use permitted by the zoning articles. I therefore feel confident that construction of this garage would in no way diminish either the general public's or the abutters' safety or welfare, nor alter the current look of the lot that they are familiar with.

2. The requested variance is consistent with the spirit and intent of the ordinance.

The spirit of the ordinance with respect to setbacks, is to create space and distance between structures on abutting properties. The existing house sits at the northeast corner of a steep, elevated, 3.167 lot with frontage approximately 210 feet from Pavilion Rd. The proposed detached garage would be approximately 200 feet from Pavilion Rd.

While the topography and forested character of the land severely constrain building location options, it works to the advantage of the abutters and maintains the spirit of the ordinance. Save for the Meades (9 Pavilion Road) -- who have the lot directly north of the homeowners -- the property is fully screened from all other abutters, both by elevation and by a dense screen of hemlock and oak.

3. Substantial justice will be maintained such that benefit to the applicant is not outweighed by harm to the general public or other individuals

The Meades are the only abutters directly impacted by the requested variance. Objectively, though a 7 foot setback is close to the boundary line separating the Meades from the homeowner properties, the proposed garage will be approximately 125 feet away from the Meade's house and will provide the additional advantage of screening the headlights from the homeowners' vehicles that currently shine directly into the Meade's sun room.

Additionally, tree screening will still exist between the properties, maintaining the overall look of the boundary line between the properties.

The spirit of the ordinance also suggests an equitable, just balance between homeowner and abutter interests from both perspectives. The owners have worked with the Meades to ensure that their interests are protected, and to gain their agreement to this garage and the variance required. Specifically:

- the owners sought and gained the Meade's approval for the idea itself of a garage as a precondition to beginning the project;
- when placement along the common boundary proved a challenge, the owners sought and gained the Meade's approval for the setback variance indicated;
- the owners communicated the proposed dimensions and a photo facsimile of the garage as a precondition for contracting the work, moving ahead contingent on the Meade's approval;
- to facilitate construction, the owners and the Meades worked together as neighbors to fell and remove some problematic boundary trees;
- to document agreement with the variance being pursued, the owners asked for and received a letter from Jeff Meade approving the 7 foot setback (see accompanying letter).

As neighbors for the past 24 years, the owners will continue to work with Meades to ensure that the buffer separating the two properties is maintained and provides the buffer required for the mutual enjoyment and privacy of the respective properties (e.g., they are currently exploring the planting of additional trees to supplement what already exists in this zone). This will maintain, and preserve the buffer zone between the lots for both the current and future homeowners.

4. The value of the surrounding properties will not be diminished

Approval of the proposed garage, with the 7 foot setback, will not diminish the visual or economic value of the surrounding properties. The additional structure will raise the value of the owners' property, and therefore increase the value of the surrounding properties in the area. Additionally, from the immediate abutter's perspective (the Meades), the proposed garage will not diminish the value of their property. Therefore, building the garage is in keeping with the primary use of the property, and will not adversely affect the surrounding values nor diminish property values.

5. Literal enforcement of the provisions of the Ordinance would result in unnecessary hardship

Most significantly, the following list of hardships exists that present formidable obstacles to building the garage in conformance to the governing ordinance on a location elsewhere on the property:

- **The backup area** -- If the garage were to be built with the required 20' set back, the distance left between the front of the garage and the steps to the house would severely limit the space to backup, turnaround, and drive down the driveway in a safe and fluid motion. Only with multiple backward and forward motions would it be possible to turn the vehicle around to head down the driveway. In good weather these maneuvers are very difficult, but in winter, these maneuvers will be near impossible with the slippery driveway and large snow banks.
- **General Topography** -- The house sits atop a 110 foot elevation along a ridgeline with a 23 degree slope to Pavilion Rd. It is craggy, steep, and wooded, absent of any other flat surface not currently occupied or in reasonable proximity to the existing driveway. The approximately 500 foot driveway climbs up the hill to the house, bordered on the east side by a 3 foot stone retaining wall, and on the west by trees buffering the steep 35 degree drop to Pavilion Road.
- **Southwest Option** -- The contemporary design of the owners' house includes overhangs, including a kitchen overhang on the southwest side of the house where one might propose an alternative site. Constructing an attached garage here is prohibitive due to the costs involved in reconfiguring the location of the kitchen to accommodate an egress. A garage (detached or attached) at this location would incur even more site work and remodeling expenses (e.g., the building of a level surface, removal of trees, amelioration of the steep pitch from the hill to the drive), resulting in project costs that greatly exceed the added value any garage might bring.

• **Northeast Option** – The current driveway already requires formidable navigation in icy conditions. Adding to this adventure with a driveway extension to accommodate a garage placed on the northeast property line adjoining the house is not a prospect welcomed by the owners. It would also incur a large cost to blast ledge out of the way for a garage at this location. More importantly, the placement of the owners' deep well towards the southeastern property line behind the house necessitates access for service trucks should the owners need well service, as they did in 1998. This was the owners' primary consideration when they built an addition to their home in 2000 toward the southeast rather than northeast.

• **Ledge** -- Ledge has been a factor qualifying construction decisions since the property was purchased. It is prevalent, everywhere. The addition that was built in 2000 had a 3 foot crawl space rather than a full basement because the latter would have required blasting, with possible ramifications of the homeowner's well as well as neighboring wells. Similarly, the owner's most recent abutter to the east determined that building their "basement" above ground would be preferable to incurring the expense and possible ripple effects of blasting ledge. The proposed site for the new garage is the only location on the property that avoids the challenge posed by ledge.

• **Septic Field** – The owners' property has a split septic field: an upper field closer to the house (east) and a lower field closer to the road (west). Although these locations represent desirable flat surfaces seemingly amenable to a garage, building on them is prohibited and therefore not an option. The land survey and septic specialist (NH Septic Designer #1404) concurs that the space between these two fields where the existing driveway exists represents the only viable site, and will not negatively impact the integrity of the septic fields involved (see letter from S&H Land Services, LLC, 5/13/14).

• **Maneuverability/Safety** -- Moving the footprint of the proposed garage farther away from the property line in question might better accommodate setback requirements, but is not feasible and in its own right represents a significant hardship. The back-up turning radius required by a standard vehicle (approximately 15-18 feet) dictates the 7 foot variance as requested to avoid colliding with the stone retaining wall or the steps leading to the owners' house. This is particularly so where weather conditions (snow, ice, fog) or available light hinder vision. A straightforward positioning of automobiles prior to the descent down the drive is mandatory – especially in adverse weather conditions -- to avoid either careening off the stone retaining wall or pitching off the drive. Where ice is a factor, the steep downward grade of the drive where it meets the level parking area prevents backing up as a corrective, even for all-wheel drive vehicles.

The board members asked some follow-up questions.

J. Taggart confirmed that this location is where the owner is currently parking. Yes, there is some asphalt there now. The current carport occupies the same location.

J. Taggart further clarified that to make it conforming, the garage would be just a few feet from the steps and retaining wall.

A. Buchanan asked how close the nearest abutting building is from the lot line. 125 feet.

There were no further comments or questions.

J. Ramsay read the next case.

7. Case #PZ5091-061614-Variance

Gordon and Joanne Leedy, 7 North Meadow Road, PIN #004-013-004 – requests relief from §II, 5.2, A (1) (I) of the Zoning Ordinance to construct an accessory apartment on an existing non-conforming lot.

Mr. Leedy came forward to represent himself. Mr. Leedy's mother in law (80yrs) wishes to move in. He is looking for a variance for an apartment structure. The lot was created in 1962. At the time, it met zoning requirements. The lot is approximately one acre. Currently, there is a basement garage. He is proposing to build an addition that would include a two car garage under with an apartment above that

could, in the future, become part of the home as a family room or such. There is a neighbor that is about 70 feet from the lot line. Mr. Leedy's plans would conform to the 25' setback. The proposal is to make it look like an attached barn which would blend with the characteristics of the neighborhood.

Mr. Leedy showed the proposed plans to the board. He summarized the five points that he described in his application.

1. The Variance will not be contrary to the public interest.

The proposed addition will look like surrounding properties, and will be no closer to the property lines. The existing septic is for a four bedroom home. A bedroom will be added as part of this plan, but one bedroom will be taken away from the current home. If the owner were to construct this addition without an apartment feature (extra kitchen) a variance would not even be necessary as it meets all qualifications with regard to acreage and setbacks.

2. The Variance is consistent with the spirit and intent of the Ordinance.

The variance would allow for an addition to an existing home which would otherwise be allowed except for the accessory apartment use. All other criteria for a special exception for an accessory structure will be met.

3. Substantial justice is done.

The spirit and intent of the ordinance will be preserved, fair use of the property will be allowed, and no harm will be done to the general public or individuals.

4. The values of the surrounding properties will not be diminished.

There will be no impact to value of surrounding properties. There may be a possible increase in value. The style of the addition will look like the other properties in the area.

5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.

There is hardship with the property because there are physical constraints that limit its use. The property is conforming in all ways except lot size. The lot was created prior to the two acre regulation. At the time of the subdivision, the lot met all zoning requirements. Special consideration for accessory use is to protect health and safety and to prevent many duplexes from being created, and that's not the case here.

Mr. Leedy wouldn't be in front of the ZBA if he had two acres, but he doesn't. If there was space in the back, he would build the apartment there. The addition won't cause interference with other properties. The variance will present the minimal relief necessary.

The board members asked some follow-up questions.

J. Taggart clarified, that if he had two acres he'd still have to apply to the ZBA for a special exception.

Yes, and Mr. Leedy believes he meets all of the criteria for a special exception.

R. Rowe clarified the square footage of the proposed structure with Mr. Leedy. J. Taggart asked how he came to be in front of the board. Mr. Leedy explained his past discussions with Ms. Marchant and how they discussed seeking a special exception or a variance. The criteria for the variance are more difficult than for a special exception, so he should be covered if the variance is granted.

298 Mr. Leedy stated that he would be willing to stipulate that the proposed structure would be the proper
 299 square footage necessary. He does not have fully completed building plans since he doesn't yet have
 300 permissions from the ZBA to move forward.

301 A. Buchanan pointed out that the request is to build an accessory structure. The square footage is not
 302 germane to the application for variance.

303 C. Vars asked where the septic and leech field is and Mr. Leedy answered.

304 Mr. Leedy stated that this project will allow the owners to lower the driveway and reduce the slope.

305 J. Taggart asked if the neighbors had been noticed. Yes.

306

307 There were no further comments or questions.

308

309 A. Buchanan moved to go into deliberations. C. Vars seconded. Vote: All in favor

310

311 **DELIBERATIONS:**

312 **1. Case #PZ5038-052314– Variance**

313 **A. Buchanan will vote for D. Kirkwood**

314 **W. Sullivan will vote for R. Rowe**

315 **C. Vars will vote for J. Quinn**

316 J. Ramsay moved no regional impact. A. Buchanan seconded. Vote: All in favor.

317 Discussion:

318 W. Sullivan- unique piece of property – small yet the nearest neighbor is 125' away. J. Ramsay the
 319 current area is a parking area. Not another practical location on the property. C. Vars agrees.

320 J. Taggart restated that delivery and oil trucks etc. need to turn around and/or back up 500 feet on a
 321 grade. W. Sullivan re: value, no one came to dispute, so that is not an issue.

322

323 1. The Variance will not be contrary to the public interest

324 C. Vars already being used for parking area. Doesn't affect the public.

325 W. Sullivan true

326 J. Ramsay true

327 A. Buchanan true

328 J. Taggart true

329 5 true

330

331 2. The Variance is consistent with the spirit and intent of the Ordinance.

332 A. Buchanan yes. The position of the line is relative to the buildings.

333 J. Taggart yes, regarding health and safety- it's currently a parking area

334 W. Sullivan true

335 J. Ramsay true

336 C. Vars true

337 5 true

338

339 3. Substantial justice is done.

340 W. Sullivan yes. Benefit to applicant obvious and not unjust to others.

341 J. Ramsay true

342 C. Vars true

343 A. Buchanan true

344 J. Taggart true

345 5 true

346
 347 4. The values of the surrounding properties will not be diminished.
 348 J. Ramsay no effect on value for surrounding properties
 349 W. Sullivan true
 350 C. Vars true
 351 A. Buchanan true
 352 J. Taggart true
 353 5 true
 354
 355 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.
 356 C. Vars is a reasonable use. Would end up as an unnecessary hardship re: back up area and topography.
 357 W. Sullivan agree
 358 J. Ramsay agree- topographical restraints are in place
 359 A. Buchanan agree
 360 J. Taggart true
 361 5 true
 362
 363 J. Taggart stated that having passed all of the tests, the request for variance is granted.
 364
 365 **2. Case #PZ5089-61314 – Variance**
 366 **A. Buchanan will vote for D. Kirkwood**
 367 **C. Vars will vote for J. Quinn**
 368
 369 A. Buchanan moved no regional impact. J. Ramsay seconded. Vote: All in favor.
 370 Discussion:
 371 J. Taggart pointed out that the nonconforming lot is the one with the structures already on it.
 372
 373 1. The Variance will not be contrary to the public interest.
 374 A. Buchanan yes. Not a subdivision that will create density issues or health and safety issues.
 375 R. Rowe true
 376 J. Ramsay true creating a two acre lot
 377 C. Vars true
 378 J. Taggart true
 379 5 true
 380
 381 2. The Variance is consistent with the spirit and intent of the Ordinance.
 382 C. Vars yes. Would look at the pond as an added feature.
 383
 384 J. Ramsay agreed R. Rowe no. ordinance is specific to the size of the lot. True, it's not much square
 385 footage, but the ordinance is specific and if we grant it, it allows for others to come forward. Don't
 386 believe it's in the spirit of the ordinance. All possibilities were not exhausted to purchase more square
 387 footage.
 388 A. Buchanan agree with Charlie
 389 J. Taggart true. The lot is 95% of the required area. If you look at gross vs net area it's 91%.
 390 4 true 1 not true
 391
 392 3. Substantial justice is done.
 393 R. Rowe yes. Little harm to the public

394 A. Buchanan agree
 395 C. Vars agree
 396 J. Ramsay agree
 397 J. Taggart agree
 398 5 true
 399
 400 4. The values of the surrounding properties will not be diminished.
 401 J. Ramsay yes. Familiar with this property. The pond is an attractive feature of the property. Nothing
 402 that will decrease the value with this project.
 403 R. Rowe true
 404 A. Buchanan true
 405 C. Vars true
 406 J. Taggart true
 407 5 true
 408
 409 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.
 410 A. Buchanan the proposed use is reasonable. There are parts of the lot that set it aside from others. It's
 411 a four acre lot and the wetlands and the pond on the lot create a hardship.
 412 C. Vars agree. Usable area for a septic and well on two acres and those are already on the lot.
 413 J. Taggart much of the lot line mirrors the existing creek. That creates a reasonable boundary and
 414 regarding hardship, to move it to try to make the lots more conforming, it's not reasonable.
 415
 416 J. Ramsay agree R. Rowe it is a personal hardship. Would be more sympathetic if they had had the flood
 417 plain checked out to see if it could be reduced or if the purchase of more land had been further
 418 explored. Not true
 419 4 true 1 not true
 420
 421 J. Taggart stated that having passed all of the tests, the request for variance is granted.
 422
 423 **3. Case #PZ5090-061314 – Variance**
 424 **A. Buchanan will vote for D. Kirkwood**
 425 **C. Vars will vote for J. Quinn**
 426
 427 J. Ramsay moved no regional impact. C. Vars seconded. Vote: All in favor
 428 Discussion:
 429 J. Ramsay shed is an existing structure. Nothing will change. Not imposing anything negative on the lot
 430 being created.
 431
 432 1. The Variance will not be contrary to the public interest.
 433 J. Ramsay yes no harm to public safety or welfare
 434 C. Vars agree.
 435 A. Buchanan agree
 436 R. Rowe true
 437 J. Taggart true
 438 5 true
 439
 440 2. The Variance is consistent with the spirit and intent of the Ordinance.
 441 C. Vars yes shed is not hurting the health, safety or welfare

442 J. Ramsay true
 443 R. Rowe true
 444 A. Buchanan true
 445 J. Taggart true the applicant noted it would be an existing condition if they tried to sell the new lot.
 446 5 true
 447
 448
 449 3. Substantial justice is done.
 450 R. Rowe yes- rural area. Hard to tell exactly how far it is from the lot line
 451 A. Buchanan agree
 452 C. Vars agree
 453 J. Ramsay agree
 454 J. Taggart true
 455 5 true
 456
 457 4. The values of the surrounding properties will not be diminished.
 458 A. Buchanan yes
 459 C. Vars agree
 460 J. Ramsay agree
 461 R. Rowe true
 462 J. Taggart true
 463 5 true
 464
 465 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.
 466 R. Rowe true
 467 J. Ramsay true reasonable use of the property. Constraints on the property by the water on the property
 468 C. Vars true
 469 A. Buchanan agree
 470 J. Taggart not true. Testimony was given that the hardship is the creek itself. It's already an existing
 471 encroachment on the creek but not convinced of the testimony.
 472 4 true 1 not true
 473
 474 J. Taggart stated that having passed all of the tests, the request for variance is granted.
 475
 476 C. Vars asked if conditions would be needed regarding the chicken coops on the property.
 477 J. Taggart stated that there is one coop that would encroach. The board discussed adding this condition:
 478 'The applicant will remove the chicken house which encroaches on the newly created property line.'
 479 J. Ramsay moved to add this condition to the granted variance. C. Vars seconded.
 480 Discussion:
 481 A. Buchanan was leery of adding a condition that wasn't previously discussed and after the variance has
 482 been granted. It should have been part of the general discussions.
 483 J. Ramsay agrees with that, but is looking at it as confirming what was asked prior.
 484 J. Taggart recalls hearing discussion that the chicken houses would be removed if the variance was
 485 granted. The board agreed that they heard that testimony.
 486
 487 Vote: None in favor. All opposed. No conditions added to the variance.
 488
 489 **4. Case #PZ5091-061614 – Variance**

490 **A. Buchanan will vote for D. Kirkwood**
 491 **W. Sullivan will vote for J. Quinn**
 492 J. Ramsay moved no regional impact. A. Buchanan seconded. Vote: All in favor
 493 Discussion:
 494 J. Ramsay at the time, it was conforming.
 495 J. Taggart some confusion as to if he should have been seeking special exception. A variance has higher
 496 stipulations.
 497 R. Rowe began to state some opinions and J. Taggart asked him if his votes will be conditioned.
 498 R. Rowe feels the applicant has met all of the tests. He will be voting affirmative as long as the applicant
 499 meets all of the conditions of a special exception.
 500
 501 1. The Variance will not be contrary to the public interest.
 502 R. Rowe yes this was proved.
 503 W. Sullivan yes
 504 J. Ramsay yes
 505 A. Buchanan yes
 506 J. Taggart true
 507 5 true
 508
 509 2. The Variance is consistent with the spirit and intent of the Ordinance.
 510 W. Sullivan yes agree with Bob- might not be necessary
 511 J. Ramsay agree
 512 R. Rowe true
 513 A. Buchanan true
 514 J. Taggart true
 515 5 true
 516
 517 3. Substantial justice is done.
 518 J. Ramsay yes enjoyment of his property
 519 R. Rowe true
 520 A. Buchanan agree
 521 W. Sullivan true
 522 J. Taggart true don't see any harm done to anyone else since it's a use allowed in the zoning ordinance
 523 under special exception.
 524 5 true
 525
 526 4. The values of the surrounding properties will not be diminished.
 527 A. Buchanan yes
 528 W. Sullivan yes
 529 J. Ramsay yes
 530 R. Rowe yes
 531 J. Taggart yes it will conform to all setbacks and to an outsider it will just look like a house.
 532 5 true
 533
 534 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.
 535 R. Rowe Yes, the use is a reasonable one and if not granted, it would be an unnecessary hardship
 536 because it's a reasonable use.
 537 A. Buchanan agree

538 J. Ramsay agreed it's less than two acres so there's hardship.
539 W. Sullivan true
540 J. Taggart true
541 5 true
542
543 J. Taggart stated that having passed all of the tests, the request for variance is granted.
544
545 J. Ramsay moved to come out of deliberations. A. Buchanan seconded. Vote: All in favor.
546
547 Minutes will be tabled to the next meeting.
548
549 W. Sullivan moved to adjourn at 9:20pm. A. Buchanan seconded. Vote: All in favor.
550
551 Respectfully submitted,
552
553 Jessica Marchant
554
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556
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