

**TOWN OF GREENFIELD**  
**ZONING BOARD OF APPEALS**

**June 1, 2010**

**REGULAR MEETING**

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by Taylor Conard at 7:30 p.m. On roll call the following members are present: Taylor Conard, Michelle Granger, Paul Lunde, Kevin Veitch, Stanley Weeks, and Joseph Szpak, Alternate.

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**May 4, 2010 MINUTES**

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of May 4, 2010, as submitted.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks  
Noes: None

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**NEW BUSINESS**

**JOHN & HETAL HERZOG – Temporary Use Variance, Case#850**

Coy Road

T. Conard reviews that the applicants are seeking a Temporary Use Variance to live in an existing home while building a new house. Daniel Herzog is present for his son. T. Conard asks what the plans are for the existing house once the new one is built. D. Herzog states that their intention is to leave the exterior as it is and then use it as a storage building. J. Szpak asks if there is a time limit once they receive the CO for the new home. T. Conard states that there is and that contingencies can be placed on any approval. Generally when this type of variance is requested the applicants are living in a mobile home and have thirty days after receipt of the CO to remove the mobile home.

**RESOLUTION – J. & H. Herzog, Temporary Use Variance**

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals accepts the application of John and Hetal Herzog for a Temporary Use Variance for property located at 812 Coy Road, TM#137.-1-3 and sets a public hearing for July 6, 2010 at 7:30 p.m.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks  
Noes: None

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**BRIAN WAGNER – Area Variance, Case#851**

Country Squire Court

Brian Wagner is present. T. Conard reviews that the applicant is seeking a 40' area variance to install an inground swimming pool. The maps are reviewed for clarification on the septic system. B.

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Wagner states that they do not wish to move the septic system. A new survey map was provided for tonight's meeting.

**RESOLUTION – B. Wagner, Area Variance**

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Brian Wagner for an Area Variance for property located at 6 Country Squire Court, TM#152.-1-99 and sets a public hearing for July 6, 2010 at 7:30 p.m.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

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**FRANK AKAWI – Area Variance, Case#852**

Route 9N

Dr. Frank Akawi is present. T. Conard reviews that the applicant would like to have a veterinary hospital in the building across from the Town Hall and is seeking several area variances. Variances were granted to this property when it was converted to a physician's office. Dr. Akawi states that there will be no changes to the building and he believes that the parking is adequate.

**RESOLUTION – F. Akawi, Area Variance**

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Frank Akawi for an Area Variance for property located at 3100 NYS Rt. 9N, TM#138.1-2-25 and sets a public hearing for July 6, 2010 at 7:30 p.m.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

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**CLYDE & PEARL RONK – Area Variance, Case #853**

Spier Falls Road

Michael Bollinger is present for the application. T. Conard reviews that the applicants are seeking an area variance to build an addition to the home. M. Bollinger states that they failed to recognize the need for a variance from the side setback when the acreage variance was previously granted to this property.

**RESOLUTION – C. & P. Ronk, Area Variance**

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Clyde and Pearl Ronk for an Area Variance for property located at 112 Spier Falls Road, TM#112.-1-79 and sets a public hearing for July 6, 2010 at 7:30 p.m.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

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## OLD BUSINESS

### CHRISTOPHER LAMICA – Area Variance, Case #841

Braim Road

Christopher and Catherine Lamica are present. T. Conard reviews that the applicant is seeking an area variance to have chickens on his property which is allowed with 20-plus acres, requires a site plan review with 6 to 19 acres and, in this case, requires an area variance as the applicant has less than an acre. A public hearing is opened at 7:45 p.m. Brian and Nancy Rosko, Braim Road, provide a written letter and photo showing where the coop is located. B. Rosko states that they are opposed to this variance because of the odors, noise, escaped chickens in their yard and the willful disregard of the laws by the applicants. He states that they have made formal complaints. They are also concerned about the impact to their property values and feel that the variance requested is substantial. B. Rosko states that the map provided with the location of the coop has inaccurate measurements. He states that most of the trees in the wooded area are trees that they bought in order to provide some sort of buffer to help protect the view. They are concerned that if a variance is granted, any limits that are placed on the number of chickens will not be honored. The applicants have stated that when they get new chickens it is impossible to know whether they are roosters or not. B. Rosko states that they are very uncomfortable in this position to be complaining and they do not want to have to be responsible for policing their neighbor being in compliance. They have made complaints to their neighbors in the past and the applicants have not had any respect for the complaints. Phil Carrico, Wilton Road, states that he has chickens, can sit on his porch, be closer to the coop than they are and not smell the chickens. He also has sheep, which he does not smell. He feels that we should encourage people to grow their own food; he also supports J. Tabor Ellsworth's application for growing produce and selling it in Greenfield; he feels that this is totally overblown and that some accommodation should be made so that the applicants can carry on growing their own food. George Vanderploeg, Wilton Road, states that he lives next door, he heard it when there was a rooster, but does not believe it is there anymore; he does not get a smell; he is in favor of farming and feels that we need to be more self-sufficient. Zach & Stephanie Carrico, Wilton Road. Z. Carrico states that he keeps chickens and they have had other animals. The sheep his dad, P. Carrico, has were originally his as a 4-H project. The most noise they get from any animal, they hear a little bit from the sheep, but they also hear the next neighbor down who also has chickens and many roosters. S. Carrico states that you cannot tell when you purchase chickens. Last year when she purchased 12 chickens from Tractor Supply, they all turned out to be roosters. B. Rosko states that when he complained, the Lamicas got rid of the one rooster. He states that from the enclosed map, anytime they open their garage door or front door, not only can he see the chickens, but the chickens can see them and that causes them to make noise. That is why they hear the Lamicas chickens but maybe not the ones that are across the street. Nancy Rosko, states that she grows her own food and has lived in Greenfield for 11 years, so they obviously support this community and the farming community. She states that it is a little different being forced to live with chickens in your daily life. P. Carrico states that chickens are allowed in New York City, what is the problem with Greenfield? He indicates that he sent a letter and an article on this to the ZBA. Cate Lamica states that the Roskos did very politely tell them that they were upset about the roosters and they took care of that problem. It ended up that they found out later that another one was a rooster. She states that they now have only 5 hens. It is a quality of life thing for them as well, trying to eat more naturally, etc. N. Rosko states that their point is that, in good faith, the applicants should have come and applied for this in advance instead of putting the neighbors in an uncomfortable position. Stefan Parisi states that he has been on the Rosko property and has experienced the foul smell. He states that the applicants have a smaller size lot and he believes that you typically require a larger one for this type of issue. Joy Jerome, states that she has never seen or heard anything from the applicant's chickens. She has another neighbor whose house you cannot see, but you hear her roosters all the time, she has dozens of them. She expects that living in the country and does not feel that the applicant should be penalized for having a few chickens that they are raising to eat. We live in the country and that should be allowed. She states that she has never seen the Roskos in their yard. There being no further public comment, this public hearing is closed at 7:55 p.m.

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J. Szpak asks about the difference between an area variance and a use variance. T. Conard explains. S. Weeks states that his concern is with the amount of variance being asked for. He states that the Town went through a re-zoning and suggested that this type of use should be on 6 acres with a Site Plan Review and the applicant has less than one acre. He feels that this is a huge variance being asked for. M. Granger states that she agrees and has the same concerns. She acknowledges and encourages agriculture/sustainability but at the same time the ZBA's job is to try to maintain a positive environment for everyone. She states that S. Weeks was part of the committee for the review process for the zoning changes. She is greatly concerned with the amount of variance, it is very substantial and from the comments, there is a negative impact on some of the neighbors. K. Veitch states that regardless of the surrounding properties, this is a very small parcel and an excessive request. He comments on the precedent being set and states that he has an issue with the applicant doing this without asking. M. Granger comments that the minimum required by the code is 6 acres, 6-19 requiring a Site Plan Review and because of the substantial variance there is no way to get before the Planning Board. K. Veitch states that there are five criteria that the Board has to consider in reviewing an area variance. Whether the benefit can be achieved by other means feasible to the applicant – no. Undesirable change in the neighborhood character – yes, in some circumstances. Whether request is substantial – yes. Whether the request will have adverse physical or environmental effects – based on what the ZBA believes, based on the Zoning Law requiring 6 acres, then yes. Whether the alleged difficulty is self-created – yes, the applicants basically created their own issues. K. Veitch states that with all those yes answers weighing against them, while he thinks what they are doing is great, unfortunately the Board has to operate within the law. J. Szpak states that he has a friend who raises chickens on a neighbor's farm. T. Conard states that while his heart is with the applicants, he agrees that we should be self-sustaining and that the Board could limit the number of chickens, the lot is very small. He states that he has a friend with chickens at another friend's property also. He feels it is a very substantial variance and that the Board must be careful of setting a precedent. While the Board may not necessarily agree with the intent of the law in some cases, the ZBA is supposed to grant the least amount of variance that they can. In this situation, there does not seem to be a lot of wiggle room. Cate Lamica agrees that this is a huge variance, it is important to them and they do regret not getting the approvals prior to this. M. Granger states that the applicant needs to be aware that this is not personal, the Board must be careful about setting precedent. T. Conard states that laws can be changed. K. Veitch states that he agrees with T. Conard, unfortunately the criterion does not weigh on the applicant's side.

**RESOLVED – C. Lamica, Area Variance**

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals denies the application of Christopher Lamica for area variances for property located at 997 Braim Road, TM#139.-1-45, based on the following criteria:

- **Whether the benefit can be achieved by other means feasible to the applicant – no.**
- **Undesirable change in the neighborhood character – yes, in some circumstances.**
- **Whether request is substantial – yes.**
- **Whether the request will have adverse physical or environmental effects – based on what the ZBA believes, based on the Zoning Law requiring 6 acres, then yes.**
- **Whether the alleged difficulty is self-created – yes, the applicants basically created their own issues.**

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

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**J. TABOR ELLSWORTH – Area Variance, Case #843**

Wilton Road

J. Tabor Ellsworth is present. T. Conard reviews that the applicant would like to have a variance for a sign for a farm stand. The farm stand will require site plan review. The applicant is seeking a 26 square foot variance. A public hearing is opened at 8:07 p.m. Phil Carrico, Wilton Road, states that he supports the application for a variance. There being no further public comment, this public hearing is closed at 8:08 p.m.

T. Ellsworth states that he is not really thrilled with a sign like this, but it is \$400 with the letters so compared to trying to make something out of wood; he would prefer to have something of wood. It will be a seasonal sign – May to October or November. P. Lunde states that could be a contingency of an approval. T. Ellsworth understands that he could come back if he wanted to change the timeframe. K. Veitch asks how far off the road this will be. T. Ellsworth states that there is a substantial ditch there and he estimated about 30'. S. Weeks states that he works with farm stands in New England for Cooperative Extension, something like this would be very unusual in New England and he does not think, at 50 mph, that a big sign is very effective. There would be a small sign saying “farm stand” because people just need to know where it is and will not read a sign at 50 mph. T. Ellsworth explains that he will be raising fruit; he has planted an acre of raspberries in 5 varieties, and will be doing pick-your-own. Long term he would like to have some type of farm stand. He literally is starting out with 6 core products. It would be more seasonal, what is available, like pick your own apples. He agrees that once you build up a big enough customer base just having a regular farm sign out there will work. With a longer time in business you could get rid of something like this. T. Conard states that the application did not make it clear that he would be saying pick-your-own. T. Ellsworth states that is how he would do it for now, pick for sale and also processing into things. K. Veitch asks if the applicant has already purchased the sign. T. Ellsworth states he has not. K. Veitch states that going over the balancing test, and the first question is whether the benefit can be achieved by other means feasible to the applicant. He states that the applicant could do a different sign and does not know if this size is needed. T. Ellsworth states that smaller signs are available, but he read somewhere that DOT recommends 9” letters at 55 mph. K. Veitch goes on to whether an undesirable change to the neighborhood would occur – he does not think so and fortunately for the applicant, Greenfield does not have a design review board. He does feel that this is a substantial request. T. Ellsworth states that it is a substantial variance but as far as precedence, there are quite a few signs, including the one out front and the one at the Church on Wilton Road. K. Veitch states that the Board cannot look at pre-existing signs. T. Ellsworth states that a potential alternative is to have a lot of small signs. K. Veitch states that whether this is self-created, he would say no because he does not have the sign yet. T. Ellsworth states that the difficulty is based on budget, he does not have a budget for advertising. T. Conard states that he agrees that the applicant would need a variance of some sort, but that the Board is supposed give the least amount of variance they can. Alternative signs and sizes are discussed. P. Lunde asks if the applicant would like to take some time to look at alternatives and come back to the Board. T. Conard suggests that the applicant look outside the box.

**RESOLUTION – J. T. Ellsworth, Area Variance**

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals tables the application of J. Tabor Ellsworth for an area variance for property located at 236 Wilton Road, TM# 139.-1-2.2 to the July 6, 2010 meeting.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks  
Noes: None

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**RODNEY & MARYBETH RENN – Area Variance, Case #844**

Greenfield Manor Road

Marybeth Renn is present. T. Conard reviews that the applicant is seeking an area variance to install a swimming pool. A public hearing is opened at 8:30 p.m. Sherie Grinter, Greenfield Manor Road, states that her backyard abuts the applicants'; she is the one neighbor who would be impacted by this and is in favor of the request. She also states that an above ground pool is not a permanent structure, hopefully it lasts, but it is not going to impact anything permanently. She states that this is a great neighborhood. There being no further public comment, this public hearing is closed at 8:31 p.m.

M. Granger questions the size of the pool. M. Renn states that it is a brand new pool, 6 inches thick with insulation on the inside and it is a weird number, but that is the size. They have a buried propane tank, the septic system and leach fields, which are the reasons for the location. M. Granger questions the vegetative buffer at the back of the lot. M. Renn states that it is actually on S. Grinter's property.

**RESOLUTION – R. & M. Renn**

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals grants the application of Rodney and Marybeth Renn for an area variance for property located at 4 Greenfield Manor Road, TM#112.-1-72, as follows:

- **51' rear yard setback variance**

This variance is based on the following criteria:

- **No undesirable change to the neighborhood**
- **No adverse effects on the environment**
- **With the location of the propane tank, septic and leach fields, the benefit cannot be achieved by other means**

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

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**PAUL & PATRICIA BAKER – Area Variance, Case# 845**

Boyhaven Road

Paul and Patricia Baker are present. T. Conard reviews that the applicants would like to add a new front porch to an existing house. They are requesting a 15' front yard setback variance. A public hearing is opened at 8:35 p.m. There being no public comment, this public hearing is closed at 8:36 p.m. G. McKenna's notes are reviewed. If the applicants were only replacing the steps, a variance would not be required, but as they are extending the porch the length of the house, a variance is required.

**RESOLUTION – P & P Baker, Area Variance**

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals grants the application of Paul & Patricia Baker for an area variance for property located at 3550 Boyhaven Road, TM#149.-1-39, as follows:

- **15 foot front yard setback variance to replace existing steps with a full front porch**

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This variance is based on the following criteria:

- **No change to the neighborhood**
- **Not a substantial request**

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks  
Noes: None

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**MICHAEL MANEY – Area Variance, Case #846**

Locust Grove Road

Michael Maney is present along with his attorney, Susan Baronowski. T. Conard reviews that the applicant is requesting a 1.04-acre area variance and a 50' frontage variance to continue with a Type 1 Home Occupation, which will have no signage or traffic. A public hearing is opened at 8:37 p.m. There being no public comment, this public hearing is closed at 8:38 p.m.

T. Conard comments that the applicant was granted a Special Use Permit. P. Lunde questions that the applicant has been conducting this business at this location. S. Baronowski states that he has and that the ATF reviews licenses every 3 years. K. Veitch asks if the ATF checks up on the business as it begins to grow. M. Maney states that periodic inspections are required, at least every 3 years for anyone dealing with firearms. S. Baronowski explains that the business is all done via Internet and there is no traffic coming to the property, no signage. M. Maney states that he takes the packages to the UPS, they do not pick up at his residence. M. Maney explains that when he applied for his license he gave the ATF copies of the Town's Zoning law, but he was not told that he had to actually apply for permits from the Town. M. Maney thought that he was ok and then at a recent inspection was informed that he needed to apply to the Town. S. Weeks states that this would be the type of business you would prefer to keep fairly quiet anyway.

**RESOLUTION – M. Maney, Area Variance**

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals grants the application of Michael Maney for area variances for property located at 35 Locust Grove Road, TM#152.-1-42, as follows:

- **1.04 acre area variance**
- **50' frontage variance**

This variance is based on the following criteria:

- **No change to the neighborhood**
- **This is an existing business and there was no public comment**
- **Planning Board has granted a Special Use Permit contingent upon receipt of area variances**

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks  
Noes: None

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**CHRISTOPHER AND DEBORAH ATTEY - Area Variance, Case #847**

Bockes Road

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Christopher Attey is present. T. Conard reviews that the applicant is seeking an area variance to build a garage and is requesting a side yard setback variance. A public hearing is opened at 8:45 p.m. Nancy Kmen, Environmental Commission, questions where the wetlands are in relation to the proposed garage. C. Attey states that there is a 60' easement that runs along the property line for a road to the rear property and that the wetlands are beyond that. A letter from Lance and Yvonne Graska in support of the application is read into the record. There being no further public comments, this public hearing is closed at 8:47 p.m.

S. Weeks states that the wetlands issue can be a contingency. M. Granger questions that the applicant is changing his request. C. Attey states that he had planned on attaching the garage, but because of the house it will not work. He would like to leave 5' between the house and the garage, set it back away from the house a bit so that it will start parallel with the back side of the house, and he is requesting a 20' variance to make sure that he has enough space. He states that he was previously granted a variance but then could not build the garage. S. Weeks states that the Board is trying to get away from sloppy lot lines and builders, and asks if the property is surveyed. C. Attey states that is what he submitted. The Board discusses that they are required to give the minimum and if the property is surveyed they are not comfortable in granting extra to the applicant. C. Attey states that taking off the 5' and the 25' will leave him with 16.5'. M. Granger would like to know what the minimum distance is that is required between the house and the garage for fire safety, the location of the wetlands and the exact variance the applicant needs.

**RESOLUTION – C & D Attey, Area Variance**

MOTION: K. Veitch

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals tables the application of Christopher and Deborah Attey for an area variance for property located at 139 Bockes Road, TM#137.-2-19.13 to the July 6, 2010 meeting.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

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**GUY & HELEN MASTRION – Area Variance, Case#848**

Granite Lake Drive

Guy and Helen Mastrion are present. T. Conard reviews that the applicants are seeking a variance of .51 acres and 260' of frontage in order to have horses on this property, which they have on the market. This is an allowed use in this zone with 6 acres and 300' of road frontage. A public hearing is opened at 8:59 p.m. Monica Richter, Granite Lake Drive, provides a letter to the Board and asks that this variance be denied. She states that she is allergic to horses and to have horses living a few hundred feet from her bedroom window would almost certainly cause her serious problems. She states that another reason they are against this is ecological. She explains that there is a ridge behind the house, there are two intermittent streams that drain from that ridge and then both go into her backyard, which is a swamp forest or wetland. This then eventually drains into Granite Lake Drive. She and her husband are both ecologists and are concerned with the damage to the wetland habitat. She states that she teaches ecology, animal behavior and conservation biology at Skidmore and brings her students to her property for field trips and research. They are also concerned about the odors and runoff from the paddock. She states that they wish they did not have to be here opposing this request, as she knows the applicants have been trying to sell this property for some time. Katie Hauser, Granite Lake Drive, states that she is a neighbor and does not want to live next door to horses. She states that the Mastrion property is more wooded than open and she is concerned with where they have indicated a possible paddock to go. She does not feel that there would be quality of life for the horses. She is also concerned about a negative impact on the neighborhood and real estate values. There being no further public comments, this public hearing is closed at 9:08 p.m.

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M. Granger states that she visited the property and questions the area being suggested for use by the horses. G. Mastrion states that he knows nothing about horses but he would not put horses there himself, he has no strong passion one way or the other; that they applied for the variance based on their realtor's suggestion, and states that it would be crazy for the runoff to drain into the creeks. He did not know that the neighbor had allergies. H. Mastrion states that she thinks that they should withdraw their application. K. Veitch states that another buyer might not want to have horses. G. Mastrion did have someone interested who has since withdrawn that interest. K. Veitch states that he respects G. & H. Mastrion for listening to their neighbors.

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**CYNTHIA GIRARD – Area Variance, Case#849**

Spier Falls Road

Cynthia Girard is present. T. Conard reviews that the applicant is seeking to replace her mobile home damaged by fire and needs a frontage variance and right side yard variance. A public hearing is opened at 9:12 p.m. There being no public comment, this public hearing is closed at 9:13 p.m. P. Lunde comments on the revised map.

**RESOLUTION – C. Girard, Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals grants the application of Cynthia Girard for area variances for property located at 170 Spier Falls Road, TM#112.-1-11.2, as follows:

- **19' frontage variance**
- **13' right side yard variance**

This variance is based on the following criteria:

- **No other means to achieve benefit to the applicant**
- **No undesirable change to the neighborhood**
- **The difficulty is not self-created**
- **The request is not substantial**
- **No adverse environmental impacts**

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

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Meeting adjourned 9:15 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland  
Secretary