

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

July 6, 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.

June 1, 2010 MINUTES

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of June 1, 2010, as submitted.

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

NEW BUSINESS

CHARLES CRONIN- Area Variance, Case #854

Locust Grove Road

Charles Cronin is present. T. Conard reviews that the applicant is seeking a left side yard area variance to put an addition on the house. The map is reviewed. M. Granger states that should there be a delay in the closing, an Authorization of Agent would be required. S. Weeks questions why there are two variances on G. McKenna's notes. R. Rowland explains that the addition is at an angle to the property line and he is giving both dimensions. P. Lunde asks what the other building on the property is. C. Cronin states that it is a barn.

RESOLUTION – Charles Cronin, Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Charles Cronin for an area variance for property located at 700 Locust Grove Road, TM#125.-2-30.11 and sets a public hearing for August 3, 2010 at 7:30 p.m.

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

OLD BUSINESS

J. TABOR ELLSWORTH – Area Variance, Case #843

Wilton Road

J. Tabor Ellsworth is present. T. Conard reviews that this application was tabled from the last meeting and that the applicant is seeking an area variance for a sign. K. Veitch states that the applicant was July 6, 2010

going to bring back some ideas. T. Ellsworth states that he agreed at the last meeting to table this and see if a smaller sign would work out for him and if it did, he was going to submit it in writing a couple of weeks ago so that the Board would have it in advance. He researched a lot of signs and feels that the 8" letters are still needed for a sign on Wilton Road, as it is 55 mph. He literally stopped and measured letters, in most cases they were at least 8" and in some cases 10". He states that he looked at more materials and is leaning towards buying the tracks and letters separately and fabricating his own sign, anticipating for the future having the name of the business or farm, which is very common such as the church sign where they have the church name and then a changeable letter board. He could see himself going for something like that, probably not this year, but in the future and that would reduce the amount of changeable letter signage that he would have available. He did feel that it wouldn't be a problem proposing this as a temporary or removable sign, but with fabricating his own sign he thinks that it will be more rugged and less moveable, probably anchored into the ground with 4 x 4 or 6 x 6 posts. He would like to withdraw the seasonal request as he feels that the farm name should be year round and he may take the letter board portion off if he could find a way to hang it on there. P. Lunde asks what size the portion would be that would be left up. T. Ellsworth states that he does not know. He is not able to purchase the sign now. P. Lunde questions what is allowed. T. Conard states that it is 6 square feet. K. Veitch comments that the applicant is looking to go 4 x 8. He states that it is not so much the size that bothers him but the aesthetics. He does not feel that what the applicant is requesting fits into the rural setting. He likes the idea of making something out of wood. T. Ellsworth states that he agrees, that is the cheapest way to go, but he thinks the quality is why. K. Veitch asks if he is thinking of making his own, if he is there yet? T. Ellsworth states that he is thinking of making his own from the standpoint of buying the tracks and letters. Most people then get a piece of plywood, wafer board or some type of plastic board to put the letters on and make their own. K. Veitch states that we would want something to fit into the rural setting, too. Obviously, you are a farm industry. J. Szpak states that he feels the same way. If there were a sign that was 4 x 8, even if it was something wood between two posts he wouldn't be concerned about the size of it. This just doesn't fit; it is more like a supermarket kind of thing. S. Weeks states that he is concerned about the size and anyone who drove Middle Grove Road over the last couple of weeks saw a good example of a 4 x 8 sign for horseback riding. They had the right size sign but decided they needed a larger sign. He really does not think that we want that in front of every business in Greenfield. He does have a concern for this size, he thinks there was a reason for trying to minimize the size of signs, and so he is very concerned about going from 6 square feet to 32 square feet. M. Granger asks how about having one sign that has the farm name on it and then something separate that could be seasonal when he has the different produce that he is looking to sell. T. Ellsworth states that is possible but he does not think it would reduce the square footage that much. He states that he would prefer to have something that is aesthetically pleasing; he thinks from a retail business that he needs adequate signage. He needs to communicate that product, as well as there is the potential for a lot of different products that he can sell. T. Conard reviews the maximum size signs you can have in the different zones. What the applicant is requesting is larger than anything that is allowed as a maximum. T. Ellsworth corrects that he has asked for 32 square feet. T. Conard states that the ZBA has to be careful not to set precedent that will make it so that everyone is asking for larger signs. The applicant has some valid reasons that he needs a larger sign, which can be a factor in possibly granting this. T. Ellsworth states that a consideration is the speed limit, the church sign has a lot of text on it with three lines and three or four words on each line, but you are just not going to read that at 55 mph. P. Lunde asks what the name of the farm is. T. Ellsworth states that he has not decided yet. P. Lunde states that the Board could grant something, but it sounds like the applicant does not know what he wants, other than the size. T. Ellsworth states that this year he would be starting with the letter board. T. Conard states that the largest sign allowed is in the IM district of 20 square feet. P. Lunde questions that if we deny this today, can the applicant come back. T. Conard states in one year, he could come back with something different before the year is up. K. Veitch states that if the applicant were coming in here and saying that the signs he is allowed to have out there are not working, then he would say that the applicant has a case to plead, but the applicant is not even in business yet and he is saying this is the only way. T. Ellsworth states that you can't have a business if you don't have the materials to market your product by. For him to fail for a year in a farm venture, to have the product rot in the field, to find out you need a bigger sign isn't the correct way to start a business. K. Veitch states that a sign in front of a business

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like this is no different than a real estate sign. It is not necessarily going to be the thing that sells the product. T. Ellsworth states that he does feel that he has to communicate the products, pricing, as well as pick-your-own at times, product for sale, and strictly pick-your-own by appointment, the website to register for an appointment or certainly a phone number so people can call. P. Lunde states that if the applicant were to come back and knew what he was going to call the business and he is looking at 8" letters, and what product he is going to have, he could figure out the exact size, knowing the number of letters he needed. He would then have an idea of what size he needs, as would the Board, and then the Board could see what they could grant. T. Ellsworth states that is going to come pretty close, 4 x 8 depending on how you put it, everybody's opinion is different, but to him it is not that big when you start adding things on. He states that if he is granted the variance, he could change the sign everyday. K. Veitch states that the applicant is not being clear enough and if this is approved, it could have stipulations on it. T. Conard states that the name of the farm could only be 6' in height and then having things hanging below it. He states that he is not comfortable granting this not knowing what will be on the sign. P. Lunde states that when we left the conversation last month, he thought that the applicant would come back with what they were looking for. K. Veitch states that we were looking for less and the applicant is looking for a very excessive variance, and the Board is asking the applicant not to be as excessive. Give us something that he could work with and basically he is saying that he cannot work with anything but this. T. Ellsworth states that if you look at the church sign, that is probably over 32 square feet. T. Conard states that is grandfathered. The Board cannot go by that and it probably was up before there was zoning. It is there just like a substandard lot would be there. When you pass new laws you cannot say that you have to take down all the signs or rip down your house. T. Ellsworth states that he believes that you have to look at the signage that is available, is available to everybody. He states that it is put there so that everyone can put a 2 x 3 sign on their property. This is a commercial business, selling retail and it requires additional signs. T. Conard states that the Town did grant additional signage for some operations, particularly in certain zones. The Board is not saying that they are not going to give the applicant a variance, what they are saying is that they have to grant the least amount of variance and that is what they are trying to do. At this stage, T. Conard states that he is kind of concerned that he does not see a need, necessarily, to have a 32 square foot sign. P. Lunde states that if the applicant came back, like we had talked last month, stating that he wanted 24 square feet or 16 square feet, that is something they might look at. He does not think that the applicant is sure of what he needs. S. Weeks states that probably the most successful farm stand on this side of downtown Saratoga is the one on West Avenue and their sign is either 3 x 4 or at the most 4 x 4, and he stopped there today and thought that he could live with that size sign. He really believes that if we open it up to 4 x 8 signs they will be all over Town. He sees a precedent and he does not think that is a wise thing to do. P. Lunde states that the stand itself may be more of a draw than the sign. T. Ellsworth comments that BJ Farms has been there forever, they have the same products every year, and people know them. K. Veitch states that overtime they have developed their clientele, they also use other media to advertise. He states that is what he is saying here. The applicant is looking to use this sign as the whole marketing thing. T. Conard states that if he sees a farm stand, he will stop if he is looking for something. T. Ellsworth states that this is not a farm stand. He will be doing some retail, he thinks. Out of the house maybe retail, again, it is going to be depending on the crop. J. Szpak asks what the options are. The Board can just act on this as submitted or table again so that the applicant could mock up one on cardboard and come back again. T. Ellsworth states, as was previously stated, could he get by on 26 square feet of pure signage, yes. Meaning pure changeable letter board, but now he wants to have the farm sign on top of that, as was suggested, with the letter board underneath it, then he is back to 32 square feet or better. He is sure that the farm sign itself will be 3 x 4 or a minimum of 2 x 3. T. Conard states that we actually have had signs reduced along Route 9 and have multiple businesses on single sites. T. Ellsworth comments that Greenfield Country Medicine is different zoning than he is but they didn't have any problem transferring their sign and they have two other signs for the Inn. There are also banners out there at different times, for the car show, etc. T. Conard states that those were approved by the Planning Board, but if there is a variance required they would come to the ZBA. T. Ellsworth states that the best allowable use for land, from a planning standpoint, is agricultural and if the Town of Greenfield is not going to support him and bend over backwards, then he is surprised. T. Conard states that he thinks that the applicant is misinterpreting it. He did not say that his mind was made up but the applicant hasn't given him anything to change his mind. In July 6, 2010

addition, T. Conard states that he does support agriculture, but he does not think that we need 20 x 30 foot signs or 80 x 90 foot signs, necessarily to do so. He thinks that the applicant is being a little unfair to the Board. Just because they do not go along with the variance, does not mean that they do not support things in the Town, they are also looking at the law, what the Master Plan was, which was basically written on input from the citizens who wanted to keep the rural atmosphere. The ZBA is looking at all of those things, it is not just a for or against thing. T. Ellsworth states that is a residential standard that was drawn up – 2 x 3. K. Veitch states that it was taken into consideration for all the different zones. T. Conard states that we are not just a residential town but wanted to keep the rural nature. In fact, we actually made the lots bigger instead of smaller. We can actually put fewer houses in this Town after the latest zoning laws than you could before. K. Veitch states that he is kind of offended by T. Ellsworth's comment about bending over backwards. The Board asked the applicant to bend a little, they asked him to give a little something, make a small adjustment, show us something that he thinks he can work with. The applicant has not bent at all. He has come in the second time with nothing; he does not want to change anything. That is not bending. T. Ellsworth states that 32 is what he feels he needs so that is what he has to stick with. K. Veitch states that then the applicant is willing to gamble and get nothing over a little change. S. Weeks states that the applicant can always put up a 2 x 3 sign. T. Ellsworth asks about temporary banners. T. Conard states that he will have to speak with G. McKenna about that. T. Ellsworth states that his comments about not supporting a business are not a personal attack. He understands that there is a charter, that there is a rule book that the Board has to abide by, but he thinks that when things have changed to a point where you are not supportive of a farm which was founded one year before the Town, and now someone is trying to convert that to a wholesale/retail farm land once again, for the Town to not do what is needed and 100% support that, the system is broken. T. Conard reiterates that the applicant has not proven that what he is asking for in order to do that is truly needed. T. Conard reads from the Code that banners cannot exceed 4 square feet in residential districts or 16 square feet in a commercial district. T. Ellsworth states that he thinks that he has presented his argument for why he needs that size of a sign. T. Conard states that he is not convinced that the argument was really an argument, it hasn't convinced him that it is absolutely necessary. Nor has it convinced him that he can only do with a 2 x 3 foot sign. He states that he could still be convinced to go to a variance, but so far the applicant's argument has not convinced him to do it. T. Conard states that he is not closed minded on this. He can't speak for everyone else, but he just has not heard anything that convinces him. T. Ellsworth states that when he minimizes down the amount of lettering he needs, then goes back and adds in the fact that he wants to have a business name in conjunction with the sign, he thinks that 32 square feet, 4 x 8, for all of that is pretty tight, it is a small sign. M. Granger states that one of the issues we have here, unfortunately, is that the applicant has determined that as his need and she thinks that the Board does understand that, but if they say yes to this applicant, then the precedent is set. It is not a question that the applicant does not feel they need that; it is a question what happens to the Town as a whole. T. Ellsworth states that for people starting businesses, if they need a sign, they need a sign. K. Veitch asks if he is in operation yet. T. Ellsworth states not in sales, but he is growing crops. K. Veitch states that if the applicant were to come back with a hardship and prove that there is a hardship that the applicant needs something bigger - that is what the applicant hasn't done yet. T. Ellsworth states that a business plan that establishes a hardship in the first business year is a lousy business plan. P. Lunde states that most businesses do give and take, and that is where the Board is having problems. T. Ellsworth asks if he should have come in and asked for 64 so that he could walk out with 32. T. Conard states that he would not have granted a 32 anyway. He states that he feels the applicant is trying to put too much information on there, that there are other creative ways to get the information out there. T. Ellsworth states that everyone is saying that he does not need it; he has researched it and feels that it is an integral part for him starting his business in communicating how, what and when he is marketing his products. M. Granger states that she hears and respects that, but her concern sitting on this Board is in setting precedents and that we are not following enough of the Comprehensive Plan, that it is a substantial request and we set the precedent, and where we go from here could be detrimental in terms of what the Comprehensive Plan is for the Town of Greenfield. She states that as a Board member she can only go so far in terms of granting a variance to meet the needs and she is not saying that the applicant doesn't need it, she understands that that is his business plan, but her concern is in setting the precedent. T. Conard states that what the Board needs is why the applicant is unique in that location from any other location in the Town to July 6, 2010

need that size board. If he can prove that, then the Board can grant it. However, if we grant it and it is not unique to just this property then it is going to be open to anybody else and that is the problem. T. Ellsworth states that there are people who need it to operate their business. T. Conard states it would be open to anyone who wants to put up a sign for a political campaign or anything else. K. Veitch states that the applicant has a great argument, but what he is looking for from this Board is to change the law, which this Board cannot do. If the applicant wants that big of a sign and thinks it is necessary, then he would suggest that the applicant go to the Town Board, explain how his industry is going to fail if he does not have those kinds of signs. He states that the ZBA is not the ones who can change the law and if that is what the applicant was expecting from the ZBA, they cannot change it. T. Ellsworth states that obviously that is what he thought, that's why he was here. The Board can grant a variance. S. Weeks states that this is too substantial a change. K. Veitch reviews the criteria for reviewing applications. Whether the benefits can be achieved by other means feasible – we don't know because the applicant has not tried anything else. Whether request is substantial – that is an absolute yes. Whether alleged difficulty is self-created – we don't know that because they have just started the business. K. Veitch states that there are some things here that are hanging us up. He states that the Board tries to be flexible. The Board knows that everyone cannot live with setbacks and might be short 5'. We can do that. T. Ellsworth states that they are a retail business and all the other retail businesses around have that. He states that Stewart's has so many square feet of signage that it is amazing. T. Conard states that was not approved by the ZBA. T. Ellsworth states that his point is that that is what is needed for a retail application. S. Weeks states that he simply does not agree. He sees so many farm stand set ups all over New England, they display the produce out front rather than trying to put letters all over a sign. They have a sign big enough so that people know that it is a farm stand, and that is the approach. If he hadn't seen the 4 x 8 for Muddy Acres, he might have been a little more agreeable, but once he saw what a 4 x 8 sign looks like and you consider seeing 4 x 8 signs over the Town of Greenfield, he just does not believe that this Town wants that to happen. He states that it just happens to be this applicant, but if someone else from another business came in and said they wanted a 4 x 8 sign, he would say the same thing. T. Ellsworth asks if the Board has any latitude based on the type of business. T. Conard states not on the type of business. P. Lunde states that if the applicant wants to table this and come back with something else, the Board can do that. T. Ellsworth states that he did think about it. K. Veitch explains that if the Board denies this, the applicant will have to go through the whole process again to make a change. T. Ellsworth states that he does not feel that a smaller sign will do it for him. M. Granger states that then the applicant feels that his recourse is to go to the Town Board. T. Ellsworth states that he is going to consider that. K. Veitch states that he thinks what is important for the applicant is to get his name out there to identify when people come through that area that there is a farm stand there. T. Conard reiterates that there are other alternatives. T. Ellsworth states that he may seek out other means, go to the Planning Board, etc. T. Conard states that the Planning Board cannot approve a larger sign without an area variance.

RESOLUTION – J. T. Ellsworth, Area Variance

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals denies the application of J. Tabor Ellsworth for an area variance for property located at 236 Wilton Road, TM# 139.-1-2.2, based on the following criteria:

- **The variance request is too substantial**

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

Noes: None

CHRISTOPHER AND DEBORAH ATTEY - Area Variance, Case #847

Bockes Road

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Christopher Attey is present. T. Conard reviews that the applicants are seeking an area variance to build a garage. Public hearing was held and the application was tabled for further information. The Board had requested the wetlands information and the required fire separation between the house and garage. M. Granger states that it has been confirmed that 6' is required between the house and garage so that we are looking at the minimum variance necessary to grant the request.

RESOLUTION – C & D Attey, Area Variance

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals grants the application of Christopher and Deborah Attey for an area variance for property located at 139 Bockes Road, TM#137.-2-19.13, as follows:

- **20' right side yard variance**

This variance is based on the following criteria:

- **The request is not substantial**
- **There are no other means available**
- **There is no negative impact on the neighborhood**
- **Requirements for distance to wetlands are met**
- **Requirements for minimum fire separation are met**

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

Noes: None

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. John Herzog is present. A public hearing is opened. There being no public comments, this public hearing is closed.

P. Lunde states that usually the Board sees this in the case of mobile homes on properties while someone is building a house and that normally the variance is granted with the contingency that the mobile home is removed within 30 days of issuance of the Certificate of Occupancy. J. Herzog states that their original plan was to put an addition on the house. The cost of the addition got so expensive that it didn't make any economic sense to build on to a house from the 1960's. There is nothing wrong with the house other than it is too small. He states that he has no desire to be a landlord. His thought was for now, whatever the Town would require – get rid of the kitchen or whatever - in order to make it non-livable. He would use it for storage for now. At a later date maybe he would subdivide the house and some property as he has 35 acres. M. Granger asks what the minimum lot size is. This is the LDR zone which is 6 acre zoning. M. Granger states that if he is looking to subdivide at a later time he should plan ahead. J. Herzog states that there is 750' of frontage. T. Conard states that it would be an unusual lot line. J. Herzog states that he would then have to make it livable again. He states that it is a shame to tear it down as there is nothing wrong with it. K. Veitch states that the applicant can make it uninhabitable by going in and removing the fixtures. J. Herzog states that he talked with G. McKenna who said that it is really the kitchen. People with garages or workshops can have bathrooms. T. Conard asks how soon that would be after they occupy the new house. J. Herzog states that 30 days would not be a problem. P. Lunde reiterates planning this out so that it makes sense that if he does decide to subdivide later. K. Veitch states that when the applicant does the site plan for the actual building permit, he suggests the applicant keep that in mind. M. Granger states that the Board is

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just suggesting that he leave himself the option so that it works easily for him and so that he is happy with the end result. M. Granger asks if the public hearing sign was posted. J. Herzog states that his wife posted it on the fence.

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

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals grants the application of John and Hetal Herzog for a Temporary Use Variance for property located at 812 Coy Road, TM#137.-1-3 as follows:

- **A Temporary Use Variance for one year (July 6, 2011)**
- **Thirty days from receipt of CO existing house is to be made unlivable so that it complies with Zoning in whatever way satisfies the Building Inspector**

This variance is based on the following criteria:

- **No change to the neighborhood**

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

Noes: None

BRIAN WAGNER – Area Variance, Case#851

Country Squire Court

Brian Wagner is present. T. Conard reviews that the applicant seeks an area variance to install a pool and requires a 40' variance. A public hearing is opened. There being no public comments, this public hearing is closed.

M. Granger questions the green space behind the house. B. Wagner states that it is approximately 360 feet to the neighboring house. T. Conard comments that there are not a lot of options on this property.

RESOLUTION – B. Wagner, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals grants the application of Brian Wagner for an Area Variance for property located at 6 Country Squire Court, TM#152.-1-99 as follows:

- **40' rear yard setback variance**

This is based on the following criteria:

- **Benefit cannot be achieved by other means**
- **No undesirable change to the neighborhood**
- **No adverse effect on the neighborhood**
- **The difficulty is not self-created**

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 Dr. Akawi would like to open a veterinary hospital. This was a doctor's office and these same area variances were granted previously for that physician's office. A public hearing is opened. There being no public comments, this public hearing is closed.

Dr. Akawi states that he received Planning Board approval for his site plan. There was a question as to the signs he would be using. Dr. Akawi states that he picked 2 of the exact same signs that Dr. Peacock was approved for. He will be submitting an application for variances for those.

RESOLUTION – F. Akawi, Area Variance

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals grants the application of Frank Akawi for Area Variances for property located at 3100 NYS Rt. 9N, TM#138.1-2-25, as follows:

- **45' front yard setback variance**
- **42.5' left side yard variance**
- **2.5' rear yard variance**
- **1.5 acre area variance**

These variances are based on the following criteria:

- **No change to the neighborhood**
- **The difficulties are not self-created**
- **There is a potential eyesore in the community which will now be utilized**

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

Noes: None

T. Conard explains that we will need to deal with the sign issue at the next meeting. K. Veitch states that it would not be necessary for the applicant to be present for the actual accepting of the application at the next meeting, but could send a representative and should be present at the public hearing.

CLYDE & PEARL RONK – Area Variance, Case #853

Spier Falls Road

Michael Bollinger and Pearl Ronk are present for the application. T. Conard reviews that the applicants want to put an addition on their home and need a 12' variance. A public hearing is opened. There being no public comments, this public hearing is closed.

M. Granger questions that a portion of land is part of this parcel. P. Ronk states that it is an easement. T. Conard comments that the garage is actually closer to the property line than the addition will be.

RESOLUTION – C. & P. Ronk, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

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RESOLVED, that the Zoning Board of Appeals grants the application of Clyde and Pearl Ronk for an Area Variance for property located at 112 Spier Falls Road, TM#112.-1-79, as follows:

- **12' left side yard variance**

This variance is based on the following criteria:

- **No undesirable change to the neighborhood**
- **The request is not substantial**
- **No adverse environmental impacts**
- **Hardship was not self-created**

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

Meeting adjourned 8:45 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary