

**Town of Chester
Zoning Board of Adjustment
February 19, 2019
Town Hall
7:00 pm
Approved Minutes**

Members Present:

Vice-Chair Kevin Scott
Matt Gelinas, Alternate
Chair Billie Maloney
Jean Methot, Alternate
Jack Cannon
Adam Maciaszczyk

Members Absent:

Richard Snyder, Alternate
Joseph Hagan, Selectman Liaison
Courtney Cashman

Guests:

Eric C. Mitchell
Attorney Peter M. Solomon
Penny Williams, Tri-Town Times
Liz Richter
Catherine Trainor
Willamina Coroka
Barbara Suech
David Bastarache
Ryan Donovan
Jamie Donovan
Richard Drowne
Norma Drowne
Tim Pelloquin

And other persons unknown to the minute taker

Agenda

- 1. Call to Order/Roll Call**
- 2. Correspondence – Request for Continuance, Russell Quintal, Letter in Support of Mill Pine Village, Ed Mencis, Linda Meehan, Spring Seminar Save the Date June 1, 2019, Vacation Request (Office)**
- 3. Training/Seminars: HB 1533, HB 104 (tabled)**

- 43 **4. Updates – Gesel, 15 Chester Street**
44 - Rules of Procedure (tabled)
45 **5. Approval of Minutes – January 15, 2019**
46 **6. Hearings:**

47
48 **Continuance of Eric C. Mitchell & Assoc. on behalf of 21st Century Development,**
49 **Inc. for two variances: Article 5, Section 5.3, Subsection 5.3.4 (permitted use in**
50 **the R1 zone) to construct and operate a 16-bed assisted living facility; and**
51 **Article 4, Section 4.4, Subsection 4.4.2.1 (signage in the R1 zone) for a sign less**
52 **than 30 s.f. where 6 s.f. are allowed in the R1 zone**
53 **On the property known as Map 2-70 (to be known as Lot 2-70-1) at 236 Haverhill**
54 **Road (to be known as 254 Haverhill Road)**

55
56 **The request of David Bastarache for a variance from Article 5, Section 5.3.5 (Table**
57 **1) and Article 4, Section 4.2, Subsection 4.2.1 to construct an approximately**
58 **31'6"x31' addition to the existing dwelling which sits 15' from the front property**
59 **line where 40' are required**

60 **On the property known as 118 Ledge Road, Map 8-7 in the R-1 zone**

61
62 **The request for a continuance of Russell Quintal for a variance from Article 5,**
63 **Section 5.3.5 (Table 1) to construct a 8'x28'x6' covered porch on the front of the**
64 **existing dwelling which would sit approximately 12' at the closest point from the**
65 **front property line where 40' are required**

66 **On the property known as 24 Carlin Road, Map 5-71 in the R-1 zone**

67
68 **The request of Ryan Donovan and Jamie Donovan for a Special Exception under**
69 **Article 9 and Article 11, Section 4 for an Accessory Dwelling Unit conversion of**
70 **the interior space previously used as an office**

71 **On the property known as 1 Sandown Road, Map 17-10 in the R-1 zone**

72
73 **The request of Mill Pine Village for a Variance from Article 6, Section 12.1.2.a**
74 **Setbacks and Buffers, Section 5.3.5 Tables 1 and 2 of the Ordinance to permit the**
75 **construction of a new above-ground structure to be nearer than the required 75'**
76 **setback from the perimeter boundary of the parent lot of an Open Space**
77 **Subdivision**

78 **On the property known as Unit 7-2, 56 Black Duck Drive, Map 10-1 in the R-1 zone**
79

80 **7. Adjournment**

81
82 **1. Call to Order/Roll Call**

83 Chair Maloney called the meeting to order at 7:02 pm. By Roll Call were present: Matt Gelinas,
84 Vice-Chair Kevin Scott, Chair Billie Maloney, Jack Cannon and Jean Methot. Mr. Maciaszczyk
85 recused himself and sat with the public for the first hearing and approval of minutes.

86 Chair Maloney indicated the members who would be actively voting on tonight's hearings were
87 Mr. Gelinas, Vice-Chair Scott, Chair Maloney, Jack Cannon and Jean Methot.

Chair Maloney summarized the correspondence received by the ZBA for the period of January 15, 2019 to February 19, 2019 which included one letter of support, one request for a continuance, one vacation request, an announcement of the Spring Seminar dates and an update concerning Mr. Gesel.

Vice-Chair Scott read out loud the Public Hearing Notice as well as the 30-Day Notice.

2. Approval of Minutes

Chair Maloney asked if the Board had reviewed the minutes of the January 15, 2019 meeting – yes; and to indicate if there were any changes – none.

Mr. Methot motioned to approve the January 15, 2019 minutes, as written. Vice-Chair Scott seconded the motion, with 5 in favor and none opposed, so moved.

3. Hearings

**1. Continuance of Eric C. Mitchell & Assoc. on behalf of 21st Century Development, Inc. for two variances: Article 5, Section 5.3, Subsection 5.3.4 (permitted use in the R1 zone) to construct and operate a 16-bed assisted living facility; and Article 4, Section 4.4, Subsection 4.4.2.1 (signage in the R1 zone) for a sign less than 30 s.f. where 6 s.f. are allowed in the R1 zone
On the property known as 236 Haverhill Road, Map/Lot 2-70 to be known as Map 2, Lot 70-1, 254 Haverhill Road**

Chair Maloney instructed the Board was in deliberations.

Mr. Cannon clarified that if the variance were granted it would run with the parcel forever, not with the owner. Mr. Methot advised as to under which circumstances the use could terminate.

Ms. Hoijer clarified that variances after 2015 were subject to two circumstances that would result in termination, failure to implement in the time provided by the statute and Chair Maloney clarified the other circumstance is if the use were abandoned or interrupted for the time frame provided by the statute. The Board briefly discussed HB 1533 which passed in May and how it affected the variances issued prior to 2015, and the steps required to be taken by the Planning Board for variances not exercised.

Chair Maloney stated that she took notes at the last meeting. There were abutters for and against who stated their reasons. Chair Maloney stated she dug deeply into the NH Board of Adjustment handbook on the five points needed to grant a variance.

Chair Maloney continued there are a lot of different feelings...baby boomers retiring...the need for Assisted Living Facilities has grown and she is not opposed to the idea of Assisted Living Facilities, but “our ordinance does not address this at the present time, I wish the Planning Board would get on this and come up with some districts and areas where these could be put.”

Mr. Methot advised the Planning Board is working on a Warrant Article to implement that, and there will be a Warrant Article for that this year.

Chair Maloney stated it is going to be a long process. “Don’t think it’s fair to put this kind of spot zoning on this board.”

127 Chair Maloney summarized this is for a 16- bed facility on a 2.6-acre lot. The applicant has
128 presented arguments for a commercial use in a residential area. It is a commercial building with
129 a residential use. "I'm not sure this is the right place to put this." "Not going to go over the five
130 points yet."

131 Vice Chair Scott stated that he went home with all the documents and sat down with Mr.
132 Gregsak's five points on one side and Attorney Solomon's five points on the other side,
133 completely opposite. "Would like to hear what the others say also."

134 Mr. Methot questioned "Do you want to put residents in a commercial zone?" "One, they don't
135 belong there; and what happens if a commercial activity is taking place in the zone, do you want
136 an activity to happen next to a residence for 16 people?"

137 Mr. Cannon stated "There are many businesses in that area but not stand alone pure
138 commercial, there are home occupations, but businesses being done out of their homes. This
139 individual is doing this on his property.

140 Chair Maloney questioned "Does it change the essential character of the neighborhood?" Mr.
141 Cannon stated, "It does for this neighborhood."

142 Mr. Gelinas stated he took a look at two others under contract in Keene, in a fairly similar
143 neighborhood setting, rural, to what we're looking at on Haverhill Road, not all that different."

144 Mr. Gelinas stated the biggest difficulty is the hardship criteria. Nothing made him buy this
145 piece of land and establish a hardship on himself and there is no hardship on this property.

146 Chair Maloney discussed the five points. Chair Maloney stated she went back to NH handbook
147 and they take public interest, substantial justice and spirit of the ordinance and break it down
148 into much more information and case law. Does it change the character of the neighborhood?
149 It would violate the spirit of the ordinance if we allowed that use. There could be a domino
150 effect, due to the now changed character of the neighborhood. What is there about this
151 particular piece of land that creates a hardship? How is it different than other parcels in the
152 area? Most are homes, horse barns, and pastures.

153 Vice Chair Scott stated our ordinance doesn't specially restrict it.

154 Mr. Gelinas asked, "Could an apartment building be put on the same piece of land?" Could
155 have a two-family, but that would need three acres, 430 feet of frontage, just for a duplex.
156 There is nothing for apartment buildings. There is nothing in Article 5, a duplex is as close as it
157 comes. "At the end of the day I don't see much difference between an apartment building and
158 this facility." "Still have 16 people living somewhere and someone making money at this
159 residence." "That's the part that really twists it, that somebody is making money off it."

160 Chair Maloney continued, "Look at the five points, Spirit, Substantial Justice, Hardship. The
161 values of surrounding properties, are opinions at this point. A real evaluation would be
162 expensive, a long process done by a professional, that would look at a multitude of towns.
163 What we heard so far from our Assessor and the applicant are just opinions.

164 Mr. Scott stated, "Just for the record, we have tried to contact the realtor we heard testimony of
165 from a third party and were unable to get her opinion, she won't return our calls."

166 “When Diana Charron said it is something, we can use.... there is nothing to say anyone from
167 Chester would be living there anyway”. It’s a use we need to have. Don’t think that’s the place
168 to put it.

169 Jean Methot went over the five points and provided his notes to the recording secretary.

170 Mr. Methot stated it is not Contrary to the Public Interest because the Town of Chester is in the
171 process of proposing a Warrant Article to propose such a facility. The need was recognized 20
172 years ago, the traffic is minimal, residents don’t drive, the building is buffered, lights would be of
173 the kind our regulations allow. The facility’s water consumption is less than a subdivision, a
174 benefit to the community.

175 The Spirit would be observed. Though in a residential zone, the occupants will be residents, a
176 facility on two acres, the remaining acres would be as agriculture use. There are numerous
177 businesses operating in the vicinity and on Haverhill Road,

178 Substantial Justice. The town has a limited commercial zone near Raymond and the old dump
179 and recycling center, has businesses all over town in residential zones.

180 Values not diminished. There are conflicting opinions presented by applicant and abutters. The
181 Town Assessor stated no values would diminish, an abutter from Derry where such a facility
182 exists, did not experience any diminishment of value to his property.

183 Unnecessary Hardship. Not a fair relationship, because there is no other location in town the
184 facility can be located without a variance except the dump road. The facility would be located
185 on a state-maintained road, near center, close to emergency services. There are benefits, to
186 the community. To deny would go against.

187 Chair Maloney asked would it alter the essential character of the neighborhood? Yes, it does.
188 A large 16-bed facility, on 2.6 acres is a large footprint. The area is rural and agricultural with
189 homes and barns. The granting of an improper variance may alter the character of the
190 neighborhood beginning a domino effect as adjacent properties seek similar requests due to
191 now changed character of the area.

192 Substantial Justice is benefit versus harm to the public. Is it consistent with present use? – no.

193 This R-1 zone recognizes unique scenic and rural characteristics of this portion of town. 121 is
194 a designated state scenic by-way noted by DOT since 2014.

195 Values. “I don’t know if it would affect the values of surrounding properties or not.”

196 Hardship. The restrictions on one parcel are balanced by similar restrictions on other parcels in
197 the same zone. When hardship is shared equally among all property owners, there are no
198 grounds for a variance of hardship. Only when some characteristics are unique, can
199 unnecessary hardship be claimed. Only when some characteristic of the land makes it different
200 from others can hardship be claimed.

201 Use. The applicant must establish the use is reasonable. Because it is a large parcel does not
202 make commercial use reasonable. The proposed use would not make it reasonable. Read
203 Attorney Solomon’s memorandum. There are no special conditions. Use beneficial to town has
204 nothing to do with hardship itself.

205 The area consists of rural, agricultural, large tracts, homes and barns. A 16-bed facility would
206 change the character of the neighborhood.

207 Mr. Cannon stated, "Granting would not be contrary because as evidenced, public interest for
208 this facility is strong and I can understand the desire to have a facility like this at their disposal."

209 "Question 2 is tough for me; the Spirit would not be observed by granting." "It is a stand-alone
210 commercial operation; will that travel forever with the parcel?" "As written, this is not allowed in
211 an R-1 zone and going to stand on that side until the townspeople are willing to make a change
212 so that these can exist."

213 "Would not do Substantial Justice." It was discussed, there could be other parcels available that
214 would also require a variance but in a more suitable location for this type of facility. That may
215 come at a higher cost to the applicant and his business model might not work, which is not our
216 concern in our situation.

217 Values. Could possibly be diminished. Not sure about that. Concerned about impact on direct
218 abutters, who would have to abut a 10-11,000 s.f. facility and what that could do to their
219 individual valuations.

220 "I don't believe there is hardship in denying. There are other alternative locations available to
221 the applicant for this type of facility (not without a variance). The proposed use is not
222 reasonable, the criteria for that use is it must not alter the essential character. Unfortunately,
223 construction and operation will alter the essential character.

224 Vice Chair Scott read his notes out loud and provided them to the recording secretary to be read
225 into the record comparing and contrasting the arguments provided by Attorney Solomon and Mr.
226 Gregsak.

227 Vice Chair Scott concluded he did not believe the use is in conflict with the ordinance. "As
228 noted, it is likely that this type of facility was not contemplated when our zoning was conceived
229 or as it has developed." "I would vote YES on question #1."

230 Vice-Chair Scott concluded he would easily vote NO on question #2.

231 Vice-Chair Scott concluded that neither argument on the responses to question #3 would lead
232 him to approval or denial as he found them both lacking. Vice-Chair Scott concluded he would
233 abstain on #3 and defer to the majority of the Board.

234 Vice-Chair Scott stated it is not uncommon for this Board to accept Realtor letters and
235 statements from the Town Assessor in regards to what a ZBA approval would do to property
236 values. "We heard no testimony that would indicate a former granted variance has ever caused
237 property values to diminish." "I would vote YES on Question #4.

238 Vice-Chair Scott stated he was in complete agreement with Mr. Gregsak's statements in regard
239 to Question #5, Paragraph #3. "However, paragraph #4 states this facility is entirely out of
240 character with the neighborhood in terms of scale, appearance and density of use. "I wish this
241 application had come to us showing the entire 34 acres as a potential for siting this facility."
242 "The proposed 2.6 acres is not even large enough for a duplex/two-family home ref: table 1,
243 5/8/18." "If we were able to consider the entire 34 acres with a common driveway, this
244 application might be easier for me to approve." "I think with a larger lot, moved back location,

245 more centered with greater setbacks and a common driveway, Mr. Gregsak's concerns could be
246 more satisfied." "I would vote NO on Question #5."

247 Vice-Chair Scott continued "Although we heard testimony that this facility would "help preserve
248 independence for the residents of the Town of Chester" we should neither require or expect
249 that." "Empty beds need to be filled and once full, there is no more room at the inn." "For me
250 this question is as simple as "Chicken or Egg." Which came first?" If the question is to approve
251 an Assisted Living Facility in our R-1 zone, then I would vote "in Favor." "However, the
252 application before us is far more than that." "It is to approve an Assisted Living Facility on this
253 property as proposed, that is before us now and for this I would vote to deny."

254 Mr. Gelinas stated, "It is not contrary to the public interest." "There is no option in the
255 community."

256 "Two, Spirit is observed." "Feel a residential building in a residential zone that people are going
257 to reside in, although it does end up being a business, yes."

258 Substantial Justice is done. Look at Chester. It gives the ability for Chester residents to have
259 family to be local in waning years in their community, yes to an Assisted Living Facility in
260 Chester.

261 Values: "Don't feel it would diminish. Public services are a benefit to the majority of the Town
262 though not the direct abutter.

263 "On 5 no, because there are no special conditions of this property that a variance would
264 resolve." "It isn't confining, not the property itself." Anyone would have to apply, everybody
265 would have to apply, the entire zoning is restricted against this. Voting at town meeting to get
266 zoned at our Town, no. No for the application.

267 Mr. Methot stated, "Yes on all five."

268 Mr. Cannon stated, "No on four of five."

269 Chair Maloney asked which ones? Mr. Cannon responded, "Yes on one and no on two, three
270 four and five."

271 Chair Maloney stated as to Spirit and Public Interest, no, it changes the essential character.

272 Substantial Justice, no, don't think development is consistent with area's present use. It is a
273 scenic by-way.

274 Values, I don't know, nothing presented for or against that wasn't just opinion.

275 Hardship, no, the applicant has failed to show special conditions that make the property different
276 than others.

277 "Even with use variance, the proposed use is not reasonable, I don't know what special
278 conditions.... the applicant failed to show that, no on four." "1, 2 3 and 5, no."

279 Vice-Chair Scott stated ultimately yes on 1, no on 2, abstention on 3, 4 yes, 5 no, so no.

280 **Mr. Cannon motioned to deny the application of 21st Century Development for a variance**
281 **from Article 5, Section 5.3, Subsection 5.3.4 of the ordinance to permit construction of a**
282 **16-bed assisted living facility. Mr. Gelinas seconded the motion. Voting in favor of**

denying the variance were: Chair Maloney, Vice-Chair Scott, Mr. Gelinas, and Mr. Cannon. Voting in opposition of denying the variance were: Jean Methot. Motion to Deny, approved 4-1, So moved.

Mr. Mitchell withdrew the application for the sign variance (no greater than 30 sf in the 4-1 zone where signs are required to be no greater than 6 sf) without prejudice.

Vice Chair Scott read out loud the 30-day Notice.

**2. The request of David Bastarache for a variance from Article 5, Section 5.3.5 (Table 1) and Article 4, Section 4.2, Subsection 4.2.1 to construct an approximately 31'6"x31' addition to the existing dwelling which sits 15' from the front property line where 40' are required
On the property known as 118 Ledge Road, Map 8-7 in the R-1 zone**

Mr. Bastarache provided copies of his Site Plan to each of the Board members and the recording secretary.

Mr. Bastarache went over his application stating that it was in-line with the existing architecture. As to Spirit, the proposed addition does not encroach worse. Substantial Justice, he is adding the addition to accommodate his growing family and three daughters. Values, it is a single family the style would add value to the home which would not decrease values to surrounding properties. Hardship, the lot is a nonconforming lot.

Chair Maloney asked how old the home was – Mr. Bastarache responded 1876.”

Vice-Chair Scott noted it was further back, setback wise. Chair Maloney noted the road moved closer to the home. Mr. Methot added in old deeds the road was at the back-side of the property. Vice-Chair Scott added it is a western style farmhouse, a lovely house on a lovely lot.

Mr. Bastarache stated the two abutters across the street had no issues.

Mr. Methot added that SNHPC has in their ten-year plan to close off the end of Ledge Road near Old Sandown.

Chair Maloney opened the hearing to the public for comments and questions at 8:04 pm and being none, closed the hearing to the public at 8:06 pm.

Mr. Gelinas stated granting is not contrary, it is a residential use on a residential property. Spirit prevents crowding, existing house. Substantial justice. It is not affecting anyone any differently. Values would not be diminished by enhancement of its value. The un-necessary hardship is the road is too close to the town by movement of it by the town. The proposed use is reasonable to allowing the growing family, yes.

Vice-Chair Scott agreed, yes, on all five.

Chair Maloney stated Public Interest and Spirit, yes, does not change the character of the neighborhood. Substantial Justice, there is not harm. Values would not be affected. The hardship is the characteristics of an antique house circa 1876, yes. The proposed use is reasonable due to the special conditions of the property. The house has existed 150 years. Yes, on all five.

Mr. Cannon stated yes, on all five. Not contrary to the public interest, the Spirit is observed, Substantial Justice is done, no harm by you expanding, the values would not be diminished and could enhance them. It is a nice addition. Enforcement would create an un-necessary hardship. The special conditions are the road layout and age of the property, yes on all five.

Mr. Methot stated "If add in setback, all new construction should not be in setback. If in back, no problem."

Mr. Methot moved to approve the Variance for David Bastarache o allow a variance from Article 5.3.5, Table 1 and Article 4, Section 4.2, Section 4.2.1 to construct an approximately 31'6"x31' addition to the existing dwelling which sits 15' from the front property line where 40' are required. Mr. Cannon seconded the motion, voting in favor were: Chair Maloney, Vice-Chair Scott, Mr. Gelinas and Mr. Cannon. Voting in opposition were: Mr. Methot: Approved 4-1, so moved.

Vice-Chair Scott went over the 30-Day Notice with the applicant.

**3 The request for a continuance of Russell Quintal for a variance from Article 5, Section 5.3.5 (Table 1) to construct a 8'x28'x6' covered porch on the front of the existing dwelling which would sit approximately 12' at the closest point from the front property line where 40' are required
On the property known as 24 Carlin Road, Map 5-71 in the R-1 zone**

Chair Maloney advised the Board had received a written request from Mr. Quintal to continue his application.

Mr. Methot motioned to continue the hearing of Russell Quintal for a variance as requested. Vice-Chair Scott seconded the motion, with all in favor, so moved.

Chair Maloney requested the Board would take a five-minute recess at 8:10 pm.
Meeting resumed at 8:15 pm.

- 4. The request of Ryan Donovan and Jamie Donovan for a Special Exception under Article 9 and Article 11, Section 4 for an Accessory Dwelling Unit conversion of the interior space previously used as an office
On the property known as 1 Sandown Road, Map 17-10 in the R-1 zone**

Mr. Methot stated this house came before us before for a portico. The road was too close to the house.

Mr. Donovan went over his application and added that their daughter lives with them and the ADU would be where the office was. Mrs. Donovan stated there would be no exterior changes. There is an interior door connecting, six parking spaces, DES approved septic. The home is their principal residence, is less than 1,000 s.f. and more than 600 s.f. Not exceeding two bedrooms and all life, health and safety have been met.

Mr. Cannon stated a small portion of the house is over, not significant.

Chair Maloney explained this was for a Special Exception for an ADU under Article 9.4 and Article 11.4 and has twelve requirements, which she read out loud.

Vice-Chair Scott read out loud the purpose of the Ordinance.

Chair Maloney asked if they have a backup septic plan – yes; if owner occupied – yes; 600-1000 s.f. – yes, two-bedroom – yes; no change outside – yes.

Chair Maloney read the requirements for the sprinkler system according to the Ordinance and Chester's building code and the requirements of Article 11.4. Vice-Chair Scott added that being a prior business all other conditions, Article 11.4, were satisfied.

Chair Maloney read the Notice of Limited Occupancy. Ms. Hoijer explained that after construction, the applicant would have the notice signed by the Building Inspector and then it would be the applicant's responsibility to record the signed Notice at the Registry of Deeds.

Chair Maloney opened the hearing to the public for comments and questions at 8:30 pm and being none closed the hearing to the public for deliberations.

Chair Maloney proposed two conditions:

1. Must meet Article 9.4.10 Code Requirement in reference to sprinkler;
2. Applicant must obtain the signature of the Building Inspector and record the Notice of Limited Occupancy following completion of construction of the ADU.

Vice-Chair Scott motioned to approve the request of Ryan Donovan and Jamie Donovan for a Special Exception under Article 9 and Article 11, Section 4 for an Accessory Dwelling Unit conversion of the interior space previously used as an office subject to the conditions stated above. Mr. Gelinas seconded the motion, with all voting in favor, and none opposed, so moved.

- 5. The request of Mill Pine Village for a Variance from Article 6, Section 12.1.2.a Setbacks and Buffers, Section 5.3.5 Tables 1 and 2 of the Ordinance to permit the construction of a new above-ground structure to be nearer than the required 75' setback from the perimeter boundary of the parent lot of an Open Space Subdivision**
On the property known as Unit 7-2, 56 Black Duck Drive, Map 10-1 in the R-1 zone

Mr. Peloquin presented the application on behalf of Mill Pine Village. Mr. Peloquin stated that no one is affected except one abutter who sent a letter supporting the application. Mr. Peloquin explained that a substantial buffer existed already. The hardship would be having to cut the foundation to correct the mistake. A pre-manufactured home was set. Vice-Chair Scott corrected the garage was stick-built. Mr. Peloquin continued, there was a small 3 1/2" encroachment. This is part of a large development partially in Sandown off North Road with 34 homes built in Chester, of 38 approved.

Mr. Drowne added the mistake occurred when the stakes were set and the home was set and then mid-December were fighting the weather when the crane set the house. The home is 71.4' where 75' are required.

Mr. Drowne stated the composting facility is no longer there.

Mr. Methot stated with today's technology have a problem with this and warned to be more careful. Vice-Chair Scott stated he was satisfied it was a mistake. Mr. Cannon stated it would be unreasonable to have to alter it.

Chair Maloney opened the hearing to the public for comments and questions at 8:47 pm and being none, closed the hearing to the public at 8:47 pm for deliberations.

Mr. Gelinas stated he agreed it was not contrary, does affect more than one abutter who sent a letter. Substantial justice – it is a mistake. To tear down would be unreasonable. Does not affect values, would be a financial loss to tear down. Yes on all five.

Vice-Chair Scott agreed. If abutter had concerns, would push for a lot line adjustment. Yes, on all five.

Chair Maloney stated one and two, Public Interest and Spirit of the Ordinance, yes on 1 and 2. Substantial Justice – no harm to the general public or values of surrounding property. Hardship, is Yes.

Mr. Cannon stated yes on all five, not contrary, no harm to the public interest, the Spirit of the Ordinance has been observed. Substantial Justice would be done, no harm to the general public, values not diminished. Literal enforcement would result in an unnecessary hardship. Special condition is the building is already there. The proposed use is reasonable. Yes, on all five.

Mr. Methot warned he won't accept another mistake, yes on all five.

Vice-Chair Scott motioned to approve the request of Mill Pine Village for a Variance from Article 6, Section 12.1.2.a Setbacks and Buffers, Section 5.3.5 Tables 1 and 2 of the Ordinance to permit the construction of a new above-ground structure to be 72' (71.4') than the required 75' setback from the perimeter boundary of the parent lot of an Open Space Subdivision. Mr. Methot seconded the motion, with all in favor, so moved.

Chair Maloney indicated that a representative from the Planning Board was present and conferred with Ms. Hoijer who advised the Drownes would need to go before the Planning Board to remedy the violation of the subdivision approval noted in the denial letter, prior to the Building Inspector issuing a Certificate of Occupancy.

Vice-Chair Scott read out loud the 30-Day Notice.

Other/Miscellaneous Business:

Vice-Chair Scott discussed the number of applications coming before the ZBA from sheds that are not properly permitted and/or located in setbacks and whether the responsibility should lie with the homeowner and/or the builder of the shed sold to the homeowner. Vice-Chair Scott recommended putting the shed companies on notice that if they are going to violate the setbacks, they will be held responsible.

Vice-Chair Scott recommended meeting a half hour earlier next month to attend to Board business and will assist the Administrative Assistant with revising the Rules of Procedure that were recently reviewed with recommendations to update, by Town Counsel.

Mr. Methot indicated he will not be renewing his term which expires this Spring. Chair Maloney thanked him for 20 years of Service!

6. Adjournment

Vice-Chair Scott motioned to adjourn the meeting at 9:06 pm. Mr. Methot seconded the motion, with all in favor, so moved.

Respectfully submitted,

Nancy J. Hoijer,
Recording Secretary