



Zoning Board of Adjustment Meeting  
Monday, May 2, 2016, 7:00 PM  
City Hall Council Chambers

**MINUTES**  
**Approved 6/6/2016**

**Call to Order by the Chair**

**I. Attendance/Roll Call**

**Present & Participating:** Richard Collins, Michael Hurd, Carolyn Towle, James Petrin, Abigail Carman, Tracy Pope

**Absent:** Todd Russel,

**City Staff:** Michael McCrory, Interim City Planner; Jane Taylor, City Solicitor

Mr. Hurd asked Ms. Carman to sit in for Mr. Russel.

**II. Minutes of Previous Meeting – April 19, 2016**

**Motion:** To accept the minutes as written.

**Made by:** Mrs. Towle                      **Second:** Mrs. Pope

**Vote:** Unanimous in favor

**III. Old Business**

- A. ZO 2016-00003) Hal Wilkins, Winter Street Commons** – seeks a variance from Section 22-387, Table of Uses, of the City Zoning Ordinance, to construct two self-storage buildings at **Winter Street Commons**. Tax map 108, lot 71. Zoning District CR2. (Cont. from 4/4/2016)

Mr. Hurd read the public notice. As this is a continuation, the abutters roll was not called.

**Planner's Report**

Mr. McCrory said at the last meeting, the Board asked for more information to address the variance criteria. Mr. McCrory said the applicant had information to present at this meeting. It was not received in time to be in the board's meeting packet.

**Applicant's Presentation**

Mr. McCrory distributed printed materials to the board from the applicant.

**Motion:** To accept the materials being distributed.

**Made by:** Ms. Carman    **Second:** Mr. Collins

**Vote:** Unanimous in favor

Mr. Wilkins said he had put together a summary of “old rules” and “new rules” concerning the variance. He said there is also a copy of the City’s zoning district map in the packet. He said there have been some major changes in the way applicants are permitted to pursue a variance. He outlined these to the board to show how he meets the variance criteria, specifically criterion #5. He stated that there are special circumstances on the Winter Street Commons property, primarily that it abuts and owns property in the CB2 district. Neighboring properties on Winter Street include a hair salon (commercial use) and an industrial-commercial use in the former armory. Wal-Mart is also in the neighborhood.

After looking at the map and considering both balance and reasonableness, considering that there is no diminution of surrounding property values, the spirit of the ordinance is maintained, and there is a need to provide substantial justice to all property owners, the applicant’s position is that the variance is an unnecessary hardship on the owner and the property-owner/applicant respectfully requests that the board recognize that this unnecessary hardship exists and that the applicant seeks relief to be able to construct the self-storage facility.

Mr. Wilkins said he would accept a continuation of this hearing to enable the board additional time to discuss the information he has provided with the City solicitor and planner.

Attorney Taylor said that the “old law” is not applicable to this or any of the other variance applications before the board at this meeting. She stated that the ordinance is considered valid until it is determined to be otherwise by the court. Zoning board determinations are given great deference by the court unless there is an actual error of law. Selective quotations, such as those presented by the applicant, can be dangerous. All five criteria must still be met. The standard for unnecessary hardship is found in RSA Sect 674:33:

*"unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:*

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and*
- (ii) The proposed use is a reasonable one.*

Both of these criteria must be related back to the special condition of the property. If these criteria are not satisfied, then:

*(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

Ms. Taylor repeated that all five of the criteria must be examined and satisfied individually – they are not somehow “mushed together”.

Mr. Wilkins offered to provide citations for each of the points he had presented and also offered to go back through the first four criteria if the board so desired.

Mr. Hurd asked Mr. McCrory if the two residential buildings that had been originally proposed but never built could be built today. Mr. McCrory said he had not considered the potential build-out of this property (in the context of this application) and if the current density standard would be met or not. Mr. Hurd thought they would not be able meet the current density standard which would leave “a third of the property empty”. Mr. McCrory stated that that was not the question at hand at this hearing – he said he could not answer the question. Mr. Hurd maintained that they can’t do anything with the property they have, because nothing else would be permitted. Mr. McCrory and Ms. Taylor asserted that that was not the proposal in this application. Mr. Hurd said he was trying to figure out what the property could be used for. The consensus of the board was that they should continue the hearing so the board could have an opportunity to discuss this further. Mr. McCrory said the board must bear in mind that there is already substantial residential development on this property and that it is not devoid of use. Mr. Hurd countered with, “but it’s not using the whole property”. Mr. McCrory said in the 5-acre district would you have a 5-acre house? Ms. Taylor said that reasonable use does not mean use of every square inch of the property. Maximizing profits is a different issue. Mr. McCrory said it is not our job to figure this out for the applicant. Mrs. Towle agreed – the burden is on the applicant. Mr. Wilkins said he would provide the density calculation to the board. Mr. Hurd asked him to provide it to the board a week before the meeting if possible. He said it is tiresome for the board to get information 2, 3 days, a week before the meeting and try to get questions answered by staff in time, particularly if material is received on a Friday. Mr. Wilkins agreed.

**Motion:** To continue the hearing to the next meeting on June 6, 2016.

**Made by:** Mrs. Towle      **Second:** Ms. Carman

**Vote:** Unanimous in favor

- B. (ZO 2016-00010) Jeremy Zullo, 86 Windy Hill Road** – seeks a variance from Sections 22-166 and 22-169 of the City Zoning Ordinance, Permitted Uses and Yards, to permit construction of a salt shed and a maintenance building on two lots on **Caajm Road**. Tax map 35, lots 2 & 2-1. Zoning district: RR. (Cont. from 4/4/2016)

Mr. Hurd read the public notice, noting that this is a continuation of the hearing at the April 4, 2016 meeting.

#### **Planner’s Report**

Mr. McCrory stated that several of the members had visited the site just prior to this meeting. He said the planning board staff report and site photos had been provided to the zoning board so the board be familiar with what the planning board is looking at. He had no new information, although he said he understood that the applicant had a new plan to present to the board.

**Motion:** To accept the applicant’s new plan.

**Made by:** Ms. Carman      **Second:** Mr. Petrin

**Vote:** Unanimous in favor

Mr. Zullo distributed the plan to the board.

Mr. Hurd asked Mr. Zullo if he was planning to annex the two lots shown on the plan. Mr. Zullo said yes.

Mr. Hurd asked if the owner of the road is known. Mr. Zullo said he owns it. Attorney Taylor said that if Mr. Zullo owned the entire subdivision, that he would own the road. But he does not own the entire subdivision so he owns a percentage of the road. The road was not dedicated as part of the subdivision and therefore it remains a private road. Maintenance of the road is done by Mr. Zullo and the other lot owners.

Setbacks apply uniformly to private roads and public roads – the share of ownership or the private status of the road have no bearing on them.

Mrs. Pope asked if the board could get copies of minutes or plans that state the specifications to which the road was built. She also asked for DPW specifications for Roosevelt Road and Paddy Hollow Road. She wanted to see what their load limits would be because of the proposed truck traffic.

Mr. Hurd said he had asked staff to provide input from DPW. Mr. Zullo said he had a letter from Scott Sweet saying that the road can handle the truck traffic that his business would produce provided that he does not use heavy trucks on that road during the posted season. Mr. Zullo appeared to be the only party with a signed copy of Mr. Sweet's letter. Mr. McCrory had an unsigned copy of the letter (which Mr. Zullo confirmed was the same letter). Copies of the unsigned letter were made and distributed to the board.

**Motion:** To accept the City's information to the board.

**Made by:** Mr. Petrin      **Second:** Mr. Collins

**Vote:** unanimous in favor

Mr. Zullo asked – letters have been sent to all of the abutters; he owns 7/9 of the road with AJ Maranville; he's not here; how come it is a process to accept this (the plan) when none of the abutters are here that have a problem with what we are trying to accomplish. He said he didn't understand the process as he had never been through it before.

Mr. Hurd explained that the process goes forward even if none of the abutters are present. Mrs. Towle said the board is following laws established for this purpose. She said they should not forget that what brought them together is a shed that was built without a permit.

Mrs. Pope said the list of equipment given on the application did not match the list of equipment on the new plan for which parking would be provided. Mr. Hurd attempted to match the two lists for Mr. Zullo. Mr. Zullo said the mowers stay on the trailers unless they are in the shop for repairs, and that's why they are not shown on the plan. The big trailers were not listed on the application. The pavers also stay on the trailer. The two one-ton trucks, a van, and four pick-ups were not listed on the application

either, but they are shown on the plan. Lastly, two bucket loaders are listed in the application, but are not shown on the plan. Mr. Zullo said he forgot about them as 90% of the time they are not at the shop.

Mrs. Towle said this is where she asked about the third road and Mr. Zullo had told her it was his overflow parking. Mr. Zullo said that was correct. Would it be during the day or evening?

Mr. Hurd stated that the inventory being discussed is given on the planning board's site plan application – not the variance application. Mr. McCrory said the list on the application was provided to staff over the phone and had no bearing on what was shown on the plan.

There were no further questions from the board. Mr. Hurd invited members of the public to speak.

Mr. LaPointe, abutter at 18 Hewitt Road, said he is probably the first to see Mr. Zullo's operation every morning. He said he thought what Mr. Zullo is trying to do there "is fine when it's all said and done." He said Mr. Zullo does good work. He hoped Mr. Zullo could continue on, "following the legalities which he'll have to do." Mr. LaPointe said he has lived in the neighborhood all his life, and the condition of Clay Hill and Paddy Hollow Roads has not changed. He felt that Mr. Zullo's trucks won't cause any more harm to it than has already been done. He also felt Mr. Zullo has enough land to park all of his equipment. All in all he has no objection to what Mr. Zullo is trying to do.

Mr. Hurd asked Mr. LaPointe if he had any objection to seeing a commercial building from his front yard. Mr. LaPointe said no, that he can't see it until he is driving down the road. He said the salt shed is not visible either because of the trees in front of it. Mr. LaPointe said that Mr. Santagate had said he wanted Claremont to be "user friendly" and Mr. LaPointe wanted to see that happen in this case. He said the new business and buildings will be on the tax rolls and that would help everyone's taxes.

Mrs. Pope asked if Mr. Zullo had any plans to address the erosion that is occurring behind the salt shed. Mr. Zullo said the plan shows a retaining wall to go in there. It was pointed out that the retaining wall is beside the shed – what was to happen behind the shed? Mr. Zullo said the salt shed is the retaining wall and there is stone and pipe drainage behind it. Mrs. Pope asked for more copies of the plan that had just been submitted (there had not been enough for everyone to have their own copy). Mr. McCrory said he had not seen the plan before tonight either, but that he would get copies to them.

Mr. Hurd asked about the front setback. Mr. McCrory said it is 50 feet. Mr. Hurd asked what is the setback for the salt shed as it stands. Mr. McCrory said it looks like it might be less than ten feet. There was confusion (on the part of the board and the applicant) as to where the setback is measured. Mr. McCrory said the edge of the right-of-way is consistent with the property line and the setback is measured from the property line.

Mr. Zullo asked how it is that structures at Pleasant Valley Estates can be within 50 feet of the road? Mr. Hurd said they are grandfathered. Ms. Taylor said that Pleasant Valley is a mobile home park and that the setbacks do not apply within the park itself – only on the exterior boundary lines.

There were no other questions.

**Motion:** To continue the public hearing

**Made by:** Mrs. Towle      **Second:** Ms. Carman

**Vote:** Mr. Petrin voted against the motion; all others voted in favor. Motion carries.

Staff will assist in obtaining the materials requested by the board.

- C. **(ZO 2016-00006) Wayne & Jean McCutcheon, 492 Washington Street** – seeking variances from Section 22-186, Permitted Uses, and from Section 22-188, Lot Size and Area, of the City Zoning Ordinance to create a Planned Residential Development of 66 condominium units on 18.2 acres at 492 Washington Street. Tax map 146, lot 2. Zoning District: RR2 (Cont. from 4/19/2016)

Mr. Petrin recused himself from the proceeding. Mr. Hurd asked Mrs. Pope to sit in for Mr. Petrin. Ms. Carman remained in for Mr. Russel.

Mr. Hurd apologized to Victoria West for “cutting her off” at the last meeting and invited her to finish what she wanted to say. Ms. West asked if the zoning change was going to affect only the subject property or all of the properties. Mr. Hurd said only the subject property. That was all she had at that time.

Again there was confusion about which plans the board had and what Mr. McCutcheon was bringing to them at this meeting. Mr. McCrory said the plans are the same as those before the board at the last hearing, just bigger. Again there were insufficient copies for every board member to have their own.

### **Planner’s Report**

Mr. McCrory said the board had continued the hearing from the last meeting so as to have more time to review the large amount of material that had been given to them at that meeting. Mr. McCrory listed the items. He asked the board if they had any questions.

Mr. Hurd asked what the green line in the middle of Washington Street (on the plan) represents. Mr. McCutcheon said the green line is sewer; the blue line (in the road) is water.

Mrs. Pope asked the applicant if he had done any studies of the people in Claremont that are 55 and older that would be housed in these condominiums that can afford “mostly affordable housing”? She said she was quoting from the last meeting – “we were told that these units would be mostly affordable housing”. Mr. McCutcheon said, “Who told you that? When you say ‘affordable housing’ what is the definition of that?” Mrs. Pope said she got it directly from the videotape of the last meeting. Mrs. Towle said that

Wayne had said it. Mrs. Pope said she was concerned that Mr. McCutcheon might not be able to fill them up. Mr. McCutcheon said there are many people in the “baby-boomer” generation. He said he envisioned this development would be like Southbrook on South Street. He said the units will be priced according to the number of bedrooms. He said he was having a hard time with the term “affordable”.

Mrs. Towle said Mr. McCutcheon had used the term, “somewhat affordable housing”.

Mr. McCutcheon said he had not done a survey. (Ms. Carman called it market research for demand.) He said he had had a lot of inquiries since his presentation at the senior center. He said he is comfortable that the need is there. Mr. Hurd said he has an aunt who is on a waiting list for the Bourdon Center. Ms. Carman said the question really is, “do you have the demographic that will be able to afford this housing?” Mr. McCutcheon said he had not done any studies in that regard because he is comfortable the demand is there – not only people wanting to live there, but people wanting to invest in it. He said without investors, this won’t be built.

Mr. McCutcheon clarified that the “\$12M project” previously quoted meant \$12M when it was finished would be added to the tax rolls. There is a big difference between what it will cost to build it and what it will be assessed for.

Mr. Hurd asked if he had an idea of how much each of the units would cost. Mr. McCutcheon said not yet.

Mrs. Towle said she had a traffic safety concern for Washington Street, specifically a turning lane and asked what work he has done about that. Mr. McCutcheon said he has purchased the Thibeault property and is selling it next week with an acre of land. He said there has to be a meeting with the state, the city and other professionals he may employ. He said he kept an easement across the front of the Thibeault property to accommodate the turning lane. It is only on land to the west of his driveway. He spent time elaborating on traffic safety and how the turning lane could be accommodated.

Mr. McCrory said there is no turning lane in the proposal or an engineering study to speak to one. He asked the board if they wanted to see a safety study, to which they replied yes.

There were no further questions.

**Motion:** To request a safety study  
**Made by:** Mrs. Towle     **Second:**

Mrs. Towle withdrew the motion.

Mr. Hurd asked if any of the abutters wished to speak. No one did.

**Motion:** To continue the hearing to the June 6<sup>th</sup> meeting and to request a safety study regarding the need for a turning lane on Washington Street.  
**Made by:** Mrs. Towle     **Second:** Mrs. Pope

**Vote:** Ms. Carman voted against the motion; all others voted in favor. Motion carries.

#### IV. New Business

- A. **(ZO 2016-00011) Gertrud Holl Revocable Trust, 28 Monument Hill, Springfield, VT-** seeks a variance from Section 22-533 of the City Zoning Ordinance to reduce the required number of parking spaces for a restaurant at **214 Washington Street**. Tax map 121, lot 46. Zoning District B2.

Mr. Hurd recused himself from the proceedings. He asked Mrs. Pope to sit for him. Mrs. Towle volunteered to chair the meeting.

Mrs. Towle read the public notice and called for an abutters' roll call. Mr. McCrory read the roll.

#### **Planner's Report**

Mr. McCrory said this is one of the more complex cases he has dealt with. This is a property that has existed for half a century with a cooperative agreement with an abutter, Claremont Plaza. They shared a "cross-easement" for access, parking and other items. BJ Brickers Restaurant, which is on the subject property, shut down in 2013. Simultaneously with the closing, the easement lapsed. The applicant came to the planning office in December 2015 and said they wanted to re-open the restaurant. Over the years the easement accommodated parking for the restaurant. There had been site plan approvals over the years – the most recent active site plan approval is 1995. The records appear to acknowledge the parking provided by the easement. The easement is now gone and parking for the restaurant must be addressed. The parking is just not there on the site.

The applicant is seeking a variance of the parking requirements to open the restaurant and is also seeking a waiver of site plan review from the planning board.

The critical issue to recognize is that the restaurant effectively will take a minimum of work to re-open. There will be a need for a Certificate of Occupancy, but the CO cannot be granted with planning and zoning issues still open.

Mrs. Pope asked if the parties have tried to work out the parking issue. Mr. McCrory said that based on information provided, Claremont Plaza Associates (CPA) is not interested in renewing the easement.

Mr. Collins asked how many spaces are required. Mr. McCrory said the restaurant has 100 seats – there is a "1 space to 4 seats" requirement – therefore 25 spaces are required.

Ms. Carman asked if there is space on the property for any parking. Mr. McCrory said he believed there is, but the applicant has not provided any plans depicting that (other than an undated site plan that pre-dates the 1995 amended plan. The 1995 amended plan show no parking at all.)

There were no further questions for Mr. McCrory.

### **Applicant's Presentation**

Sandra Holl said she has been trying to open the restaurant since last December. She said it would be a benefit to Claremont and to the owners. She claimed she has 27 parking spaces and that she has tried to "bring it to the attention of this town". But the Town is denying her the occupancy permit. She said she had a letter from the City stating that she could demolish part of the building. She asked to submit it to the board.

**Motion:** To accept the letter from Ms. Holl.

**Made by:** Mrs. Pope      **Second:** Mr. Collins

**Vote:** Unanimous in favor

Ms. Holl stated that the state took the front of their property (the Holl's) against their wishes, but there was a paper that came from the state showing that she had her parking and that it would be ok. She said the paper shows ten parking spaces (on the west side), eleven spaces on the east side and six spaces in the front. She said she needed to move her dumpsters. She said she was lead to believe (by the City) that she doesn't have her parking spaces and she does. (She was referring to the plan that pre-dates the 1995 plan.)

Mrs. Pope asked Ms. Holl for the date of the plan she was presenting, noting that it says "Idlenot Dairy", which hasn't been there for many years. Ms. Holl said she didn't know.

Ms. Holl said the cross easement provided CPA provided a way for CPA to get to the back of their (CPA's) building and a way for emergency trucks to get to the west end of the Plaza.

Ms. Holl said she is working with DPW Director Scott Sweet to see about getting an additional curb cut (on the east end of the lot) because she wants a way around her building. She said the Plaza is threatening to put up a fence. She said they don't want to work with her at all. She is seeking the curb cut to allow one-way traffic circulation on her property. She said the variance would have to be to go in front of the building if (CPA) puts up the fence.

Ms. Carman asked Ms. Holl to provide a current site plan showing the location of her parking spaces. Ms. Holl asked what was wrong with the plan she was showing them. Mrs. Towle said it is 21 years old and the board needs a current one. Ms. Holl said she wanted to submit the 1995 plan.

Mr. Petrin asked how many employees would there be. Ms. Holl said 5-7. She said they could park elsewhere in the area. Mrs. Pope said she would need to see written agreements to that affect. Mr. McCrory said that the 1:4 standard includes parking for employees.

The board said they would not accept either of the plans Ms. Holl was presenting.

**Motion:** To have an up to date site plan showing the parking, dumpsters, and everything that is on the site right now.

**Made by:** Mr. Petrin      **Second:** Ms. Carman

Mr. McCrory did not know the age of the plan that shows the parking spaces. The 1995 site plan is the approved amendment. He asked the board to clarify that they were asking for a new survey of the site, to which Mr. Petrin agreed it was his intention.

**Vote:** Unanimous in favor

Mr. McCrory agreed that there are substantial differences between the two plans the Ms. Holl presented in her application. Ms. Holl said she could draw the spaces on the 1995 plan and hand it in that evening. Mr. Petrin said he wanted the plan professionally drawn and scaled.

Mr. McCrory explained to Ms. Holl that if she could prove – with a new plan – that she does indeed have 25 spaces on the property, then the board could tell her she doesn't need the variance.

Ms. Holl made repeated complaints that no one returns her telephone calls. Mr. McCrory said he is only in the office two days a week and that he cannot return calls when he is not there. He said there had been several calls and emails to the trustees and the real estate agent concerning this matter. He said that the characterization that the city is not trying (to help) is inaccurate. He said Mr. Sweet had contacted him about the curb cut and Mr. McCrory had spent substantial time pursuing it including talking to the DOT, Mr. Sweet and Ms. Merrill. He asserted that the City is working on the matter. He said he agrees with Mr. Sweet's recommendation to Ms. Holl that she approach the traffic safety committee about the curb cut.

Mrs. Towle asked if there were any abutters present who wished to speak.

Paul Bauer, attorney representing CPA, stated that CPA is strongly opposed to the variance being sought by BJ Brickers. He said he was in agreement with the board to request a new site plan. He asserted that Ms. Holl is asking for a blanket waiver of the ordinance because she does not know how many spaces she has on her property. He asserted that she is proposing to use parking on abutters' property, such as CPA, without consent. He said the request directly conflicts with private property rights, thus CPA submits the variance should be denied.

Mr. Bauer submitted that Brickers' application does not satisfy any of the variance criteria.

He stated that the variance is contrary to the public interest and violates the spirit of the ordinance. The purpose of the ordinance is to prevent the overcrowding of land. If granted, Brickers would cause overcrowding of the CPA parking area and would negatively impact the welfare of CPA, all of its tenants and all of their clientele. Granting this variance would amount to a complete disregard of the detailed parking requirements outlined in the ordinance. He claimed that the applicant is asking to completely ignore the requirements which would violate the spirit of the ordinance. The public has an interest in the preservation of private property rights. To allow Brickers to use CPA property without their consent would set a dangerous precedent.

Mr. Bauer submitted that to grant the variance would not achieve substantial justice. The variance does not provide any clear gains to the general public. The Brickers building could be used for something other than a restaurant – something with a less intensive parking need. That “other use” could be of greater utility to the public. The losses to CPA and their tenants would be certain. The status of private property rights would be put in question, CPA tenants would not have access to the full extent of the parking guaranteed under their leases, and customers would have difficulty parking in front of the stores nearest the restaurant. He referred to exhibit A to show how small the parking area is near the restaurant.

The value of CPA property would be negatively impacted if it were not to have free and unfettered use of its property.

He asserted that literal enforcement of the ordinance would not result in unnecessary hardship to Brickers. He said that the applicant had not presented anything to satisfy these standards. No special conditions exist and it is patently unreasonable to allow Brickers to use other people’s property. There are other uses for the property or Brickers could use its own property to satisfy the parking requirement. If they can get the parking on their own parcel, the variance should be denied. If they can’t get the 25 spaces on their property, then the variance should be denied because of the way it would affect CPA’s and others’ property rights.

Mr. Bauer repeated that the applicant had failed to satisfy the statutory requirements for a variance and that the application should be denied.

The board had no questions for Mr. Bauer.

Mrs. Towle asked if there were other abutters. There appeared to be none.

Ms. Holl asked to rebut. She stated that the owner of CPA had offered her \$150,000 for the property and that the best thing would be to tear down the building. She said the restaurant was an asset to the City and wanted to re-open. She countered that opening Brickers would diminish anyone’s property values. She maintained that things have happened that were out of her control.

There were no further questions from the board.

**Motion:** To continue the hearing to the June 6<sup>th</sup> meeting at which time the board hopes to have an updated site plan. If not, the hearing will be continued again.

**Made by:** Mrs. Pope      **Second:** Ms. Carman

**Vote:** Unanimous in favor

- B. **ZO 2016-00012) Dustin DeCoteau, 9 Shannon Street** – seeks a variance from Section 22-389, Table of Dimensional Requirements, to permit enlargement of a nonconforming garage at **9 Shannon Street**. Tax map 95, lot 118. Zoning District: CR2.

Mr. Hurd resumed the chair. He read the public notice and called for an abutters roll call. Mr. McCrory read the roll.

Ms. Carman continued to sit in for Mr. Russel.

**Planner’s Report**

Mr. McCrory said he had new information for the board to help clarify some of the points.

**Motion:** To accept the materials from Mr. McCrory.

**Made by:** Mr. Petrin      **Second:** Mr. Collins

**Vote:** unanimous in favor

The applicant has requested a variance from the yard requirements for this garage. The public notice called it an enlargement – however, it will be the tearing down of the existing garage and replacing it with a larger structure. It effectively makes the garage more nonconforming. The aerial photo shows the garage is almost entirely within the rear yard. The property is well-defined with stockade fencing. The building permit cannot be granted without the variance. No site plan approval is necessary. This is just a single family property. There are two letters of support from abutting property owners. The new building will be four feet wider and twelve feet longer.

(Mr. Hurd claimed he did not have any information on this application. He said this is the third time that he has been the only one with an incomplete packet. Other board members claimed they did not have everything either. Mr. McCrory made certain everyone had what they needed. )

There were no further questions for Mr. McCrory.

**Applicant’s Presentation**

Mrs. Pope confirmed the location of the abutters who support the applicant’s project and then asked if Mr. DeCoteau had asked the abutter directly behind his property if they had objections. He said he had and they did not. He also said he had replaced the stockade fence on that section as well. Mr. DeCoteau said he can “see through” his garage at this point and he cannot fit his truck into either. His neighbor told him it was a good project and it will help the community.

Mr. Decoteau described the dimensions of his truck and explained that these justify the dimensions of the proposed garage, with a bit more for extra space. He said it would have a gambrel roof with a ceiling height of ten feet. He would use the ceiling height for storage. It is 35 feet from the garage to the back of the house. There will be 17feet between the closest points of the two garages.

There were no further questions for the applicant.

Mr. Hurd asked if anyone else wished to speak. No one did. Mr. Hurd closed the public hearing.

**Motion:** To grant the variance with staff's conditions for approval:

1. Any change in use or expansion of use will require zoning review. The property owner shall consult with the Zoning Administrator regarding change in use or expansion of use prior to commencing said change.
2. The applicant shall obtain and receive all necessary permits and approvals as determined by the Local, State and Federal governments. This includes:
  - a. Building, life safety, and occupancy permits as determined by Local, State or Federal agencies.

No work is permitted to commence until such permits, or appropriate statements of compliance with Local, State and Federal regulations, are submitted and approved by the Planning and Development Department.

3. This variance shall be recorded in the chain of title.

**Made by:** Mr. Hurd      **Second:** Mr. Petrin

**Discussion**

Mr. Hurd said that there are two letters of support; no other abutters have appeared; there is no negative input. It won't affect anyone's taxes.

Mrs. Pope said the applicant put up a nice stockade fence.

Mr. Hurd said there is still room between the house and the other garage; building codes and life safety codes will be applied, so there will be no safety factor to the public. The shape of the lot makes no other way to approach and use the garage. It won't burden any of the City services to the area.

**Vote:** Unanimous in favor.

**V. Communications**

There were none.

**VI. Other Business**

Mr. Hurd said he wanted to receive complete packets in sufficient time before the meeting to be able to review them. He said five letters in a week for one application was too much – the materials should have been in the packet. He said there have been cases where abundant information has been brought to the board at the meeting. He said he needs more than a day to get prepared so he can give 100%.

Ms. Taylor said that applicants are advised of the timeframes for submission and the board did the right thing in continuing the hearing when a large amount of new material was presented at the meeting. She said that statute requires that the board hear applications within 30 days unless the applicant waives that, so they cannot be delayed longer. Staff can advise applicants to provide complete applications, but cannot force them to do so.

Mr. McCrory said the cases of late have been larger and more complicated than usual. He said he would work with the Planning and Development office to get materials to the board sooner.

Ms. Taylor said the board's bylaws state that all materials must be submitted no fewer than ten prior to the meeting.

Mrs. Towle said the message to the applicant is missing – that all of their information has to be reviewed by the board prior to their coming to the meeting. Ms. Taylor said that by the board automatically accepting everything they send the message that it's ok. She said it is a balance of when to accept new material and when to continue to the next meeting. The burden is on the applicant and there is a certain amount of prejudice when you try to be helpful. Mr. McCrory said staff had spent an inordinate amount of time helping a number of these applicants.

Ms. Taylor said House bill 1203 had a public hearing in the senate on the 27<sup>th</sup> and nothing has been posted since.

Mr. McCrory said he and Ms. Taylor had discussed when staff can intervene and say more information is needed – this can happen when the cover sheet is incomplete or when questions have not been answered. Staff has been allowing applicants to have more time. Now they will not accept the application. Unfortunately Friday is the day applications are due and he doesn't work on Fridays. Mr. Hurd asked Mrs. Towle if there is money in the budget for a full time planner. Mrs. Towle said Council is reviewing the budget Wednesday and then having hearings from then on. Mr. Hurd said he hopes Council takes this seriously as he believes the City needs someone full time. Ms. Taylor agrees that the City needs a full time planner.

Mrs. Towle recommended that the board have a procedural training session – a “refresher”. Mr. McCrory encouraged the board members to attend the OEP conference on June 4<sup>th</sup>. Mr. Hurd asked that the refresher be held on a night that's not a regular meeting night.

## VII. Adjournment

**Motion:** To adjourn the meeting

**Made by:** Mrs. Towle      **Second:** Mrs. Pope

**Vote:** Unanimous in favor

Respectfully submitted,  
*deForest Bearse*