

TOWN OF BEDFORD
February 16, 2016
ZONING BOARD OF ADJUSTMENT
MINUTES

A regular meeting of the Bedford Zoning Board of Adjustment was held on Tuesday, February 16, 2016 at 7:00 p.m. in the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: John Morin (Chairman), Kelleigh Domaingue Murphy (Town Council), Sharon Stirling, Adrian Thomas, Terry Radke (Alternate), Chris Swiniarski (Alternate), and Karin Elmer (Planner I)

Chairman Morin called the meeting to order at 7:00 p.m. and introduced members of the Board. Councilor Duschatko and Ms. Georges absent. Mr. Radke was appointed a voting member.

Minutes – January 19, 2016

Amendment: Page 3, third line down in bottom paragraph, “they” should be “their.”

MOTION by Mr. Radke to approve the minutes of the January 19, 2016 meeting of the Zoning Board of Adjustment as amended. Ms. Stirling duly seconded the motion. Vote taken; motion carried, with Councilor Domaingue Murphy and Mr. Thomas abstaining.

Chairman Morin reviewed the rules of procedure and swore in members of the public.

Applications:

- 1. Kathleen Edwards - Requests a special exception from Article III, Section 275-21.C (2) in order to construct an accessory apartment at 19 Mayflower Dr., Lot 21-26-4 and zoned R&A.**

Kathleen Edwards, 19 Mayflower Drive, was present to address this request for a special exception. Ms. Edwards stated we have been residents of Bedford for about 25 years, and today I am applying for the special exception for an accessory attached apartment. You can see the building on the posted photo and indicated would be the back apartment location attached to the main house through a heated porch-way. I have submitted the plans as well, which you see posted. The space itself is 1,400 square feet and the apartment is 1,000 square feet. From my calculations I came up with 922 square feet on this area and I will go into that further later.

Ms. Edwards proceeded to review the criteria for the construction of an accessory attached apartment. **a. An accessory apartment shall be clearly incidental to the primary use of the property for a single dwelling, and such accessory living space shall not exceed 1,000 square feet: b. An accessory apartment shall either be constructed within or attached to a single dwelling: c. At least one interior connecting door or other access for persons to pass between the primary residence and the accessory apartment shall be provided: d. Septic system design/capacity shall be approved by the NH Dept. of Environmental Services: e. No new entrance or exit to an accessory apartment shall be constructed facing the front of the single dwelling: f. One parking space shall be provided for an accessory apartment and no new curb cut from the street shall be constructed: g. Exterior construction and materials shall be uniform with the single dwelling:** The accessory apartment that we are showing is attached to the single dwelling with a heated source connecting them. There is one interior door that is already in place and that connects that heated porch to the existing building, the home portion. There is a brand new septic system in place. It was put in by Felix and that had been previously approved; and it is functional. There are no new entrances or exits constructed in the existing building. There is a parking space provided for the apartment, which is actually a garage space. Exterior construction and materials shall be uniform with the single dwelling and it does match. They are identical for both portions of the apartment location and the house.

Ms. Edwards stated when I was talking with Ms. Elmer, she said that she came up with 1,037 square feet in the plans, and what I would like to propose tonight would be for that 37 square feet is to move the entryway door and just cut out that closet and move that off so that we would be within the guidelines of 1,000 square feet and that would be in compliance when I apply for the building permit, if that is acceptable. Chairman Morin asked Ms. Elmer that would work out okay? Ms. Elmer replied yes. Mr. Radke stated I come up with more square footage. Ms. Edwards indicated on the plan the area in question, and Mr. Radke agreed that was acceptable.

Ms. Stirling stated is there one entrance into the main house or two? Ms. Edwards replied there are two. The one to the right-hand side that shows the steps outside and that door was there, which leads into the house. Then on the back side there are French doors that lead out to a flat backyard. Ms. Elmer stated the only door that connects into the existing house is as shown. Ms. Stirling asked not through the bedroom? It looks like there is a doorway through that back bedroom. Ms. Edwards replied no. Ms. Stirling stated so it goes from the apartment into the office or a hallway in the house? Ms. Elmer stated it is the hallway. Ms. Stirling stated you're talking about moving that black line by the closet to go on that 14 foot wall? Ms. Elmer replied yes. Ms. Elmer indicated the area on the posted plan. Mr. Thomas asked that door that says for bedroom storage doesn't exist anymore? There are two doors there; one from the office and one from the bedroom. Is that door going away? Ms. Edwards responded no, I don't think those doors will go away. We are going to push that door out so we gain the 37 square feet there and then the door will open into the apartment. Chairman Morin asked how does that separate the apartment from the access to the storage in that office? Ms. Elmer responded normally

it is community storage for the main house and the apartment. It is not separated strictly for use by the apartment, it is a community space. Like if you had a family room and then you had the apartment off from the family room, it is a community area. That is the way I interpreted it.

Chairman Morin asked the public for those wishing to speak in favor, in opposition, or for those having comments neither for nor against this application. There were none.

MOTION by Mr. Thomas to move into deliberations on this application. Councilor Domaingue Murphy duly seconded the motion. Vote taken – all in favor. Motion carried.

a. An accessory apartment shall be clearly incidental to the primary use of the property for a single dwelling, and such accessory living space shall not exceed 1,000 square feet: Councilor Domaingue Murphy stated according to her testimony she is going to revise the plan so it meets the conditions of an accessory apartment. All agreed it meets this criterion. **b. An accessory apartment shall either be constructed within or attached to a single dwelling:** Chairman Morin stated it is definitely attached. All agreed it meets this criterion. **c. At least one interior connecting door or other access for persons to pass between the primary residence and the accessory apartment shall be provided:** Ms. Stirling stated we have seen that this criterion has been met. Chairman Morin stated actually there are two. All agreed it meets this criterion. **d. Septic system design/capacity shall be approved by the NH Dept. of Environmental Services:** Mr. Swiniarski stated this has been done already. All agreed it meets this criterion. **e. No new entrance or exit to an accessory apartment shall be constructed facing the front of the single dwelling:** Chairman Morin stated they are all existing doors. There is no new construction. All agreed it meets this criterion. **f. One parking space shall be provided for an accessory apartment and no new curb cut from the street shall be constructed:** Ms. Stirling stated it was stated there is an available space in the garage. All agreed it meets this criterion. **g. Exterior construction and materials shall be uniform with the single dwelling:** Ms. Stirling stated per her testimony, it meets this criterion. All agreed it meets this criterion.

MOTION by Mr. Thomas that the Zoning Board of Adjustment approve the application received from Kathleen Edwards requesting a special exception from Article III, Section 275-21.C(2) in order to construct an accessory apartment at 19 Mayflower Drive, Lot 21-26-4, Zoned R&A, for the reasons that it has met all of the criteria for a special exception per our deliberations, with the following condition:

- 1. The floor plan shall be revised to show the accessory apartment at 1,000 square feet as stated by the applicant during testimony.**

Ms. Stirling duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Ms. Stirling to move out of deliberations on this application. Mr. Thomas duly seconded the motion. Vote taken – all in favor. Motion carried.

- 2. Michael Scott Letzelter – Requests an equitable waiver from Article III, Section 275-22.A & Table 1 and Article IV, Section 275-28.A in order to keep a home and decks that were built by the previous owner that do not meet required setbacks from the side property line and wetlands at 7 Birkdale Rd., Lot 3-7-197 and zoned R&A.**

- 3. Michael Scott Letzelter – Requests a variance from Article IV, Section 275-28.A in order to construct a deck extension 31 feet from the edge of a wetland where 50 feet is required at 7 Birkdale Rd., Lot 3-7-197 and zoned R&A.**

Steve Keach, Keach-Nordstrom Associates, and Mr. Letzelter, owner, were present to address the two applications from Mr. Letzelter.

Mr. Keach stated I can lump the two applications together so the criteria can be common to both of them and into the record for both. Mr. Letzelter purchased this home on September 20, 2013. As you can see from the survey that is posted on the screen, the existing home with the deck and patio area at the upper left, northwest corner was built at the time the house was purchased. This deck that extends around as shown were all in place at the time he purchased the home. Obviously those non-conforming items are the subject of the first of the two applications for an equitable waiver. According to the Assessor's records this encroachment on the westerly side line, this approximate 16-foot side yard setback to the northwest corner of Mr. Letzelter's garage where 25 feet is required, suggests that that's been in place since 1974. This other deck I will speak to a little bit later. We don't know exactly when it was built; there was a plot plan done that Ms. Elmer discovered that was on file at the Town offices that did not show that there in 2004, although it was there in 2013 when Mr. Letzelter bought the house. So sometime between 2004 and 2013 that was constructed in violation of the 50-foot setback from wetlands that was clearly in place from 2004 onward, actually it was even before that. So that was clearly done in violation of the Zoning Ordinance.

Mr. Keach continued while all of this non-conformity came to light was the fact that Mr. Letzelter walked into the Building Department in November of 2014 and obtained a building permit to do two things. The first was to construct a shed at the rear of his property, an 8-foot x 12-foot shed, and also to enlarge his deck. Part of the reason for enlarging the deck at the time he purchased the home was that just beyond his driveway there is a hot tub that kind of sits out for the world to see. He wanted to move it over to an elevated deck so he could access that from the deck and then have a couple of steps down to an expanded deck area, so he was granted a building permit to build this extension of the deck and also this shed. Mr. Letzelter is a homeowner, he was doing the work himself, he substantially completed the shed, and had not started the deck. He received correspondence from Ms. Elmer in October of this past year indicating that the information upon which he and the Building Department relied in granting the permit and then discovered that in 2004 that there was a plot plan done and on file at the Town that actually delineated this edge of wet. Apparently neither the Building Department nor Mr.

Letzelter were aware of that plot plan, which had been prepared for a prior owner, at the time he submitted the building permit application in 2014 or at the time the Building Department issued the building permit in 2014. Rather both parties relied on a sketch that Mr. Letzelter had prepared showing dimensionally what he wanted to build that was taken from the Town's GIS system that showed he had the wetland being approximately equal to his easterly property line. Fortunately Mr. Letzelter had not commenced work on the deck so that didn't exacerbate the non-conformity that already existed here, however, where he located his shed was constructed both too close to the property line to the north and too close to the wetlands. Upon being notified of that instance he hired my company to go out and get a survey, located the shed, has since relocated it after the ground froze this winter so that it now should be in conformance at or about the location indicated on the posted plan, and obviously because the discovery of wetlands being here as opposed to over here, he no longer plans to build this large deck expansion, rather he will do a patio area, which is not a structure under the Zoning Ordinance and, therefore, doesn't require relief from the Zoning Board. The variance request, which is the second of the two applicators, is a 10-foot x 10-foot area upon which is for a platform to place the hot tub so that it is level and at the correct elevation. Upon discovery of the problems here Mr. Letzelter caused the survey to be done, which confirmed and quantified the existing non-conformities that were present prior to his purchasing the property. Also was filed the equitable waiver request as a result of that, so that if some day he goes to sell the house, there won't be a problem with the title or something of that nature. And then with regard to his proposed projects, relocated the shed for conformance with the Zoning Ordinance after being notified that there was a problem, and has backed off his plans to expand this deck, now he is going to do a patio, which is not a structure under the Zoning Ordinance and can be within 50 feet of wetlands, say for a 10-foot x 10-foot area that is the subject of the variance request, so he can relocate the hot tub from this location near the end of his driveway to a more screened location, more convenient to his home at the right elevation and is level.

Mr. Keach proceeded to review the criteria for the equitable waivers. This is from Article III, Section 275-22.A and Table 1, which is the westerly side yard setback where 16 feet has been provided since 1974, where 25 feet is required, and Article IV, Section 275-28.A, which is the deck on the easterly side of the home that was constructed by a predecessor, and that Mr. Letzelter was titled, sometime, we believe, between 2004 and 2013, apparently without benefit of a building permit. **(a) The violation was not discovered by any owner, former owner, owner's agent or municipal official until after the structure had been substantially completed:** Deck: The violation was not discovered until October of 2015. The Planning Department staff advised the current property owner of the same. The current owner was unaware of the violation prior to that time. **(b) The violation was not caused by ignorance of the law, misrepresentation or bad faith, but was instead a good faith error in measurement:** Deck: The violation was not caused by ignorance of the law, misrepresentation or bad faith, but was instead a good faith error in measurement. Frankly the current owner is uncertain as to the cause of the violation since it existed prior to him purchasing the property in September of 2013. **(c) The physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or**

adversely affect any present or permissible future uses of any such property: Deck: The current owner asserts that the statement must be true as he is unaware of any nuisance, diminution of property value, or other adverse effects caused by the violation to date, and obviously the violation has existed for over a decade. **(d) Due to the degree of past construction or investment made, the cost of correction so far outweighs any public benefit that it would be inequitable to require that the violation be corrected:** Deck: The current owner asserts that the statement is true since the violation has existed without harm to the public for the period of time that exceeds his tenure of ownership.

Mr. Keach stated for the purpose of the application I have termed Violation 1 as the 16 feet provided along the westerly line where 25 feet is required, and for the purposes of the application the statute affords that in lieu of demonstration of each of those four criteria above, that the owner may demonstrate that the violation has existed for 10 or more years and that no enforcement action was commenced against the violation by the municipality or any person directly affected and that is clearly true since that has existed since 1974 without enforcement action until receipt of Ms. Elmer's correspondence addressed to Mr. Letzelter in October of 2015.

Mr. Radke stated you're saying that the time span applies to the corner of the house that is within the side setback. You're not saying that with the deck? Mr. Keach responded no I'm not. That is why I separated Violation 1 and 2. Mr. Radke stated as far as I'm concerned, you are not to blame. But clearly if you look at that 2004 plan that was here, the deck is not shown. Mr. Keach stated it clearly wasn't there and in the world of Google Maps going back years, it is unclear when it showed up. Mr. Radke stated my point was that it was less than 10 years, not you, but the prior owner, it wasn't an ignorance of measurement. It is a clear violation because they didn't get a building permit, he knew where the wetlands were, so I kind of say there is bad faith here, not you, but him. I just wanted to make that point. I know you are not responsible for that. Mr. Keach stated what we're trying to do here with this application is to clean up something that existed when Mr. Letzelter purchased the property. Mr. Radke stated on the 2004 plan it shows a big deck on the westerly side of the house and your plan doesn't really show that complete. It shows a patio. What happened to the rest of that deck? Mr. Letzelter replied that was removed.

Mr. Keach stated with regard to the variance; as you saw in your packet, the sketch that was submitted by Mr. Letzelter to the Building Department for the building permit, basically presumed that all of the construction here would be a structure to qualify for a deck. So upon discovery of this issue, after consultation with Ms. Elmer, a decision was made to eliminate as much of that construction, all that he could, so to be certain the application and the criteria that I'm about to read pertain to just that 10-foot x 10-foot area, as well as a couple of steps that would take you between this line and the hot tub, down to the pavers or whatever he is putting there for a natural surface.

Mr. Keach proceeded to review the criteria for the variance application. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the**

variance would alter the essential character of the locality: (2) Whether granting the variance would threaten public health, safety and welfare: We assert that is true due to the fact that the construction of the small deck expansion plan will not alter the essential character of the neighborhood nor threaten public health, safety or welfare since the work may be properly viewed as a limited but natural expansion of the established residential use. This whole neighborhood is an older but very nice neighborhood, where most of the homes there are in the 35- to 45-year range, it is a well-established neighborhood, and obviously the construction of a 10-foot x 10-foot area and the other improvements that Mr. Letzelter is making to a home of that age and vintage, substantial improvements that he's already made on the interior and continuing, is part of a program he has had since he bought the property and enhancing it so it fits very nicely with that.

2. The spirit of the ordinance is observed: The planned 10-foot x 10-foot deck expansion is intended to accommodate relocation of an existing hot tub situated within the westerly side yard to a location out of view from the street and adjoining properties. Although I guess a hot tub is not subject to a side yard condition as it is not a structure, what he is relocating onto is this 10-foot x 10-foot area is also part of that encroachment on the westerly side yard and will be brought to a location so that it no longer encroaches on a yard. We feel that is well within the spirit of the ordinance.

3. Granting the variance would do substantial justice: It would permit orderly and tasteful use of the subject residential premises.

4. The values of the surrounding properties will not be diminished for the following reasons: The relocated hot tub will not be visible from adjacent properties. Obviously it is today, it won't be tomorrow and it will look less haphazard out there than it has looked in the past.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area: Denial of the variance would result in an unnecessary hardship to the current owner in his endeavor to improve an existing home with preexisting, non-conformities on what is now a non-conforming lot. These lots were done prior to current zoning ordinances, all are about an acre instead of the 1.5 acre, plus soils and slopes, that we have elsewhere in town. There is a difference here in terms of natural expansion of the home to do a deck and structures of this nature. What separates it from other residential properties is the fact that it was created at the time that it was created. It is not current lot size and dimensions.

A. Denial of the variance would result in unnecessary hardship:

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: The home in question was constructed prior to enactment of Article IV, Section 275-28.A, such that any ordinary home improvement project without benefit or relief is possible on at least two sides of the existing dwelling. Simply put, because of the way the house was situated at the time that it was built, there were no wetland setbacks at that time, so to do anything to each side but the front of the house, requires some kind of relief and that is the relief we are seeking here to apply for the most logical place for that construction to occur, which out of the sight of everybody else.

ii. The proposed use is a reasonable one: Again, the owner's intent is to improve his home. Upon discovery of a prior violation apparently initiated by his predecessors, he altered his building plan so as to eliminate further encroachment to the fullest possible extent. We are trying to do what we can so that Mr. Letzelter can still do the project that he set out to do and is as close in

conformance with the ordinance as possible and that is why it has shrunk to the 10-foot x 10-foot footprint that we are here seeking the variance for tonight.

Mr. Radke asked on Section 275-28.A and Subsection I on the last page for the variance, did you mean relief is not possible? You read relief is possible. Mr. Keach replied yes, I did mean it is not possible. Mr. Radke stated I especially like your part about moving the hot tub, even though you were not willing to concede it is a structure. I'm not too sure about that, but if it is a structure, then it is within the setback limits, so moving it makes sense. Mr. Keach responded if you are familiar with his property, this area along the wet area and here as shown, is wooded. So if you are driving by on Birkdale, it is really difficult to see any of this construction over here, but what is not shown on this drawing is Mr. Letzelter's driveway, which kind of goes off as shown, and there is an open lot over here and it is pretty easy to see this over here. Where that hot tub would be situated in the future, if you were to approve the variance, you wouldn't see it from any of the adjoining properties. Ms. Stirling stated surely though you are not implying that moving the hot tub, which infringes on the side lot line, that you're improving anything when the other two are much more egregious. Mr. Keach responded I think the more in compliance it can be the better. Right? Ms. Stirling replied right, but now you're going to be non-compliant on the other side. Mr. Keach responded correct. Mr. Radke asked is that your hot tub or was it there? Mr. Letzelter replied it was existing. Ms. Elmer stated just to clarify; hot tubs are not considered structures. It is the deck he has to build to rest the hot tub on that needs the variance. Any kind of patio, concrete pad, walkway, pavers, nothing like that is considered a structure and, therefore, does not have to meet the setback. Mr. Keach stated the structure is to get it to the right elevation and level. Mr. Radke asked where the hot tub is located now there is no structure around it? Mr. Letzelter replied there is just sand around it. Mr. Keach stated since the ground froze, he has also moved that. It is temporarily stored over here as shown.

Chairman Morin asked the public for those wishing to speak in favor, in opposition, or for those having comments neither for nor against this application. There were none.

MOTION by Ms. Stirling to move into deliberations on these applications. Councilor Domaingue Murphy duly seconded the motion. Vote taken – all in favor. Motion carried.

Mr. Radke asked should we do the equitable waiver in two parts? We are talking about two different violations. We are talking about the side setback where the existing house is and then we're also talking about the deck. Ms. Elmer stated you can do it either way. Chairman Morin replied I think he split it up pretty well the way he wrote the application. Pretty much everything hits Violation 2, which is that back deck, and then as he called Violation 1, is just that part of the house that has been there since 1974. Mr. Radke stated my thought was, as far as the setback for the house, which is grandfathered in because it wasn't discovered within 10 years because the house was clearly built. Chairman Morin responded we have to approve both pieces anyway as part of the equitable waiver. Ninety-nine percent of the discussion is just going to be on the back deck. Mr. Thomas asked Ms. Elmer, when you're doing these, can you lump them all in or would you

normally have to do one violation for every single topic and then the second one for the other thing, or can you just put them altogether as one thing? Ms. Elmer replied you can do it either way because they are kind of separate but the same. Councilor Domaingue Murphy asked if you don't list them out very specifically and individually, don't you then run the risk of inadvertently potentially granting an equitable waiver of things you may not even be aware of yet? Ms. Elmer replied he was clear that those are the two things that he is asking for and that's what you're deliberating on. You don't need to have separate applications for each one. There is no right or wrong.

The Zoning Board proceeded to deliberate on the equitable waiver criteria. **(a) The violation was not discovered by any owner, former owner, owner's agent or municipal official until after the structure had been substantially completed:** Mr. Thomas stated it wasn't discovered until four months ago. I think it meets this criterion. All agreed it meets this criterion. **(b) The violation was not caused by ignorance of the law, misrepresentation or bad faith, but was instead a good faith error in measurement:** Chairman Morin stated again, we come down to this owner had nothing to do with it. He purchased the house with it that way. Mr. Thomas stated for your purposes, you are good to go, but for the person who did this, we can't legitimately say that we know they did it with ignorance of the law because we don't have them here to ask them about it. There are a lot of assumptions that we're making that we really can't make because that person isn't here and there is no documentation as such, except for the plot plan, but there are no applications that show they got denied. They just did it anyway because they figured they would do it how they wanted. All agreed it meets this criterion. **(c) The physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property:** Ms. Stirling stated I think we can easily agree that this doesn't constitute any public/private nuisance nor have we had testimony about diminished values of the properties. It doesn't seem to have adversely affected any permissible uses of such property. All agreed it meets this criterion. **(d) Due to the degree of past construction or investment made, the cost of correction so far outweighs any public benefit that it would be inequitable to require that the violation be corrected:** Mr. Radke stated I don't think this requires any discussion. All agreed it meets this criterion. **(e) OR, In lieu of the findings in (a) and (b) above, the owner may demonstrate that the violation has existed for 10 years or more, and that no enforcement action has been commenced against the violation by the municipality or any person directly affected:** Chairman Morin stated again, the house was built in 1974 so it meets this criterion. All agreed it meets this criterion.

MOTION by Mr. Radke that the Zoning Board of Adjustment grant the equitable waiver request of Michael Scott Letzelter requesting an equitable waiver from Article III, Section 275-22.A and Table 1 and Article IV, Section 275-28.A in order to keep a home and decks that were built by the previous owner that do not meet required setbacks from the side property line and wetlands at 7 Birkdale Road, Lot 3-7-197, Zoned R&A for the reason that it

has met all of the criteria for an equitable waiver per our deliberations. Ms. Stirling duly seconded the motion. Vote taken - all in favor. Motion carried.

The Zoning Board proceeded to deliberate on the criteria for the variance. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** Ms. Stirling stated I don't think it would do either of those things. Chairman Morin stated especially for a 10-foot x 10-foot deck going on the back of the house. All agreed it meets this prong of this criterion. **(2) Whether granting the variance would threaten public health, safety and welfare:** Chairman Morin stated again, granting this variance would not threaten public health, safety or welfare. All agreed it meets this prong of this criterion. **2. The spirit of the ordinance is observed:** Ms. Stirling stated the spirit of the ordinance is to use your property in the maximum benefit to you and balance between our ordinance, and I think in this case the spirit of the ordinance is observed. It is a small concession to the ordinance. Mr. Thomas stated there are certainly no additional encroachments on the wetlands that didn't already exist. All agreed it meets this criterion. **3. Granting the variance would do substantial justice:** Mr. Thomas stated it allows the owner to use the property to his benefit. All agreed it meets this criterion. **4. The values of the surrounding properties will not be diminished for the following reasons:** Ms. Stirling stated obviously we have had no communication of that through testimony. It is not really going to be very visible and it certainly seems that it enhances this property and would seem to do so for the neighborhood. All agreed it meets this criterion. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** Mr. Thomas stated essentially this construction was already built, so this is something that he doing already, so literal enforcement of the ordinance would create an unnecessary hardship because he wouldn't be able to use the property in which it was intended for something that was already there. All agreed it meets this prong of this criterion. **A. Denial of the variance would result in an unnecessary hardship: 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:** Chairman Morin stated as in the statement from the applicant, just looking at the age of the lot, the way the house is configured on the lot, and then the changing of the laws over the years has made it very difficult for things to stay within that envelope. The way it is configured and where the deck is now and that we have already done the equitable waiver, it is really not affecting anything. All agreed it meets this prong of this criterion. **ii. The proposed use is a reasonable one:** Mr. Thomas stated hot tubs are always reasonable. All agreed it meets this prong of this criterion.

Chairman Morin asked Ms. Elmer, I saw a note on your staff report about an as-built survey plan for those two items, the deck and the shed? Ms. Elmer replied yes. Just because the new location of the shed hasn't been surveyed to verify that it is indeed set within the setback.

MOTION by Councilor Domaingue Murphy that the Zoning Board of Adjustment grant the variance from Article IV, Section 275-28.A requested

by Michael Scott Letzelter in order to construct a deck extension 31 feet from the edge of a wetland where 50 feet is required at 7 Birkdale Road, Lot 3-7-197, Zoned R&A, for the reason that it has met all of the criteria for a variance per our deliberations, along with the following condition:

- 1. The new deck construction and shed location is to be verified with an as-built survey plan submitted to the Building Department and Zoning office for their files.**

Mr. Thomas duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Councilor Domaingue Murphy to move out of deliberations on these applications. Ms. Stirling duly seconded the motion. Vote taken – all in favor. Motion carried.

- 4. Corin Wright – Requests a variance from Article V, Section 275-34.G(3)(b) in order to construct a pool house 15.2 feet from the side property line where 20 feet is required at 96 Col. Daniels Dr., Lot 31-6-26 and zoned R&A.**

Corin and Kristen Wright, 96 Col. Daniels Drive, were present to address this variance application. Chairman Morin swore in Kristen Wright. Mr. Wright stated we are looking for a variance from Article V, Section 275-34.G(3)(b), which is the subdivision plan that requires a 20 foot setback for the side yard. In order to construct a cabana/accessory structure at the rear side of the pool the way the property was originally developed, which you can't really see on this plot plan but you can see on the plan that was submitted with the application, the contour line is that the lot itself has a fairly significant slope west to east. When we located the pool, it needed to be a foot above the current top of the septic location, so in order to get the pool at the appropriate height I think we had to bring in 850 yards of fill. We are looking to build the pool house on the back of that and what it forced us to do, you will see in one of the pictures there is actually a 6 or 7 foot drop off from the pool deck on the back of the property and it probably drops closer to 10 foot from the pool deck to the east side of the property. So when the original plan was drawn up it was to have a slab-on-grade cabana and the topography of the lot didn't allow that. So instead of building a 4 foot frost wall, it was essentially an 8 foot concrete wall, and it seemed to make a whole lot more sense to try to make it a structure. The subdivision plan said that any accessory structures needed to be in the rear of the house; the proposed cabana/pool house is about 500 feet from the main road, if it is 200 feet from the nearest structure, which would be our neighbors at 100 Col. Daniels Drive to the west, their basement is slightly above the second floor of our house. If we are in our bathroom, we can look out and see the lower part of their walkout basement, so they sit quite a bit above us. We personally discussed the application with all of the abutters where two offered to write letters in support of the application, and the neighbor that is most directly affected couldn't be here today to support the application.

Mr. Wright proceeded to review the criteria for his variance application. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the**

variance would alter the essential character of the locality: The proposed structure is 500 feet from the road, we don't think that it would alter the character of the locality, it would not be visible from the road unless you were really trying to look back there, it is physically in line with the structure, so the structure was built off axis to the lot, and when you look at the front of the house everything is sort of in line, and, again, it falls off on the east side of the property.

(2) Whether granting the variance would threaten public health, safety and welfare: We do not think there is any impact to the public health, safety or welfare.

2. The spirit of the ordinance is observed: and 3. Granting the variance would do substantial justice: We think that the spirit of the ordinance is observed for a couple of reasons. The first would be the 20 foot setback for each property we think is intended to make sure that the houses aren't too close and can maintain their sense of privacy. Just like the east side of our property, there is essentially 150 feet of unusable land and to the west side, the east side of their property is essentially undevelopable because of the severe slope that is there. So the spirit of the combined setback essentially is there.

4. The values of the surrounding properties will not be diminished for the following reasons: We think the cabana will be a benefit and improvement to our property, which would certainly not have a negative impact to the neighborhood.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:

A. Denial of the variance would result in unnecessary hardship:

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: The buildable area of this lot is a little bit tricky. Our house is essentially 285 feet from the main road. You can't see it on this posted map, but essentially there is a giant gully where you see the 31 and 626. The house sits on a small perch, to the east side of the house there is maybe 10 feet before it drops off again and then goes down into the wetland area. Again, to the direct east side of where the pool deck is sketched in there is roughly 25 feet of flat that we created with fill and then it drops off at least 10 feet back into that sort of wet area. Where the house was originally placed and where the septic is placed caused the hardship.

ii. The proposed use is a reasonable one: We think the use is a reasonable one because the total area affected, the total variance that is sought, is about 50 square feet. The structure could be shifted a couple of feet to not have the variance, but now it is off center to the pool and it would really look out of place. So if we had to shift it to the east, it would have to be shifted significantly to the east and now you are basically down in a very deep gully, which makes it no longer reasonable.

B. If the criteria in subparagraph A are not established, explain why the property cannot be used in strict conformance with the ordinance and why the variance is therefore necessary to enable a reasonable use of it: You can see on the plans where the granite bounds are, and when the original property was developed, we believe that the previous owners took the granite bounds, which marked the tangent to the curb that goes towards Federation as the property marker and not the actual property marker. As a result, the irrigation system, the flowerbeds, the services are all essentially misplaced, so there has been a thought that the boundary has been in a different location. Part of the survey that we had Sandford complete was to determine how much we could shift the property line and still have their property and our property in compliance. It looks like it could shift roughly 12 feet and still be in compliance, so our

goal is to be able to eliminate the variance we are seeking today, but from a time perspective, it wasn't possible to work it out.

Ms. Stirling stated there is some kind of pipe noted on the other side, to the side of the pool that is closest to the existing house, in roughly a mere image, why could it not be put there. I know I see the septic, but it still looks there would be enough room for it. Mr. Wright responded no; there is no way it could go there. That is just roughed in. You are saying put the pool house in front of the pool? Ms. Stirling replied right. The topography would make it impossible? Mr. Wright replied you would dig right into the septic. That shows where the actual pipes are, but the leach field itself probably comes close to there. Ms. Stirling asked and this is something where you are digging a foundation? Mr. Wright replied correct. The only other potential location that we discussed previously was on the west side of the house, which would, again, require a variance and that would have an impact on the neighbors because essentially it would be very visible and right next to their lot. If there were to be another structure on this lot, that is the most isolated and private location that would have the least impact on our neighbors.

Mr. Radke stated you talked about a future garage. Mr. Wright stated for us it would be to move my tools out of the garage so we can actually park a car in it. But we wanted to make a building that would be of future use and a desire to people that move in after us. Mr. Radke asked you're talking about a standard garage where you park cars? Your driveway doesn't look like it could fit there. Mr. Wright replied there is enough access to get next to there and all the way back there. The top lot and what is on the screen now shows that essentially you have full garage height already exposed in the back, so to not take advantage of that space for future use would not be the smartest thing. Mr. Thomas asked I'm assuming that also takes into account the possibility of when the lot line gets moved that would give you even more room? Mr. Wright responded that is correct.

Mr. Radke stated I'm curious that the way this thing looks like it is sitting there. What are these things? Mr. Wright replied Ms. Elmer said she wanted me to include mock-ups of what the structure could look like, so those are just three different sketches that were put together to show what the structure would look like. The variance itself pinned on the southwest corner would be identical. Mr. Radke stated if you are talking about using this thing as a garage, are you talking about coming in through there? Mr. Wright replied going around the back of the structure and then in, as indicated on the screen. Again, we don't plan on using it as a garage. We are not paving back there.

Chairman Morin stated I have two letters from abutters. One is from Kevin and Heather Gagne, and the other is from Derek and Britney Carpenter, both in support of the application for the variance. These letters will be added to the file for this application.

Chairman Morin asked the public for those wishing to speak in favor, in opposition, or for those having comments neither for nor against this application. There were none.

MOTION by Councilor Domaingue Murphy to move into deliberations on this application. Mr. Thomas duly seconded the motion. Vote taken – all in favor. Motion carried.

1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality: Mr. Thomas stated I don't think it is going alter the essential character of the locality. All agreed it meets this prong of this criterion. **(2) Whether granting the variance would threaten public health, safety or welfare:** Ms. Stirling stated as the applicant testified, I don't think it would do that. All agreed it meets this prong of this criterion. **2. The spirit of the ordinance is observed:** Mr. Thomas stated the spirit of the ordinance is just to create a setback between property lines, and the difference between 20 feet and 15 feet there is still enough distance there, so I think it meets this criterion. All agreed it meets this criterion. **3. Granting the variance would do substantial justice:** Mr. Radke stated it would allow them to use their property in the manner that they see fit; it is not contrary to any of our rules. All agreed it meets this criterion. **4. The values of the surrounding properties will not be diminished for the following reasons:** Mr. Thomas stated we have heard no testimony as such. All agreed it meets this criterion. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** Ms. Stirling stated I think as we explored there are a number of barriers in placing it elsewhere on this particular lot; it is a uniquely shaped lot with the cluster development requiring the 20 feet. Again, I think that literal enforcement would be an unnecessary hardship. All agreed it meets this prong of this criterion. **A. Denial of the variance would result in unnecessary hardship:** **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:** Mr. Radke stated the purpose of the provision is to prevent encroachment on property lines, and as we have heard it is 15 feet as opposed to 20 feet, plus with the neighboring land there is a sharp upslope. All agreed it meets this prong of this criterion. **ii. The proposed use is a reasonable one:** Ms. Stirling stated I think it is reasonable because it is a small concession, yet it allows him to use his property to his choosing at a maximum benefit. All agreed it meets this prong of this criterion.

Chairman Morin stated this motion should also include an as-built survey plan.

MOTION by Mr. Radke that the Zoning Board of Adjustment grant the variance request received from Corin Wright requesting a variance from Article V, Section 275-34.G(3)(b) in order to construct a pool house 15.2 feet from the side property line where 20 feet is required at 96 Col. Daniels Drive, Lot 31-6-26, Zoned R&A, for the reason that it has met all of the criteria for a variance per our deliberations, along with the following condition:

- 1. An as-built survey plan shall be submitted to the Building Department and Zoning office for their files.**

Ms. Stirling duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Ms. Stirling to move out of deliberations on this application. Mr. Thomas duly seconded the motion. Vote taken – all in favor. Motion carried.

5. Christopher & Deidre Helmke – Requests a variance from Article IV, Section 275-28.A in order to construct a carriage house 31 ft. from the edge of a wetland where 50 ft. is required at 63 Hawk Dr., Lot 8-16-47 and zoned R&A.

Tom Carr, Meridian Land Services, and Christopher Helmke, applicant, were present to address this variance application. Mr. Helmke stated the photos that you have in your packet show the flags in the rear yard where the structure is to be located, which is pretty much mostly lawn currently. I have looked at putting this in different locations around the property but it is difficult with the setbacks that are in place now. I do show some views of the grading where the proposed structure would be located with respect to the hills in the backyard and the setback from the rear of the house being approximately 30 feet. There is a retaining wall there also, which I am trying to stay clear of.

Mr. Carr stated the intent of the application is that Mr. Helmke has an antique vehicle and right now he has it stored in a remote location where he pays for storage and the purpose and intent of the proposal is so that he may keep his antique vehicle on his property and have free and easy access to it at will. I will go over the two plans that we have here. The first is an existing conditions plan. This lot was created in 1988 and, of course, that was prior to the Zoning Ordinance that required a 50 foot building setback. I want to touch briefly on that because the Conservation Commission raised some issue and some concern specifically about the existing shed that is shown on the posted plan. That was put in place several years ago with a building permit, and for the building permit application I'm going to go back to the original certified plot plan because, again, at the time the lot was created there was no 50 foot setback, and for a period in the early 1990's, the Building Department was not enforcing a 50 foot setback on new construction and not requiring that setback to be shown on the plan because the lot was created prior to the ordinance. As you can see, the wetlands are down here, the dark line here. The wetland that I show here was delineated by me on the ground and then survey located to tie in with the boundary so that is an exact location with a precise building setback. The original wetland mapping and certified plot plan relied on the original mapping, was not nearly as accurate as this and likewise did not show a 50 foot setback. The building permit was applied for with the Building Department using the original certified plot plan and was approved, and under that certified plot plan that shed would be compliant because the building setback was the actual wetland. Now we're looking for something a little bit larger and substantial in which case we have provided this existing conditions plan that shows the property accurate for the first time with all the building setbacks. With that being said, the only thing on here that is not existing is what we show as the proposed carriage house, and this is just a 2-dimensional plan for the purpose of addressing the actual Zoning Ordinance. We are requesting 31 feet from the edge of the structure to the wetland. Knowing that we had to go to the Conservation Commission prior to coming to the Zoning Board to request the relief, having done this several times, I advised Mr. Helmke that we

needed to have some grading, we had to show more detail so that the Conservation Commission could see exactly what the access would be, how the grading would be, what the vegetation would be like, and so forth. We did present to the Bedford Conservation Commission last month. They had several comments; first of all and most important would be the location of the carriage house. Mr. Helmke has worked on this for a couple of years now, the pictures in your zoning application were all done by him on the computer, he did several renderings of different locations, different styles, attached to the house, detached from the house, and when he engaged Meridian Land Services to help him with this proposal, I went out and looked at the site with him to substantiate that we felt his request was appropriate and worthwhile presenting to the Conservation Commission and the Zoning Board. Back here behind the pool, this was one of the big questions, how come you are not putting it back here behind the pool. Back here behind the pool is a very, very steep slope. You can see the topography steepening up as it comes around this corner and it is literally about a 33 percent slope behind that pool down to a narrow area of relative level before it gets to the wetland boundary. At this point I see that maybe we should have shown that on the plan but in looking at the lot, it just wasn't the reasonable spot to place the house, so we did not do an existing conditions plan of the property back there. So there are extenuating circumstances to the land back there that prohibit construction of that structure behind the pool or between the building setback and the pool over in this location shown.

Mr. Carr continued there were also comments from the Conservation Commission of why don't you rotate it 45 degrees and slide it in there so that it is kind of tucked behind the house and hook it to the house. Again, going back to Mr. Helmke's renderings, in looking at the pictures he has drawn, an angle like that wouldn't be consistent with the architecture of the house. What we're trying to do is keep a linear relationship so it looks substantially correct from the road and not diminish the value of the property by having something that looks odd. Another comment the Conservation Commission had was can you move that structure forward toward the retaining walls in the corner of the house. I have been doing septic design work for builders in Bedford for 30 years now and one of the things that is routine with our designs is that a turnout from a garage should be at minimum 35 feet. So with this being the front of the garage, if you were to back out of here and turn so that the rear of your car would come toward the building, you would be 35 feet, if it were a property line or such. This structure is a little over 28 feet from the corner of the garage to the corner of the house, so we're substantially tight already on being able to have a reasonable turnout between the doors on that garage and the corner of the house.

Mr. Thomas asked are you just going to drive onto your yard? Mr. Carr replied no. There is a temporary construction accessroad right here as shown, and that is going to remain there. It is not going to be a driveway, it is either going to be loamed and seeded, bark mulched or something so that he will be able to get in and out of there but it is not going to be a paved driveway. Mr. Helmke stated there is a large slope on that side of the house. If you look at the picture of the front of the house, it slopes down, so I would use that access to get in and out and to actually build it. Mr. Radke stated I understood that that was only temporary. Ms. Elmer responded it is not a full-time driveway. It is for his antique car to be stored, so it will come out every once in a while, but it is not a regular

driveway, it is not a regular commuting drive where you would pull the car in and out every day. That access is attached to the house. Mr. Helmke stated I talked to Mr. Stanford and he stopped by to talk about a curb cut. Mr. Thomas stated I didn't want to get into a situation where we were going to approve a garage and later on come back and say you already approved a garage, so now can we get a driveway. Mr. Helmke responded it is understood that I couldn't have two driveways. It is not to be used all the time, just for access occasionally.

Mr. Carr stated one of the other concerns too about the accessroad was you can see the existing treeline here. And, again, if you look at the topography on the side of the lawn, it becomes pretty steep as you approach the treeline and go into the treeline. Because of the grading there we have proposed to have this accessroad go down into the woods and then coming back up, and the reason we put it there was because we want to do is minimize the disturbance to the topography to create that accessroad. If we put it up on the edge of that slope, we would have to do a cut-fill balance, which creates more disturbance to the land surface and with larger areas to cover vertically with grading and we remove more trees along the way. Again, having done this for so many years, I was looking at ways to reduce the impacts, and, again, we felt that this was the best alternative because what we have here now is a lawn that occasionally gets fertilized, then we will have a treeline buffer there between the lawn and the graded accessroad, then we'll have the accessroad, and then it will go back into forest before the wetlands. So there is a series of buffers rather than just having lawn, graded driveway, and then what is remaining of the buffer before the wetlands. So it is a lawn buffer, access buffer situation and we felt that was an environmentally better way to propose it. Mr. Helmke stated the treeline there is pretty substantial. It has about 11 large oak trees that I am not touching.

Mr. Carr stated the Conservation Commission also requested that we show erosion control on the plan, so we do show the proposed silt fence. On the side of the plan to the right on the screen there is a detail for the erosion control, which the silt fence. Then lastly, the Conservation Commission did ask what are you doing about runoff from the roof because you are going to create an impervious surface there and it is going to cascade down. We talked about several options and in the end we agreed that a 12-inch x 12-inch stone drip edge on both sides, so when the water falls down it will go into the trench and infiltrate there was appropriate and sufficient to handle any runoff.

Mr. Carr stated lastly with due respect to the Conservation Commission, again, going back to the first sheet, the variance is specific to the structure to the wetland and not necessarily impacts to what we have been referring to as the buffer. There is no buffer ordinance, and I don't want to play devil's advocate but certainly Mr. Helmke could lay waste to the forest right to the edge of the wetland if he wanted to without any permits or any concern, and we feel that the layout where this is, how we have tried to propose the access, avoiding the incredibly steep slope behind the pool, Mr. Helmke's two years of planning and my site walk with him, it just seems to us that this is the most appropriate and reasonable place and use for this on the property.

Chairman Morin asked the public for those wishing to speak in favor, in opposition, or for those having comments neither for nor against this application. There were none.

Mr. Helmke proceeded to review the criteria for his variance application. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** The proposed structure is architecturally similar to the existing structures in the area. It is also not the first detached structure on Hawk Drive. There are two up the street and one down the street. **(2) Whether granting the variance would threaten public health, safety and welfare:** Granting this variance would not threaten public health, safety or welfare. **2. The spirit of the ordinance is observed:** The proposal leaves a setback buffer for the wetlands that is sufficient to protect the wetland. I am not going in there and clear cutting and will keep it forested as much as possible. **3. Granting the variance would do substantial justice:** The variance would allow the property owner to store vehicles in a secure covered location. I'd like to get that car out of storage, it would allow the applicant to construct a carriage house and allow the use of the property similar to lots in the surrounding neighborhood. **4. The values of the surrounding properties will not be diminished for the following reasons:** The design and construction of the structure is consistent with the architecture of the neighborhood, the use and appearance of the property will match abutting properties, and will be of equal value. I believe it will blend perfectly with the neighborhood. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** I believe that literal enforcement of the provisions would make construction difficult, the property's topography and surrounding wetlands limit the buildable envelope, therefore, we are looking for relief. As mentioned, I looked all over this property to try and find a place to put this thing. **A. Denial of the variance would result in unnecessary hardship: 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:** The ordinance allows for disturbance up to the wetland and this proposal leaves a buffer as well as a 31 foot building setback. **ii. The proposed use is a reasonable one:** The addition of this structure is consistent with other properties in the neighborhood. **B. If the criteria in subparagraph A are not established, explain why the property cannot be used in strict conformance with the ordinance and why the variance is therefore necessary to enable a reasonable use of it:** I believe there is no other location on the property where the structure can be located and be in conformance within the wetland or building setback.

Mr. Radke stated regarding Criteria 3, he used vehicles in the plural. It is my understanding there is one vehicle. Mr. Helmke responded there is. I have a motorcycle that I have stuffed in my garage. I would also like to leave that down there for the winter and in the shed I have a snowmobile also, which I would also like to park in there. Since I am losing the shed, I would like to put my lawnmower in there.

MOTION by Ms. Stirling to move into deliberations on this application. Mr. Thomas duly seconded the motion. Vote taken – all in favor. Motion carried.

1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality: Ms. Stirling stated I don't think construction of this carriage house would alter the essential character of the locality. Mr. Thomas stated I would agree. Mr. Radke stated it is still going to be residential after this is done. Ms. Stirling stated architecturally it is similar to what you would expect. All agreed it meets this prong of this criterion. **(2) Whether granting the variance would threaten public health, safety and welfare:** Mr. Thomas stated I don't see any evidence of that in this application. All agreed it meets this prong of this criterion.

2. The spirit of the ordinance is observed: Mr. Thomas stated it does leave some setback for the wetlands of 50 feet to 31 feet plus he also went to the Conservation Commission and they have dealt with some of the issues that they will be able to conserve the wetlands, so I think that is within the spirit of the ordinance. All agreed it meets this criterion.

3. Granting the variance would do substantial justice: Ms. Stirling stated the use is a reasonable one, and, again, we have those setback regulations regarding wetlands for protection, they have done a number of modifications to address that, so I think granting the variance would do substantial justice. All agreed it meets this criterion.

4. The values of the surrounding properties will not be diminished for the following reasons: Ms. Stirling stated we have no testimony to that and it seems that if anything, for all intents and purposes, this is enhancing his property, therefore, enhancing properties in the neighborhood. All agreed it meets this criterion.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area: Mr. Radke stated we heard the owner say that because of the topography in certain areas the building envelope was restrictive and this is the most economically feasible way and is reasonable. All agreed it meets this prong of this criterion.

A. Denial of the variance would result in unnecessary hardship:

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: Ms. Stirling stated without the variance he couldn't really build the proposed carriage house on any other reasonable section of his property, and again, we have accounted for the mitigation that he is doing for going into the setback. Again, it is a setback; it is not in the wetlands itself. All agreed it meets this prong of this criterion.

ii. The proposed use is a reasonable one: Mr. Thomas stated the carriage house is a reasonable addition to the house to be able store vehicles. All agreed it meets this prong of this criterion.

Chairman Morin asked Ms. Elmer, do we have to add to the motion the two items from the Conservation Commission or is that okay because it is in the testimony? Ms. Elmer replied you can just say approved as presented because the plans show that those changes have already been added to the plan.

MOTION by Mr. Thomas that the Zoning Board of Adjustment approve the request for a variance from Christopher and Deidre Helmke requesting a variance from Article IV, Section 275-28.A in order to construct a carriage house 31 feet from the edge of a wetland where 50 feet is required at 63 Hawk Drive, Lot 8-16-47, Zoned R&A in accordance with the presented plot plan,

and for the reason that it has met all the criteria for a variance per our deliberations. Ms. Stirling duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Mr. Thomas to move out of deliberations on this application. Councilor Domaingue Murphy duly seconded the motion. Vote taken – all in favor. Motion carried.

New Business:

- **Election of Officers**

Chairman Morin asked do we want to hold this election now or wait. Ms. Elmer replied it is totally up to you. None of the new people that would be appointed normally get elected as officers in their first year on the Board. We don't know yet and we're hoping that Councilor Domaingue Murphy will be back with us. You can do it now or you can wait until after the Town elections until the next meeting in March. Councilor Domaingue Murphy stated typically Town Councilors do not hold elected positions on boards or commissions. Ms. Elmer stated they do not, however, I do have one on another board that does. Chairman Morin stated we are short a regular member now. The open offices are Chairman and Vice Chairman. Ms. Stirling stated if Mr. Morin would like to serve as Chairman, the Board would like that. Chairman Morin stated it doesn't bother me in the least. We also need a Vice Chairman. Mr. Thomas stated I will volunteer for that position.

MOTION by Councilor Domaingue Murphy to nominate John Morin as Zoning Board of Adjustment Chairman for the 2016 – 2017 term and Adrian Thomas as Zoning Board of Adjustment Vice Chairman for the 2016 – 2017 term. Ms. Stirling duly seconded the motion. Vote taken; motion carried, with Mr. Morin and Mr. Thomas abstaining from voting on their positions.

Adjournment:

Motion by Ms. Stirling to adjourn at 8:40 PM. Mr. Thomas duly seconded the motion. Vote taken – all in favor. Motion carried.

