

Town of Bedford
Zoning Board of Adjustment Minutes
April 19, 2022

A regular meeting of the Bedford Zoning Board was held on Tuesday, April 19, 2022, at the Town Meeting Room at BCTV, at 10 Meetinghouse Road.

Present: John Morin (Chair), Neal Casale (Vice Chair), Bob MacPherson (alternate member), Sue Thomas (alternate member), Dave Gilbert (regular member), Kathleen Ports (Associate Planner), Becky Hebert (Planning Director).

Absent: Len Green (regular member).

Call to Order and Roll Call

Chairman Morin called the meeting to order at 7pm and introduced members of the Board.

Rules of Procedure Chair Morin said we will have a presentation by each applicant on the agenda this evening. After that has been done and questions by the Board, we'll ask for public input for those in favor and in opposition of the application. I'd like to remind everybody this is not a debate. When you come up to a microphone to speak, please talk to the Board. If you have questions for the applicant, go through the Board and we'll ask those questions. We will go into a non-public input session to deliberate on each of these items tonight and vote on them. You can wait for the vote tonight, or you can call the Planning Office after 8:30 tomorrow morning. I'm going to ask you to please silence all cell phones. For re hearings, any party has 30 days to request a re hearing from a decision of the ZBA. The Board has 30 days in which to respond to such per RSA 677:3, tomorrow being day one. All requests must be in writing and must contain new evidence. Please point out any errors you believe the Board has made in those decisions. For variances, which all our items are variances this evening, I will not go through the five criteria. We will ask each applicant to go through the application and address the five criteria as part of their presentation. For a motion to pass this evening, it must have three affirmative votes. I'll ask anyone who's going to speak this evening to stand up and be sworn in. Honorable counsel is exempt. Group is sworn in.

Approval of Minutes:

MOTION by was made by Mr. Gilbert to approve the minutes of the prior meeting on February 15, 2022. Mr. Casale seconded the motion. Ms. Thomas abstains. Roll call vote was taken - ALL IN FAVOR – unanimous. MOTION carries.

Old Business & Continued Hearings None

New Business

Item 1: Jeffrey Riley - Request for a variance from Article III, Section 275-21.F(1)(a)[2], to permit a Level II home occupation within a detached garage where such use is required to be within the primary residence or attached garage or barn at 6 Lynn Drive, Lot 22-75-02. Zoned Residential and Agricultural.

Mr. Riley testifies: Good evening. Thank you for having me. My name is Jeff Riley at 6 Lynn Drive. A little background of me. I served 5 years in the Marine Corps doing security for the President and Vice President of the United States. I've done some security work since then. Security is tolling on the body. I've always has a passion for building things with my hands. I learned that from my father. The vision here is to be self-employed and create things using my artistic ability. I started Incognito Metal Works January 13th of 2021, which is why I'm here today. I started out just doing small metal signs. We had a site visit in January. Since then, I've gotten more jobs for larger projects such as custom railings, security gates, security windows and things of that nature.

Variance is not Contrary to Public Interest.

The space I'm asking to use is a 1200 square foot detached garage. It's in the back of the property. I know the variance calls for 600 square feet. At the time of the site visit, 600 square feet was more than efficient. Since then, with these bigger projects building 6- and 8-foot railings, I would like to be able to use 800 square feet of that garage. It's a 3-bay garage so, I'd be using the first two bays—the center bay and the far right. The far-left bay is where I store my 1970 Nova. That's just a hobby. The garage is an existing structure located on the back side of my house. The roofline can be seen from the public roadway. Other than that, you can't see it from the public. I guess it depends on your definition of unordinary odors, but there are no unordinary odors or noise levels. Obviously, some aspects of the business are noisy, but like I said we had the site visit, and when everything is closed, you can't really hear it from inside the garage. It is much quieter than your daily use of a lawnmower or a chainsaw. Unordinary odors – I probably should update that. Previously, before the site visit, I was only powder coating. Powder coating does not create an odor. Creating metal fire pits and such now, I do paint that with high temperature paint. So that would be, I guess, an unordinary odor. The business is operated from within the structure where I've been operating for a year. I do not create an unusual amount of traffic.

The Spirit of the Ordinance is Observed.

The business is inside the garage in the Town of Bedford. It does allow the operation of the home occupation. The only difference for me was that the situation is that the garage is a detached structure from the main residence, not being attached to the house.

Granting the Variance Would Do Substantial Justice.

Being self-taught and having the ability to use my creative and artistic values really helps me with my mental health.

Values of Surrounding Properties Would Not be Diminished.

I'm not creating additional traffic other than occasional special deliveries, which I did include at the end of my business description. I've had one in the last just over a year. I think it's 13 months. My business cannot be seen from the public road as stated before. There are several other businesses on Lynn Drive. We have a hair salon. We have an electrician, and now there's a horse farm. Lynn Drive is familiar with home occupations.

Literal Enforcement Would Result in an Unnecessary Hardship.

I do have a 2-bay garage. If you're looking at my house, on the right side, I do have a 1-bay garage that's attached on the left side. Both are just not suitable fits. The 1-bay is not a suitable fit because it's only a 10' by 20' so it wouldn't give me enough room to operate. The 1-bay is also closer to a lot of the neighbors. The 2-bay is not large enough. It's closer to the neighbors. You can see it from the public roadway. I don't have the proper electricity needed to operate my equipment. There's no heat so in the wintertime that would be miserable. Because of the orientation of the front garage to the neighbors, I think it would result in far more complaints to the activity of the business. Using my front garage for business would not allow me to park my cars in the garage during the winter.

Denial of the Variance Would Result in an Unnecessary Hardship.

In my opinion, I'm not infringing on my abutters and diminishing the value of their property.

The Proposed Use is Reasonable.

I have some pictures. Here's the side of the detached garage with the man door. If you look here, this is where I store all my what you could call scrap material. I store that there. A couple times a year, I'll load that up and I bring it to Schnitzer's in Manchester where they do metal recycling. This is my plasma table right here. This is 4 foot by 8. That operates off air and 240-volt electricity. That is what is used to create the signs and cut out my artwork that I do. This is my spray booth. That's for the powder coating. The powder coating is odorless. I did a demonstration. There's a gun that holds the different colors of powder, and what you do is you spray the metal with that. That creates an electric charge. That powder, if you mess it up, you can blow it right off. It's not like paint. Once the powder is applied to the metal, if you notice right here, this is an oven. The metal then goes inside the oven where it bakes at 400 degrees. The timeframe is different per color. It usually averages about 10 to 12 minutes per cycle. That cooks it at 400 degrees. When that comes out of the oven, again, it's odorless and the project is now complete. Here's a better picture of the oven right there. That is what I have.

Chair Morin said okay. Thank you very much. Ms. Thomas asked what hours, time of day, and day of the week are you usually doing this? Mr. Riley replied honestly, I don't try to work past 7-8 o'clock. If this approved, I will set regular times—8 to 6 is more than enough time for me, Monday through Friday. Mr. Casale asked you had mentioned here 2-car garage. Now that's about 600 square feet, correct? Mr. Riley said about 400. I believe it's a 20' by 20' maybe? Mr. Casale continued on page 2 of the writeup from the Planning Office, it states: The business occupies approximately 600 square feet of a detached garage. The 2-car garage, I thought that there was mention of the size of that. Mr. Riley said I'm not sure where you're reading from. Is this from my description of the business? Mr. Casale said it may be your description. Yes. It says for one, my attached 576 square foot garage would not be suitable space. You'll agree, that's not far off from what... Mr. Riley said no, that would be a 24' by 24' then. My apologies on the math. Mr. Casale said okay, so it's roughly what the ordinance allows for a home occupation. You state that you want to go over that, like 800, but yet it only allows for 650. You'll agree that this garage is not much smaller than that. So even though you don't have the electricity or the heat—something you could take care of, other than that the size is almost about what you'd need maximum. Mr. Riley said sure. Mr. Casale added and if you were to use the attached garages, could you not park your vehicles in the spot where you now have your shop? You have a driveway there. You have a plow. Do you not plow that? Could you not use that for your car? Mr. Riley said I could, but it's much more difficult to get regular everyday cars in my backyard with the snow and the ice. It's easier to plow my driveway, drive those cars right into the garage on pavement. Mr. Casale asked you don't keep the path clear? Mr. Riley said I do, but it's easier for trucks to get back there than it would be for my girlfriend's car. Mr. Casale said you had mentioned the paint. On your Facebook page, you mention sandblasting. So you're doing sand blasting too? Mr. Riley said yes. Some things need to be sandblasted.

The sandblast cabinet, which I did show on one of the site visits, is literally a cabinet with a door that opens. You put whatever product inside that you need to sandblast. You close that. Then there's a vacuum that catches any residual dust from that. Everything is contained within either the vacuum or the cabinet itself. That just gets recycled through. Mr. Casale asked what are you using for a? Mr. Riley said crushed glass. Mr. Casale said okay. That's all I have. Chair Morin said 650 square feet is the limit, but now, as of today, you're looking for 800? Mr. Riley said if it could be approved, yes. If not, then I'm totally content with the 600 that's required. Chair Morin said okay. Just a question—in that area that you're looking for the business, is there AC in there also? Mr. Riley said there's no AC. Chair Morin said so, summertime, you open up everything you can to get some air flow? It must get hot. Mr. Riley replied yes. It does get hot in there. I have windows and fans, and I usually open up a garage door. Chair Morin said when you went through your application, number 5 talks about unnecessary hardship and special conditions. I'm not seeing any special conditions of the property that you put down in that section. Mr. Riley said I'll be honest. I did not know how to answer that question. The verbiage is confusing on those questions, and it becomes redundant. Ms. Hebert said Chair, we would typically attach an aerial photo so you could see the context of the property. I'm happy to pull that. I realize that's not in your packet. If it's helpful for the Board, we could pull that up using the internet here if you want to get a birds' eye view of the property. Chair Morin said that would be nice. Mr. Casale said I tried Google Maps. It wasn't helpful. While she's doing that, I have an additional question sir. In the picture you submitted of the plasma table, there's a couple exhaust fans, it looks like, above your plasma table. Can you explain what those are for and where those empty out? Mr. Riley said that just removes the smoke, and it's just steam. I just have that venting outside of the garage. It's just steam that's created from the heat of the plasma hitting the cold water. There's water that sits in that table. That helps the metal stay cool while it's cutting. It helps it from warping. So, it creates steam from the difference in temperatures, and instead of that filling up the garage, I just have the steam go out. Mr. Casale said no difference than a bathroom. Mr. Riley said exactly. Mr. Casale said alright, thank you. Chair Morin asked are there any other questions from the board? Mr. MacPherson asked could you bring in the first picture? Mr. Riley said I will have to wait for Becky. Mr. MacPherson said what I'm looking for is the back of your building. If you could bring that up, because it looks very messy. It looks very cluttered. Mr. Riley said sure. It is. That's where I store all my recycled material until I have time to. Mr. MacPherson asked is it always this cluttered in the front? Mr. Riley said it is, but you can't see it from the roadway or any neighbor's house because I have fences on either side. Mr. MacPherson asked so that's typical? Mr. Riley said yes. Mr. MacPherson said okay. Thank you. Chair Morin asked is there anything else before I open it up to the public? [nothing else]

Chair Morin opens to comments from the public.

Ms. Margaret Brown testifies: My name is Margaret Brown. My husband, Richard, and I have lived at 10 Lynn Drive for over 45 years. The past couple of years have been a little bit different because of the very noisy—there's hammering, there's been pounding, regardless of what I heard about no metallic odor, there is one off and on. Our deck is right out back, which is not very far from where whoever is working, and we get the benefit of all the noises and the smells and so forth. Even Easter Sunday morning, there was a compressor or something extremely loud, playing that we could hear for several hours in the morning. Also, there's no traffic supposedly, but I've noticed for quite some time that there have been a lot of cars parked in the front yard, day and night—mostly night. There are several in the backyard that appear to be abandoned. I don't know if they are or not, but they're there. The yard is now fenced in, so I can't see what's going on over there, but the fence does not contain the noise and the odors and the activity that you know is happening. In this day and age, my husband and I are not young anymore, and we like to know who is in the neighborhood. If there is a business right next door to

ours, we have no idea who is where, what, and when we first moved in there, I had someone try to break in the house, and we locked the doors for quite some time. Now, we don't lock them all the time, and I'd rather not because it's a pain to unlock, in and out, when you live out in the area where it's supposed to be a safe neighborhood. I just would like peaceful possession of my home for the next few years. We're not going to be there forever. It's getting to the point where it's difficult now to take care of the house, and I'm still working. I go to bed early, and I get up early. I need to have rest. I need to have the use of my deck, and I'd love to keep my windows open in the summertime. I just object because it will take away what peace and quiet we have worked and earned and deserve. I thank you for listening to me.

Mr. Mark Constant testifies: Good evening. My name is Mark Constant. I live at 57 Patten Road. I'm on the corner lot of Lynn and Patten. My backyard is adjacent to Jeffrey's side yard. The garage doors face my backyard. When we're sitting at the deck or sitting out at the pool, it is extremely loud. Am I able to turn my phone on for a minute? I know you said to shut your phones off. I'd like to play something. If not, I won't. He states in here that in his business he tries not to work before 8 o'clock in the morning, and 1900 at night. But that's 7 o'clock at night. Thursday night at 7:26, the smallest garage door to the left was half open, and they were still working. They were cutting metal, and it's extremely loud. I just wanted to show how loud it actually is. But if you don't want me to... Chair Morin said well it's kind of deceiving when we're trying to hear it on a phone. We're getting your testimony. Mr. Constant said okay, that's fine. I just want to make clear, this is not personal whatsoever. It's about a business that I don't think should be there because it affects me because of the noise. I cut metal. I weld metal. I grind. I sand almost every day at my job. I know how loud it is. The plasma cutter he has is quiet. I'm fascinated with those. His work he does, I've seen it. He does very nice work. His quality of his product is nice. I just don't think it's the right neighborhood for the business that he wants to have. That's pretty much it. Chair Morin said thank you.

Ms. Tiffany Constant testifies: Hi. My name is Tiffany Constant. I live at 57 Patten Road. I just had a couple of questions, I guess. I'm just wondering, it says something about him having employees. I want to know are they welcomed to come and go when he's not home? I want to know if this is passed, if he's working on weekends, after work until 10 o'clock like they have all summer long. Who do I call? Do I call the police? Do I call you people? This has been ongoing for a long time and everybody in the neighborhood is very upset by this. I have something else here I wanted to bring up. Where do you draw the line or where do we draw the line when he's at work and say it's 7 o'clock and then they still decide to do their hobby until 10? Who enforces all of this? Do we have to just keep calling and complaining, or what? These are all things that we worry about in our neighborhood. There's a lot of traffic. There are people in and out of the driveway, the house. We're concerned about the vehicles. There are lots of children on the street. There are big trucks that come and deliver metal. I can't even sit out in my pool area most of the time because I have to listen to this. I have an American dream as well. Mine is just to sit and relax and to enjoy my weekends and nights. I guess that's it. Thank you.

Ms. Brown added: I know that mental health was mentioned. As far as I'm concerned, that's a big part of our lives right now. My husband has Parkinson's. He's retired. He's home a lot during the day. If we have to say inside, it's not going to be good for him, and it's not going to be good for me when I get home at night and have to hear what has transpired during the day. I know that a lot of people don't think noise is a health problem, but it really is. If you can't enjoy the outside of your home as well as the inside of your home, it makes for a very unhappy life. Thank you so much.

Chair Morin said just to answer a few of the questions that came up that I can answer, employees are dictated through the ordinance—how many there can be. Hours—what will happen is, if this gets approved this evening, it will go to the Planning Board. When the Planning Board gets it, they handle the hours. They handle all those things that any other business coming into town would handle. Just so you know where the process goes. That's the few answers I have for you for some of those questions. Ms. Hebert said I could respond to the noise issue. The Town does not have a noise ordinance. Loud noises happen for various reasons around town. Somebody has a party or somebody has a loud hobby. Those noise complaints are directed directly to the Police Department, and they respond on behalf of the resident for disturbance to the peace. Unknown speaker added that's not 8 hours a day, 7 days a week.

Mr. Riley added like you said to begin with, I'm not here to debate. I just want to point out that the same neighbors have been making the same complaints since 2002. There is a timeline the Planning Department has put together, but it's the same neighbors. Mark and Tiffany Constant specifically made one in 2005. The original homeowner was my grandfather. When my father bought the property, same neighbors, same complaints, new homeowner. Then I bought the house in 2017. Same neighbors. Same complaints. Different homeowner. The only similarity is the same last name. Tiffany had mentioned truck deliveries. I've had one truck delivery which I even talked to Kathleen about. I believe that was a week ago, maybe 2 weeks ago. It was a 24' piece of metal that I had delivered because it would be unsafe for me to drive with a 16-foot trailer with 8 feet hanging off. So, I've had one special delivery. Other than that, I have Pinard Waste that comes every first Tuesday of the month to remove my dumpster. All my household and business trash goes straight to Pinard Waste. It doesn't even go to Bedford Transfer Station. I feel like my neighbors are just trying to portray me as a bad individual, but they failed to mention 18 Lynn Drive that has the horse property. This was Sunday morning at 7 a.m. Two 18-wheeler deliveries of hay came in. No one said anything about that. The horse company even posted it on their Facebook. This was on September 19th of 2021. Our Sunday started with a 7 a.m. hay delivery. Again, on February 1st, they put a horse up for sale, and then on February 26th of this year, they had another 18-wheeler come in in the morning to remove that horse and deliver it to the West Coast. But no one says anything with multiple tractor trailer deliveries. But I have a couple specialty deliveries come in, and everyone hears about it. So I do believe in the core of my soul that there is just a personal bias. I know Mark said that it's not personal, but it has been personal since 2002. I bought the house, and I just inherited the neighborhood feud. It just doesn't end. I try to be a good neighbor. The Brown's have lost power multiple times, and I've tried to make contact with them and make sure they're okay because I understand that they're elderly. I try to be a good neighbor. Am I noisy—sure. At times, we're all noisy. If it's approved, I would set business hours. I do have a hobby that is noisy at times. I'm aware of that. That's all I have to say. Thank you.

Mr. Casale asked Mr. Riley, you mentioned I'm assuming you transport most of your—you talked about rolls of product—so do you mainly, except for those big pieces you mentioned, do you mainly transport these rolls of sheet metal on your trailer? Mr. Riley replied I would like to correct you. It's not a roll. They come in the same size as plywood in 4' by 8' sheets, different thicknesses. Sometimes they are in square tubing, different lengths. I do pick that up myself, and I transport back to my house with my 16-foot trailer.

Mr. Constant asked if it goes through to the next level—the noise really is bad. Maybe garage doors could be closed at all times just to keep it quiet. That's just a suggestion. Because it's really bad. It really is. I'd invite any one here to come to my house. I know on the last paragraph on his letter, he invited you to his place to watch it work. I don't know if you got to experience the grinding and the sanding—he has an air sander. It's not a regular sander like you would sand wood. It sounds like a Nascar taking off tires.

It's not just ten seconds. Sometimes it goes for half an hour, 45 minutes of grinding. It's extremely loud. When it happens, I'd like to call you guys right on the spot and say come on over so you can hear it. It could be assumed, and like I said, maybe shut the garage doors. Keep them shut at all times. This way we wouldn't have to listen to it. Chair Morin said to answer that's a Planning Board decision. I don't know if anyone has watched the Planning Board meetings when they're on, but when a business comes into town, they get into everything. Everything from hours, sound, properties... Mr. Constant said so if it does go in that far, I can bring videos. I can bring pictures. Chair Morin said what I would ask you to do is get in contact with either Becky or the Chair of the Planning Board and find out if they'll accept that type of evidence. I don't know what they accept. But they get into a lot more detailed oriented, where for us, we'd look at that ordinance and we have to make a per se legal decision on if they met the criteria of this application. That's what we look at. Mr. Constant said okay. Thank you. Ms. Hebert said I'd be happy to talk with you about the home occupation permit process. The Planning Board does get into a detailed discussion of the proposed home occupation before they grant the permit. They go into details on operation, hours of operation. They can attach conditions to any of their approvals, and they often do. So, this is the first step of a two-step process if Mr. Riley receives his variance tonight. Mr. Constant said yes ma'am.

Ms. Brown asked is Lynn Drive still a residential/agricultural zone? Ms. Hebert said yes, it is. Mr. Riley added but there are three other businesses on the street. Chair Morin said I understand. Anything else before we go into deliberation? Mr. Constant said the hair salon is not on Lynn Drive. It's on Patten Road. Chair Morin said I understand. I've driven by the area, so I know where all those different items are, just so I referenced myself. At this point, I will take a motion to go into non-public input for deliberation.

MOTION by was made by Ms. Thomas to go into non-public input for deliberation. Mr. Gilbert duly seconded the motion. Roll call vote was taken - all in favor. Motion carries.

Chair Morin continued alright, let's go through the application.

1. Granting the variance would not be contrary to the public interest because:

(1) Whether granting the variance would alter the essential character of the locality:

Chair Morin said that has two pieces to it. Looking at the existing property, the way it's set up, I don't think would change the character of the locality because it's already there, for the building. But some of the things that might happen inside the building could change it. Board agrees.

(2) Whether granting the variance would threaten public health, safety or welfare:

Mr. Casale asked were you able to get the satellite up so everybody could see it? Ms. Hebert said yes. I can put it back up. Mr. Casale said just from what I saw and my comment in regards to that, if the home occupation were limited to what's actually allowed in the ordinance which is a garage that's attached to the house, there's almost—even though you may have the same operations going on there, it's almost more of a buffer except for well there's nobody, at least in that picture, no homes directly across the street. There is one that is kitty corner, but it's almost further buffered from the home to the left and the home to the right. Again, if it were limited to the garage where that circular driveway is, the 2-car, you have trees to the left side of that, which would be a buffer and not as close to that home to the left. And, because of the home being to the right side of the garage, it would be a buffer to that home to the right side.

2. The spirit of the ordinance is observed because:

Chair Morin said I think there's two issue that don't meet the spirit. Number 1, a detached garage and number 2, the size that he's looking to utilize part of that garage. The ordinance is pretty straightforward about area of the principal building, that's to include any attached garages, barns, shall be devoted to such use. So, the spirit wants to keep it within the home, because a home occupation should number 1 be in the home. It shouldn't be distracting to the neighborhood. Ms. Thomas added there is the space in the home, where I could see it getting a variance if they didn't have a garage, per se. Basically, the whole purpose of this is because it's in the detached garage. If he wanted it in his 2-car garage, he would just go right to the Planning Board, and we wouldn't even be involved because what he's doing is allowed per what the Planning Board decides. We're just looking at moving it to the back building. Mr. Casale added he has almost the right square footage in the 2-car garage. He doesn't have the electricity. He doesn't have the heat. I would argue he has another garage he could use a car. I would also argue he could bring vehicles back there. He has the ability to do it.

3. Granting the variance would do substantial justice because:

Chair Morin said I don't see bending the ordinance that much doing substantial justice for the neighbors. There's a lot of bend here. That's the hard part in this application.

4. The values of the surrounding properties will not be diminished for the following reasons:

Chair Morin said we haven't heard any expert testimony in that. We can't answer that.

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 because:

Chair Morin said we really didn't get a straight answer on that piece. He talks about his 2-stall garage wouldn't fit the business, but if you can get the sources in the back garage, you can always get the sources in the side garage. I don't see what the hardship is in that case. Mr. Gilbert said I'm with you. I don't see the hardship.

(A) Denial of the variance would result in unnecessary hardship because:

(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 because:

Chair Morin said basically this piece we have to weigh the application and the public to see if it's even or if it's tilted. Personally, I think it's tilted against the neighbors at this point, from what I've heard.

(ii) The proposed use is a reasonable one because:

Chair Morin said it would be reasonable if it was attached. I think, due to the looking for two pieces of this ordinance to change, would be well beyond us to do. That's my thinking anyway.

(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:

Any last comments. Would someone make a motion please?

MOTION: Mr. Casale moves that the Zoning Board deny the request for a variance from Article III, Section 275-21 F(1)(a)[2], to permit a Level II home occupation within a detached garage where such use is required to be within the primary residence or attached garage or barn at 6 Lynn Drive, Lot 22-75-02, Zoned Residential and Agricultural, per our deliberations. Mr. Gilbert duly seconded the motion. Roll call vote taken – all in favor. Motion denied 5-0.

MOTION: Mr. Gilbert moves to go back into public input. Ms. Thomas seconds the motion. Roll call vote taken – all in favor. Motion carries 5-0.

Item 2: George Bosworth - Request for a variance from Article III, Section 275-22(a) Table 1, Table of Dimensional Regulations, to permit construction of a 16' by 24' shed 8.7 feet from the rear setback where 25 feet is required at 7 Birkdale Road, Lot 3-7-197, Zoned R & A.

Item 3: George Bosworth - Request for a variance from Article IV, Section 275-28(a) to permit construction a 16' x 24' shed 37 feet from the edge of a wetland where 50 feet is required at 7 Birkdale Road, Lot 3-7-197, Zoned R & A.

Item 4: George Bosworth - Request for after-the-fact variance from Article IV, Section 275-28(a) to permit an existing, above-ground swimming pool 45 feet from the edge of the wetland where 50 feet is required at 7 Birkdale Road, Lot 3-7-197, Zoned R & A.

Mr. George Bosworth testifies: My name is George Bosworth. I live at 7 Birkdale Road with my wife, Debbie Bosworth who couldn't be here. She couldn't get the night off. This is Andrew Villarroel. I hired him to build my shed. My wife and I moved in December of 2020. There's an existing shed that was where it is now. The pool was existing. Any changes we have made have been by permit. The house generator, pellet stove, anything we've done, we pulled a permit for. What started some of this was a mistake that I made by moving some rocks next to the existing shed away, not realizing they were on a property line. The existing shed and the area behind it with some stakes put there, made it look like it was on my property. My mistake. A gentleman, Matt, my neighbor behind me, Matt and Amanda, came out to let me know that those were their rocks, and that the property line was right there at the shed. After my wife and I discussed with them, I apologized, and I offered that I would put the rocks back or could we keep it the way it was and they agreed. That night, Amanda told me they had paid for the rocks to be there. I talked with them and my next-door neighbor, Mike, after buying the house and moving in, found out that there was a lot of issues from the previous owner. Doing what I did probably created some tension, but after discussing with them, and even offering to pay for the rocks, they basically said no, that's fine. It's all good. I also offered that I would put shrubs along the line to leave it as a boundary, which is what they were trying to do with the rocks. I also discussed with them building a shed next to that shed for more room. My wife and I lived at our address for 32 years. My daughter outside, the day she was born was the day that we bought the house. So, 30 years of living in a house, we packed up into a storage and we packed up into a 40-foot container, which brings us to an issue. I put the container on our property. There's a fence on our property line. I put it as close as I could. Let

me back up. I thought the fence was on our property line. We hadn't received the plot plan even though we asked the gentleman for it. It was said to us that once he unpacked, he would give it to us. Again, my mistake. I promised Mike next door that I would remove the container which was basically full of our contents from the house, whatever we didn't throw away or have in storage. That was full. I promised him that I would get that done in the summer. At some point, he was upset and texted me and reminded me of what I had said. Not thinking of it, I apologized and asked the Town for a little bit more time. After some discussion and agreeing that I could keep it there for longer, I just decided to take everything that was in there, because it was creating a hardship for Mike next door, rightly so. For one, it wasn't even on my property, and he was upset about looking at the container sticking above the white fence he has. So, I took everything I had in that and put it everywhere I could—my garage, my downstairs and in my shed which I really can't move in the existing shed that's there now. Amanda did say that she did not want two sheds, because I had proposed to her and Matt with my wife that I would like to put one next to that shed. The problem I have right now is I have things everywhere, and I can't move in the shed that's there and after properly getting the property lines laid out, I found that the shed is actually just over the existing line. I asked Mike and Amanda. I understand it was approved at some point, but Amanda and Mike had said it was off to the back, right side of the property. I asked how did that shed end up where it is? Mike and Amanda said he had put it on telephone poles and moved it to where it was. Pretty resourceful, but, again, the gentleman before me created quite a bit of tension. I feel that I don't want to be the neighbor that causes hardship to people. I never was that guy in my neighborhood. The problem I have right now is I have a lot of things that I can't move in my house. I suggested that I would pull the existing shed down, which is not where it is supposed to be, and remove it altogether. Part of doing that, would actually, I feel, would open up the backyard and make it more aesthetic just in the look of the land behind me and to the side of Mike. And putting the shed I'm proposing the size of it because I need that room. When I moved from my house, I took a 30-yard dumpster and I loaded it up with everything I could—a lot of valuable stuff. I disposed of it and brought what I could in the 40' container and a 20' by 10' storage unit and brought it here. I looked at 38 homes. I lost out on 6, and this is the one we ended up with. We love the place. I think my proposal with the shed would kind of make the little bit of property I do have in the back; we'd like to have parties when we can. We work hard. We like to play hard. Proposing this shed where I am, it opens up the backyard and allows two things—us to utilize the backyard a lot better and stay away from Mike's fence. A couple times the ball goes over the fence. Mike's goes over our fence, and he's always been awesome. He's very polite. They are awesome. I have no complaints with them. I'm sure they have more complaining about me. But I can honestly say that anything that we've done, it's never been to create a problem with anybody. I'm just trying to improve my land, and the shed also, by putting it where I want. It's basically on the ground that's there now. There would be no changing the grade of it. It would be just putting it further over. They had mentioned that they would agree to let me put a shed 8 feet off the property line. They didn't really say exactly where those 8 feet would be. They said they would be here to okay that. One of the things that the Wetlands Commission asked me is if I could move the 30' side closest to the wetlands and move it even as both would be 37 feet away. That would bring the closest side to Matt and Amanda's line 10 feet away. Then the other side closest to theirs, 18 feet away. As far as the pool, the pool was there. I didn't put it there. That was brought up with the Conservation. I'm not sure if I addressed this correctly.

Chair Morin said what I need you to do is go through all three applications, and just read into the record what you wrote. The first application would be for the 8-foot setback from the back property line.

Variance is not Contrary to Public Interest.

Because of the location of it, it basically pulls it away from all of the public and it basically will be unseen from the public road unless you come down off of Essex Street for that short time until you go over the bridge.

The Spirit of the Ordinance is Observed.

Because working with the neighbors' requests, it would be no closer than 8 feet. Only one shed instead of the two.

Granting the Variance Would Do Substantial Justice.

An illegal shed will be removed and also allow me and wife the opportunity to store our numerous things we brought from our previous house.

Values of Surrounding Properties Would Not be Diminished.

Because we will be removing one shed close to both properties and putting the next one further away from the line of sight.

Literal Enforcement Would Result in an Unnecessary Hardship.

The hardship we face is that basically the shed, where it is, puts more of a hardship on the neighbors because it's on their line.

Denial of the Variance Would Result in an Unnecessary Hardship.

The hardship to not have another shed is that I have no room. I would literally have to rent a storage unit as long as I live there because I can't throw any more away.

The Proposed Use is Reasonable.

The proposed shed does not affect any light or air value to the public or wildlife. It's basically would be sitting on the ground that's there now only it would be sitting on one side of the property. It allows us to store many items out of sight. I love this neighborhood. It's clean. I noticed the last gentleman one of the things was he had things that were loose and not becoming. This neighborhood is beautiful. That's what I don't want is to have things outside. I'm starting to accumulate a couple of things, and I have nowhere to put it. It's bothering me. It's one of the reasons why I'm trying to build the size shed that I need. In discussion with the neighbors, an 8-foot from the property line, removal of existing shed, satisfies the general public's interest in that they can't see it. Also, I have my grandbaby who was here earlier in support. The shed I proposed to put it on, we've had some parties and there's always stuff going down the slope. We know how fast kids can move. This shed in that spot would help with the safety of anybody because it's quite a drop. That would be another request and why.

Variance is not Contrary to Public Interest.

Discussing with the neighbors and supporting being 8 feet away from their line, it wouldn't change that. It is bringing it further away from where the existing shed is now—further away from the line of sight.

The Spirit of the Ordinance is Observed.

Because the shed would be placed on the far side away from the neighbors. It sounds like I'm being redundant. I've also talked to Matt and Amanda and said I'd like to put some kind of arborvitaes or something along that back line to give them their line of sight. It's a natural look, so it won't destroy the aesthetics of the property. I think it would improve it.

Variance is not Contrary to Public Interest.

The Spirit of the Ordinance is Observed.

Granting the Variance Would Do Substantial Justice.

Because granting this variance allows us to use most of our backyard for parties. It opens up the area and presents a more natural look for our property. The proposed shed location would be a protection for the children from falling down the slope.

Values of Surrounding Properties Would Not be Diminished.

It becomes a more natural look by taking that existing shed down and giving a nice long look right into the tree line of Matt and Amanda.

Literal Enforcement Would Result in an Unnecessary Hardship.

The lot is a little over one acre. More than half of it is wetlands.

Denial of the Variance Would Result in an Unnecessary Hardship.

With the front yard mostly sloped and with part of the septic system, doesn't leave much in the back for use. I'm paying taxes for all of it, which that's what I bought. I get it. I'm just trying to use what I can and what I have.

The Proposed Use is Reasonable.

My neighbors love to party, and it's great. They have a lot of youth and it's fun. People can enjoy the land. That's basically what I'm trying to do, but not encroaching on their privacy.

Granting the Variance Would Not be Contrary to Public Interest.

Public interest is not affected as it is above ground and has a protected railing on the deck. When I first bought this, Mike had a concern that he had young girls and there wasn't a gate there for protecting anything that might have come up on the deck. That's the first thing I did was put a gate that is locked. That's important that nobody gets hurt—especially my grandbaby and anybody that might wander over. It happens. I don't want to be responsible for that.

The Spirit of the Ordinance is Observed.

Because of how far it is. It's away from the public eye. It's pretty much directly behind my house.

Granting the Variance Would do Substantial Justice.

Because I looked into air conditioning, and because of the way my house was built, it's pretty much impossible. It's a French colonial. The way the roofline comes down, it would be \$50,000 to put that, so the pool and some window ACs take care of that. I work outside, and it gets hot. My wife loves the pool more than I do, but when I do get in it, it's awesome. And the grandbabies love it. Teaching him how to swim is a bonus for him because safety and just the enjoyment. It's another thing that we can provide for our family. The reason we moved up here was to be close to our some of our kids. This is the paradise, and we'd like to try to make it as such.

Values of Surrounding Properties Would Not be Diminished.

The pool was there when we bought it. I know the market is crazy, but it's like \$100,000 more than when I first bought it. We keep it clean. We spent a lot of money to keep it functioning. I don't think it would to anything to diminish my property value because in doing that, it increases everybody's property value. If the pool needs to be pulled down, I don't think it's going to decrease my value, but it

will make something uncomfortable for us that I won't be able to enjoy. Like I said it was there when we bought it.

Literal Enforcement Would Result in an Unnecessary Hardship.

For us would be destruction of the look of the whole area because of the way it sits. I don't know how he did it, but he sat it down in a hole and made everything work off of that. It looks good, but taking the pool down, would make the whole yard something I would have to redo and spend more money. I've spent a lot of money getting where we are right now. I don't think I can make up for it. So, I feel that would be unnecessary to not allow that pool to be there. That's my thoughts on it. Thank you.

The Proposed Use is Reasonable.

Because it provides relief and pleasure to us and our friends and our grandchildren. No harm or inconvenience to our neighbors.

Chair Morin asked do we have any questions from the Board? Mr. Gilbert asked in the picture I see there that you mentioned you've got a storage container in the yard right now, right? Mr. Bosworth said yes. Mr. Gilbert said in the overall view I see it's there in between the shed and the pool, but in this other picture I see it up against the fence near the house. Is that where it is now? Mr. Bosworth said no. So, what happened was after I was granted to be able to leave it there, I felt it was important to just get it out of there. Like I said, I just pulled everything out of there and I just put it everywhere. My downstairs basement is full. My existing shed is full. That was part of wanting to build a shed. Mr. Gilbert asked so that container is out of the yard? Mr. Bosworth said yes. In the fall I got rid of it. Mr. Gilbert said that's good. Mr. Bosworth said it was important to me because it was important to my neighbors. Mr. Gilbert said the only other thing I would ask is did you consider shifting that shed to be parallel with the pool? If you look at your picture there, you see the container there in the picture, right. Mr. Bosworth clarifies the satellite photo is old and is showing the previous owner's item (boat?) on the property. Mr. Gilbert said where you're proposing your new shed, if you shifted it and put it parallel to the pool, right where that thing is in your yard, I think you wouldn't have any problems with any other setbacks. Mr. Villarroel asked do you see the pointer of the mouse? That used to be the location of the container which has been permanently removed. There is nothing here. This is all clean yard. This is the existing shed that Mr. Bosworth bought the property with already. He's proposing to remove this shed to open this line so the abutters in the back can eliminate that issue with the visibility. Mr. Bosworth asked what you're suggesting is that I put it behind the pool, parallel to the pool? Mr. Gilbert said yes because that takes you away from all the setbacks. Mr. Bosworth said so what that does for me is it literally as I'm sitting in that beautiful great room, I will be looking at the back of a shed. I will not look out into anybody playing.

Ms. Ports asked can you turn the graphic on the left—the plot plan? So, are you suggesting to put it inside the building envelope? Mr. Gilbert said yes. Mr. Villarroel said parallel with the pool would be nearly in the center of the whole backyard, which will defeat the purpose of opening the space for him to enjoy his family time on weekends. This is very, very narrow. Basically, what Mr. Bosworth is trying to do is eliminate this existing shed, downsize the square footage of both combined sheds, and put them away from this neighbor in here, since he already had existing issue with this visibility. Also, with the abutters in the back. Basically, we'll be removing the shed, building the shed away from them and them, and also closing this area because this is where the wetland and the slope goes down, which he will be creating a safety for anybody that will be in the house.

Chair Morin said going off what you just said, can you point where the slope starts to go down? Mr. Villarroel said right on the tree line. Mr. Gilbert said so your proposed shed is right on that line? Mr. Villarroel said exactly. It will be basically 37' from the wetlands setback. Mr. Bosworth said it will be about 3 or 4 feet off that top of slope, because part of the proposal was a stone drip edge around it. Actually, moving that 34' to 37', it brings it further away. Mr. Villarroel said which was discussed and agreed upon that the abutters in the back will allow them to build this shed as long as it was 8 feet or greater, by increasing the 34 feet to 37 feet would increase that clearance from 8 feet to nearly 10 feet. Mr. MacPherson said you had indicated you might be planting some trees for a new shed to make it look nicer? What's the plan for the trees? Mr. Bosworth said I have 3 now. I bought a bunch of them. I put them around the pool area, as you can see here. I bought an extra 3, but I suggested that I put trees—they grow a couple feet every year—put them on the back line. Because I had removed some rocks. Those rocks highlighted their property line. Mr. Varelle added in the back of the existing shed. Mr. MacPherson said the trees will be high enough to... Mr. Varelle said seclude the area and prevent from visibility into ... Mr. MacPherson said so you won't see the shed? Mr. Bosworth said that would be my suggestion if that's what I had to do. I already want to do that on the back property line. Mr. MacPherson said you would? Mr. Bosworth said oh, absolutely. I already agreed with that. I have 3 sitting there. I just, until we found out where the line was, then my suggestion to remove that shed, then I could just place them correctly. That was one of the things I suggested right away.

Mr. Casale asked is there any reason you can't use fencing or plantings to satisfy your need to have this safety zone out back? If we were to move the shed and make it so that it's in compliance with the ordinances? Mr. Bosworth said sure I could. That doesn't solve my problem of I need more area to store things. Mr. Casale said whether the shed is up by the pool, which was suggested earlier, within the building envelope and you wouldn't need to come before the board, at least for those two items, the square footage is the same whether you stick it near the pool or you put it down the end. You have the same amount of room, correct? Mr. Bosworth said sure. The problem I have with that is you're suggesting I put it in my building envelope. Entertainment wise, that literally takes up that area. It's terrible. Mr. Casale said yes, but do you not have the same square footage, but not maybe as much to your liking? Don't a lot of people suffer the same thing? I'd love to have a football field in the back of my house. I can't. So, it's a matter of degrees, really, in how you perceive it. I just need to know what the hardship is, because that's something that has to be proven, how your property is so unique that the shed really needs to be in this area and not as was suggested, closer to the pool. And I would say even perpendicular to the pool. The safety issue can be taken care of by other means. That leaves, well the view is maybe not as good. The configuration of your large field in which you want to play in is a little bit different, but it satisfies the code. Mr. Boswell said it's a lot different. I get it. It would be a lot different in that it would change the whole look of my property. It really would. Trust me, I struggled and struggled on every place I could put this, to not ruin the look of me sitting and my wife sitting in that great room and looking out into the backyard. It's huge. It would ruin it. It really would. I feel strongly about that.

Mr. Villarroel asked if what you're suggesting is building the shed of 16' by 24' within the building envelope, right in front, parallel to the pool... Mr. Casale clarified perpendicular is what I suggested. Mr. Varelle continued I don't think Mr. Bosworth ever sells the house at some point, I don't think nobody would like to buy a house that is blocking the main view because on this back addition, it's full of windows. That was the whole purpose of them when he bought the house, because of the view to the backyard. Mr. Bosworth said I don't plan on moving. I really don't. I love this place. I didn't look at 38 homes in like 4 months and choose this one over every other one to walk away from it. This is our home. I don't plan on walking away from it. I just, if it's not a hardship to any of my neighbors, and they're

going to have a voice on that, and I'm not going to affect the wetlands, I am asking for a variance. I get it. You guys have the power to say yes or no. These are my thoughts on what I'm asking and why. It's basically the look of when I'm looking outside my yard. It gives depth. It gives nature. It puts that shed, even if I took the shed that's existing—I would still want to move it to where I'm proposing. But because it's sitting on their line, I didn't do that! I don't understand how the guy got away with it. I don't care about that. I care about making this right for myself and for my neighbors who rightly so, they have a lot of animosity to the previous gentleman and myself for doing things that I started out doing. Mr. Casale asked what's the length of the pool? Mr. Bosworth said 30 feet. Mr. Casale continued, so the shed, if you were to do it perpendicular, is half the size of the pool, correct? If you do it perpendicular. My point is that if that shed sits all the way to the edge of the pool, however far over you can get it, and still be within compliance, are you really losing that much view? You're losing 16 feet, half the pool, is perpendicular. You can still see most of the yard. I only ask this, it sounds like I'm being picky, but I just want to know what the hardship is. I don't really see it. Mr. Bosworth said like Mr. Villarroel said, the value of that property by putting the shed where you're proposing, basically, I feel, cuts down the value of it. I know the market is great right now, but if that shed was sitting where you're proposing it, I would have looked at that property and said it's different. It's something that I probably would walk away from if I saw something sitting there. To me, that is a hardship. Mr. Casale said okay, thank you.

Chair Morin asked what's the size of the existing shed that's up there right now? Mr. Bosworth said it's 12' by 16'. Chair Morin said it's tough between the picture and the plot plan, because the tree line is in the middle of the wetlands setback. So, it's hard to see where everything is going to line up. Any other questions from the Board?

Chair Morin opens to comments from the public.

Ms. Amanda Porto testifies: My name is Amanda Porto. I live at 6 York Road. I abut the back end of the property. We did have a conversation with George, and we had informed him that the shed where the existing shed when he moved in, was in fact moved from where it was permitted, as he explained, and it is now sitting on part of it on our property. Our issue is that when he started to build this new shed, and we called the Town and saw the plan that he submitted, they had shown that the shed was in its permitted spot 25' off the line. So that, we felt, was not right and shady. He knew that the shed was in the wrong spot, and yet he still presented it to the Planning Board that it was in its permitted area. Then, when we did talk about supporting the 8-foot variance, it was a much smaller shed. Now it's a larger shed that he's proposing to build. My issue is that his wife on one occasion used the word garage, and he has mentioned an antique car that he has and motorcycles that were in this shipping container that was in my neighbor's yard for way too long. My concern is that these items that he has throughout his home are actually possibly quite large and this will be a garage that is constructed instead of a shed. It's very tall. I feel like the proposed height of it is much taller than a normal shed needs to be. I guess I'd want to know why he needs it to be so tall. I feel like I'm forgetting things. I don't understand why I need to feel bad or provide a variance from my property line when he moved here and he knew how many items he had, and yet he bought a house that he didn't have enough space to put them in. I don't feel like that's my problem. I feel bad, but I don't feel like I need to have this done again where there's a large thing built basically in my backyard. Thanks.

Mr. Brad Jamieson testifies. Brad Jamieson, I live at 8 Birkdale Road, directly across the street. My wife Holly and I have no objection to the proposed plans. I understand what you're talking about with the variances. The setbacks are pretty aggressive. I understand 50 feet from the wetlands. The stream goes by our house on the other side, so I do understand those. Like you proposed, it sounds like the only

place he could put it is right in the middle of the yard. There's a ton of sheds in the neighborhood. I don't see many that are in the middle of the backyard. I think that could potentially affect property values in that case. As I said, it's not a detriment certainly to us. We can see the existing shed, which as mentioned is a bit of an eyesore. This one sounds like it would match the house as far as the siding goes. If it were me, I wouldn't want it in the middle of my yard. I would certainly put a shed, and I have seen others approved at like a 5-foot setback. I don't know what the circumstances were, but I've seen them approved for less than this. Certainly, I have no objection to that. We've talked about the previous homeowner. He certainly did some things without checking with the Town first. We fully support the variance for the pool. That's it.

Chair Morin said thank you. We did get a letter from the Detwilers at 10 Birkdale. We are writing to voice our opposition to the proposed construction of a 16' by 24' shed in the backyard of 7 Birkdale. It encroaches on documented wetlands. In addition to the wetlands, this would be a very large structure in a small space that would be very prominent and potential eyesore in our neighborhood. We have slowly become accustomed to the small shed that is already there. Thank you for your consideration.

Chair Morin asked any other questions from the Board? Mr. Gilbert said that one is 13' 8" right now, height. Mr. Varelle said that's correct. Mr. Bosworth said I measured down from the peak to the ground as 14' 1". Mr. Gilbert said and the one you're proposing is only 14', so it's comparable. Mr. Bosworth said yes. It would be the same. Could I answer to the garage? I do have a Chevelle. It is in my 2-car garage. My wife, God bless her, let me put that car in our garage, and that's where it will stay. She comes home at 3 in the morning with all her bags and walks into that house, allowing me to put that car in that garage. This shed is not a garage. Yes, I'd like to put my motorcycles in it and everything else I have. I know she mentioned a garage. It's not this. It's not this. I want it to be a shed big enough so I can house everything and not put anything outside on the ground. Chair Morin asked looking at that picture right there, that frame that's on the ground there, is that the proposed location? Or is that where it was? Mr. Bosworth said that's all the wood that we started. The proposed would be to the right of that. Chair Morin asked to the right of it more? Mr. Bosworth said yes. Considerably to the right. Ms. Hebert asked can you zoom in again, because there is the starting of the framing of the shed. Is that the proposed location? Mr. Bosworth said yes. That is where it would be. Mr. Varelle agreed. He said this is 16 feet by 16 feet. It will be extended an additional 8 feet. Chair Morin asked coming toward the pool? Mr. Varelle said yes. As you can see that's where the slope starts, about 4 feet from that edge. Mr. Bosworth said and even more if I'm moving it the 3 feet extra to make it 37 feet, which gives it 10 feet closest side and 18 feet. Mr. Varelle said as you can see, the new build of the shed will be used as a safety precaution for the family members. Also, what Mr. Bosworth is proposing, which I think he's going above and beyond just the fact that he's considering getting rid of a shed that he already bought. He doesn't have to remove... he's planning on removing this permanently to keep them... Mr. Bosworth said I already feel I have to remove it. Board agrees. It's on the other people's property. Mr. Varelle said he's losing square footage just to store his lawnmower, snowblower, and tools everybody has in their home. He's planning on getting rid of this structure to build up something new so he can be away from everybody, as well as planning on planting trees so it can be secluded and not be visible from anybody else. Mr. Boswell said I know in the winter the trees don't have their leaves on, and you can see. When the trees are grown in, I can't see Matt and Amanda's house. They have a good-sized area that's behind that shed. It's probably 25 feet, and it looks like it's been cleared. I don't know what happened, but they have quite a bit of property. I respect that. I don't have what they have. I don't have what Mike has. I don't envy them. I just want to utilize my property the best I can to make it the most usable that I can do with it.

Mr. Casale asked can you go back to the one where the greenery is by the pool? The evergreens. Mr. Bosworth said I bought them altogether in one shot from Home Depot. Mr. Casale said correct me if I'm wrong, one of your arguments against moving the shed by the pool is that you wouldn't have a clear view, but you're putting up plantings which are eventually going to grow and block your view. Mr. Bosworth said I can trim those. Those are there to just make a nice, green area. Those are trimmable. They're only 3 feet tall. What I'd like to do is let them grow in the back. I don't understand what you're going with this. I would never let them get tall, because I want to see in the back when people are playing. That's not why I put them there. Ms. Thomas said, why don't you, to deal with one of the variances and that's to your neighbor, just pull the shed straight up closer to the pool. I know pictures are deceiving. We bought a house with a shed right smack in the middle of our backyard. It's awesome, but it was there. If you just, we'll deal with the wetlands variance, that's much bigger one, but to get it even further off your neighbors', couldn't you just pull it straight up closer, straight-line closer to the pool. I don't really see how that would affect your view. Ten feet even is—then at least getting it off their lot line that much more. Mr. Bosworth said that would be awesome. Actually, if you look at the wetlands, it literally juts out more. The way it juts out, it would be further away from the wetlands. Ms. Thomas said you'd still need a variance for one of them. Mr. Casale asked can you go back to the satellite, please? She had mentioned if you, again, perpendicular to the pool in some shape or form, you're taking care of one issue. You may still have the wetlands, but it may be more amenable to other members if you got rid of at least one of them. I don't see where, if that is moved up toward the pool in a perpendicular fashion where that's like in the middle of your yard. I just don't understand that. Mr. Bosworth said before I came here, I measured what room I had to be able to do that if that was brought up, and I have almost 10 feet to do that. Mr. Casale said I'm sorry, you have what? Mr. Bosworth said I have almost 10 feet to be able to slide it this way. Mr. Casale said toward the pool? Mr. Bosworth said right. Ms. Thomas said so you'd still need a variance, but at least it would be more like 18 feet to the 25 instead of 8 feet. Chair Morin said what the problem might be though, is the way the wetland jets back up. Mr. Bosworth said well it jets away so, it's further away. Chair Morin said it goes away there, but it cuts closer here so, if it's coming more this way... Mr. Bosworth said we would keep the 37 feet and it would become greater if I slid it this way. You're no closer than the 37 feet. Mr. Gilbert asked did you give any thought to just picking the whole shed up that's existing and putting it on the footprint of where you're proposing the other shed? Mr. Bosworth replied this shed has moved I don't know how many times, but if you go in there, it's a mess. It really is. I don't even think it would withstand anything. Mr. Casale said you actually want it larger anyway. That's the plan. Mr. Bosworth said, and I need it larger. I originally talked to Matt and Amanda about putting another one right next to it because I needed more. I know I bought this house, and I should have figured it out. We would have been homeless if we didn't buy this house. It came down to that. I had people saying they would house me until I found something. So, this was not something I had the luxury of. I lost out on 6 already. It came down to this one or another one, and the other one had more issues. I didn't think this had any issues until Mike told me the snowstorm. I couldn't even tell my wife. I was sick to my stomach. It was done. Mr. Villarreal added the abutters in the back, Matt and Amanda, are somewhere in that area. If we go with your suggestion, placing the shed perpendicular to the pool, it will be more visible than setting it back a couple of feet in that area where we're proposing. Ms. Thomas said I think with that shed gone; it's going to be visible no matter what. Mr. Bosworth said yes. So, my suggestion with that is to plant the trees and let them grow. I'll probably get taller trees to start. I know they're probably \$300 apiece and they'll grow faster. I would be willing to do that in the back. To answer Chip and Judy across the street, I know my daughter took pictures today from their house. There's no way they would ever see this shed. I don't know why they wrote that, but from their house, no matter what part of their house, maybe if they stood on the very far side of the driveway, especially if I'm moving it another 8-10 feet. When I moved that container, they put a card in my mailbox saying how they were happy it was gone, and I

didn't realize it was bothering them. I wish they had said something. Mike did, and that was enough. Is that the picture she took from their driveway? Mr. Villarroel said yes. The shed will be behind the main dwelling, and the front of the house is somewhere here. It will never be visible.

Chair Morin asked please put it back to the backyard picture for our deliberation. That's a good reference point. Thank you.

Mr. Mike Ebitson testifies: Mike Ebitson, I'm behind the white fence at 11 Birkdale Road. It's a tough property with the amount of space there with what's back there. I totally agree. It is tough. What George has been through since he's had that property. There's been a few things in which overstepping some boundaries with people and understanding, but he has made that somewhat right. Going with this proposal here and where the shed was, I think I, being sworn in with the previous owner of that original shed, I stood here years ago running here to get here. They said exactly what Dave said about where that shed should be. I go a lot on traveling, etc., and I came home one day and that shed was there, moved, after it was proposed to be exactly where it was mentioned today. I feel bad, but if I didn't voice that, I feel bad not saying anything. That's what happened years ago, and it ended up there, unfortunately. I see that every day, and it's quite large. The size of the shed from my backyard I can still see. If I could have put up a bigger fence, I would have. Because my house is set a little bit below, and I can still see without a shadow of a doubt. With the shed in the back, being so large, I just don't know what the peak is. Chair Morin said actually, I think it was brought up. It's about the same height as the existing shed. Mr. Ebitson said thank you for that. Okay. Other than that, I don't have any other concerns as the neighbor in the lot right next door.

Ms. Amanda Porto testifies: You had talked before and you had looked and had him show where the proposed shed would be, the new one. I just want to make sure when he met with the Wetlands a few weeks ago, they had said he had to move it, so I just want to confirm that that is, in fact, going to be moved to where they had said it needs to be and not where the picture is.

Chair Morin said this is basically a reference point for us anyway. It's going to come down to measurements. So, whatever is decided, if it's approved, there's going to be specific measurements. It's got to be certain distance from the back, from the wetlands, all that type of stuff. It can shift again, possibly.

MOTION by was made by Mr. MacPherson to go into non-public input for deliberation. Mr. Casale duly seconded the motion. Roll call vote was taken - all in favor. Motion carries.

Chair Morin takes up the variance request for 8.7 feet from the back property line.

1. Granting the variance would not be contrary to the public interest because:

(1) Whether granting the variance would alter the essential character of the locality:

Chair Morin said I don't think a shed is going to do that, in that area anyway. Board agrees.

(2) Whether granting the variance would threaten public health, safety or welfare:

Board agrees no.

2. The spirit of the ordinance is observed because:

Mr. Casale said it's crowding, and there are other options. Chair Morin said I'm kind of going the opposite way. The only reason I say that is the picture is much, for me, a much better description than the plot plan because it gives you the look of where the land goes down. It shows you that it's pretty much behind the pool already. It's deceiving. On the plot plan, the backyard looks a lot bigger than it is. But when you look at the picture, it's not very big. There's not a lot of room back there. So, I think it's reasonable where it's going. I don't think it can move further toward the pool, maybe a little bit. Ms. Thomas said well he said there was 10 feet. Mr. Casale said when I mentioned overcrowding, of course, I mean in the general sense. That's the purpose of the ordinance to prevent overcrowding, and there are options here that don't have to be this drastic. Ms. Thomas said I think the 8 feet can be—we'll never get to 25 feet, that would be—but I think you could probably get it even to 15 feet, which does make a difference. It gets it off the property line a little bit more, and based on what I see here, would still keep it no closer than 37 feet from the wetlands. If it just came right the way it is, straight forward, say 7 or 8 feet. Just take the whole thing and pull it toward the pool to here. Chair Morin said the other piece we have to remember is that, on the second application, it's a minimum of 37 feet period. So, it is going to shift more, as we're looking at the plot plan, the top is going to shift more out. Mr. Gilbert said it's going to shift more to the left. Chair Morin said I think it's going to go this way a little bit. Mr. Gilbert said yes, it's got to move at least 3 feet. Chair Morin said it's going to pivot a little, so that little bit is probably going to add some distance there, too. I don't know how much. Ms. Thomas said oh, I think pulling the shed up say 8 to 10 feet... I get what you're saying about your view. I still think you would have that view. It just brings it a little bit more into compliance than where it is right now. I think it relieves the concern of the neighbor behind. The wetlands are important, but then we have a neighbor right behind who has a concern. She does have a shed on her property and now she'd like a shed not near her property. Mr. Casale said it doesn't have to be straight back. I'm just saying 10 feet back, and it's got to be 37 feet from the wetland, which Conservation Commission already said we're okay with that number. Ms. Thomas said and let them site it. Mr. Gilbert added what's interesting about that is that they didn't put any kind of restriction on there for the runoff of the water. But, then again, it's all sloping down. Chair Morin said well they did put something about the stone underneath. So, the water is coming into the stone, and that's slowing everything down to filter. Mr. Gilbert said it's like a quasi-French drain. Ms. Thomas said it's just a little bit better than it is right now still giving him his shed but kind of getting it a little better situation.

3. Granting the variance would do substantial justice because:

Chair Morin said it would give him the opportunity, they're looking to get rid of a shed that's hurting, and giving him a little more space for storage, which would help. Board agrees.

4. The values of the surrounding properties will not be diminished for the following reasons:

Board agrees there's no evidence to this.

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 because:

Ms. Thomas said it's a pretty tight lot via the wetlands. Chair Morin agreed yes, it's very limited. You take away the wetland, and it would almost comply with things. That limits the backyard very much so. It does have that issue to it.

(A) Denial of the variance would result in unnecessary hardship because:

- (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 because:**

Chair Morin said basically you're looking for a little more buffer in the back.

- (ii) The proposed use is a reasonable one because:**

Chair Morin said it would be if they're willing to move that.

Mr. Gilbert asked since these two first requests are so similar, can we combine them or do we have to do them one-by-one? One is depending on the other. Chair Morin said I think we have to take them separately because they're dealing with two separate pieces of the ordinance, one being a rear setback, one being a wetland setback. I think the second one is a little easier to deal with, because the nice part is the Conservation Commission has gone through a lot of that so we can utilize that.

- (B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

MOTION: Ms. Thomas moves to go back into public input. Mr. MacPherson seconds the motion. Roll call vote taken – all in favor. Motion carries 5-0.

Chair Morin asked Mr. Bosworth would you be willing to move it up 8 to 10 feet away? So you're looking at approximately 16-17 feet in the back. Mr. Bosworth replied so moving it toward the pool? Chair Morin said away from the back line. Ms. Thomas added but in a straight line. Mr. Bosworth replied I would absolutely do that. Mr. Casale clarified 10 feet. I just don't like 8 to 10. Because then it's going to be 8. Chair Morin said we'll put a specific number so it can be no closer than 18.7 feet from the back property line. How's that? Mr. Bosworth said whatever you want done. Mr. Gilbert added that will take care of that side. It will come this way. Mr. Bosworth said yes.

MOTION: Mr. Gilbert moves to go back into non-public input to finish deliberation. Ms. Thomas seconds the motion. Roll call vote taken – all in favor. Motion carries 5-0

MOTION: Ms. Thomas moves that the Zoning Board approve the variance from Article III, Section 275-22(a) Table 1, Table of Dimensional Regulations, to permit construction of a 16' by 24' shed 18.7 feet from the rear setback where 25 feet is required at 7 Birkdale Road, Lot 3-7-197, Zoned R & A, per our deliberations. Mr. Gilbert duly seconded the motion. Roll call vote taken – all in favor. Motion Carries 5-0.

Chair Morin takes up the variance request for 37 feet from the edge of the wetland where 50 feet is required.

1. Granting the variance would not be contrary to the public interest because:

- (1) Whether granting the variance would alter the essential character of the locality:**

Chair Morin said I don't see that happening. Board agrees.

(2) Whether granting the variance would threaten public health, safety or welfare:

Board agrees no.

2. The spirit of the ordinance is observed because:

Board agrees yes. Chair Morin added especially with the information we got from the Conservation Commission that was helpful.

3. Granting the variance would do substantial justice because:

Chair Morin said it would give him the opportunity for the shed. Board agrees.

4. The values of the surrounding properties will not be diminished for the following reasons:

Board agrees no.

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 because:

Chair Morin said again, we'll go back to the small building area to put things.

(A) Denial of the variance would result in unnecessary hardship because:

- (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 because:**

Chair Morin said I think we've made it so it does work.

- (ii) The proposed use is a reasonable one because:**

Board agrees yes.

- (B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

MOTION: Mr. Gilbert moves the Zoning Board of Adjustment grant the variance from Article IV, Section 275-28(a) to permit construction a 16' x 24' shed 37 feet from the edge of wetland where 50 feet is required at 7 Birkdale Road, Lot 3-7-197, Zoned R & A as per our deliberations. Mr. Casale seconds the motion. Roll call vote taken – all in favor. Motion carries 5-0.

Chair Morin takes up the after-the-fact variance request for the pool 45 feet from the edge of the wetland.

1. Granting the variance would not be contrary to the public interest because:

- (1) Whether granting the variance would alter the essential character of the locality:**

Board agrees no.

(2) Whether granting the variance would threaten public health, safety or welfare:

Board agrees no.

2. The spirit of the ordinance is observed because:

Board agrees yes. Chair Morin added the Conservation Commission helped us out with their ruling with this also.

3. Granting the variance would do substantial justice because:

Mr. Casale said the pool was there, and he wasn't aware of the issue. Board agrees.

4. The values of the surrounding properties will not be diminished for the following reasons:

Board agrees no.

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 because:

Chair Morin said again, that would have been a little challenging with the wetlands setback. Mr. Casale added and to tear a pool down.

(A) Denial of the variance would result in unnecessary hardship because:

- (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 because:**

Chair Morin said it was there already, and he's just conforming it to where it should be.

- (ii) The proposed use is a reasonable one because:**

Board agrees yes.

- (B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

MOTION: Ms. Thomas moves the Zoning Board of Adjustment Approve an after-the-fact variance from Article IV, Section 275-28(a) to permit an existing, above-ground swimming pool 45 feet from the edge of the wetland where 50 feet is required at 7 Birkdale Road, Lot 3-7-197, Zoned R & Am per our deliberations. Mr. Casale duly seconded the motion. Roll call vote taken – all in favor. Motion Carries 5-0.

MOTION by Mr. Casale to move back to public input. Mr. Gilbert duly seconded the motion. Roll call vote taken – all in favor. Motion carried 5-0.

Chair Morin said you're all set. Thank you. Before I go into the next one, I just want to put this statement out there. We're going to try to get everything in, but just FYI we don't start a new case after 10 o'clock. We have just over 50 minutes to get these two done. We just want to get everybody in, okay?

Item 5: Melissa Burl - Request for a variance from Article III, Section 275-22A, Table 1, Table of Dimensional Regulations, to permit the construction of a 17' x 20' shed 5 feet from the side setback where 25 feet is required, at 116 McAllister Road, Lot 2-14-4, Zoned R&A.

Ms. Melissa Burl testifies: Hi everybody. Melissa Burl, 116 McCallister. I promise I'll go quick. I'm going to go as fast as I can. A little background while I get this up and running, I was in Dunbarton as well for 10 years. I love it out there. I had 5 acres, and it was phenomenal. I ended up having one child and twins. We outgrew our home. I work at WMUR so, closer commute, easier to get to the kids, stop by at lunch—win, win. I bought the land through a local builder who is great—really reputable and very well-known. What we didn't realize was the impact of the wetlands on the property. I have 7 acres. It sounds awesome, right? Dunbarton to Bedford—7 acres. Well, there's this little stream that runs through the property that makes the better part of it essentially unusable. That being said, there's a pool. I'm a rule follower. Of course, I had the wetlands re-delineated, and I had the plot plan redone. I went through all the checks and balances. The wetland wraps right around the backyard. I'll show you a photo. I think that's probably the best way to show you. Here's a great picture of it. This is my house right here. Big lot, right? Originally we thought we were building here. I want privacy just as much as the next person does. I respect my neighbors wholeheartedly. All I'm trying to do is give is both a little bit more privacy between each other. You can notice the shading. I'll show you on another photo where the yard slopes and the wetlands come in. Actually this one shows you quite well. You can see the line here around the house. This is the 50-foot setback, okay? This a portion of my lot. You can see it goes all the way up here. It can't really get over this to put a shed anywhere else on the property. There's a brook that runs across the entire thing. The pool is here. I'm trying to put up a shed, and I actually put a lot of thought into this but with Miss Stevens, who use to be here as well, we're friends and kind of said which way do I go? Do I go for a variance with the Wetlands? Or do I go with the neighbor? I know that there's that Article IV 275-28 I think that states that you can have a shed within 5 feet of the property line on the side or in the rear so long as it's 120 square feet or less and under 12 feet if I remember correctly. I was thinking I was good to go. Because originally I said alright I can do 120 square feet in and wanted an overhang off of it. Peg is wonderful. I chatted with her a bunch of times trying to figure out if an overhang was going to be part of the footprint or not. I got talking with Terry for a little bit. It turns out at the end they said it might actually be you've got to come and try to see if you can get a variance for it. At the same time, I inherited a niece along the way, and my stepmother passed away. Needless to say, I inherited this big tractor that I now need to house. Now I'd like the shed to be big enough that I can put this Kubota inside the shed so it's not unsightly on my property. I'm very type A. I like things tucked away, very neat, very clean. That's what I'm proposing. It would also offer a buffer between myself and the neighbor. I have some photos that I'm happy to share. This is a picture. Post Woodworking can build this. This is exactly what we're hoping to do, complete with a nice cupola on the top. It would fit in perfectly with the décor of the area. You can see here that there's a significant slope on the north side of the pool. It's also wetland delineation over here. That's an issue. In this photo, you can my son standing on the back corner of where we're proposing. You can kind of see the outline here. That's the proposed footprint. Only half of it would be enclosed—a little more than half. There will be an overhang so I can tuck away furniture, get some respite from the sun, which is beating because it is a giant field. You'll notice on the

side, there's a fence here. When I had moved in and built the house, the neighbors built next to us. The builder facilitated a conversation about purchasing trees to put down the property line. So we actually split the cost to do that and put in a bunch of trees to go down to try to add privacy. We both agreed that's what we're hoping to do. We agreed at that time that neither of us really wanted a big, ugly fence down the middle of the yard. The neighbor decided to get a pool and needed a fence, obviously, put up a very nice, black wrought iron fence. It's awesome. Unfortunately, he had rip out a bunch of trees to do it. A lot of that buffer that I know obviously both the neighbor and I are both concerned about went away when the fence went up. My goal is to rebuild it. You'll notice here that the edge of the pool is here. I'd like the shed and overhang to be in between the two. They would be beautiful. It would offer a buffer from the neighbors. I will continue to add trees to the line to try to offer more privacy. I will go through the variance as you need me to here.

Variance is not Contrary to Public Interest.

It would not be contrary to public interest in my opinion because it would be toward the back of our lot. It's very far off the road—hardly visible from the road. It would be the same as the character of the locality. It no way threatens the public health, safety, or welfare.

The Spirit of the Ordinance is Observed.

It would allow for a structure to act as a pool house, an area for the pump to go, and to provide added buffer privacy for my neighbors and my family. There's currently a fence and some buffer trees on the line that we're working to increase in order to give each other added privacy. We're in a field and we're relatively close together despite having 7 acres.

Granting the Variance Would Do Substantial Justice.

It would allow us room that we need to store our tractor, pool supplies, chairs, so they're not visible to others in the yard even through the winter. I'm going to need somewhere to tuck away the chairs and whatnot that are going to be on the patio. The location was selected because it allowed the most space without affecting any wetlands setbacks. On the north side of the pool, there's also a significant downward slope. The pump for the pool needs to be at the pool height or higher in order to maintain its integrity per the pool company.

Values of Surrounding Properties Would Not be Diminished.

It will actually increase privacy. Be a very esthetically appealing structure as opposed to a privacy fence. It will match our home. Further, the project that's going in in this backyard right now is definitely going to increase their property value.

Literal Enforcement Would Result in an Unnecessary Hardship.

We're in need of storage for both the house and pool equipment and other equipment that's not uncommon for the neighborhood. Given where the pool is located and taking into consideration the wetlands on the property, the spot is best suited for the structure. The location was selected because it allows for the most space without affecting wetland setbacks. As I mentioned, there's that significant slope on the north side. Now that the pool is in, it has to be the highest part of the property. So it's going to create a slope on the back side as well. It's the only flat area in the yard that's close in proximity with the pool and not violating any wetlands setbacks.

Denial of the Variance Would Result in an Unnecessary Hardship.

We would not have a place to store the tractor that was recently inherited from my father. With all the pool stuff, I have 4 kids. They have a lot of stuff. I don't want it unsightly around the yard. I want it to be

tucked away. In the winter, I'd like to be able to put our patio chairs and our tables and whatnot underneath the overhang and cover it up and protect it. Despite 7 acres, much of it has small strips of wetlands that prohibit us from putting up a shed anywhere else that's reasonable for its use within the yard. Further, I'm not even sure there is somewhere else in the yard it could go.

The Proposed Use is Reasonable.

It will be aesthetically appealing. You can see the picture. It's complementary to the home and the neighborhood. It will allow us to store things inside. It will give more privacy, which is a really big deal, I think, for both of us. It's reasonable because it doesn't appear that there's anywhere else to put it near the pool in the yard to place such a shed. I think I hit most of those. I did reach out to the neighbors. They received a text a few times, the 22nd, asking to talk to them about what we were hoping to do, asking to tie into their fence. I know their fence is really important to them, and I don't want to be the neighbor that comes in and puts up a privacy fence down the line when they have this beautiful fence that they care a lot about. I know they were pretty upset with the neighbor on the other side did that. I don't want to do that. I don't want to be that neighbor. Further, if we are sitting in sunshade underneath a pavilion that we're allowed to do off of this shed, I don't want my music aiming at them. I want it aiming away from them. If I were to put it anywhere else, if there even were anywhere else that there were wetlands setbacks that were maybe approved to be moved a little bit, any other way the music would aim at their property. That's not what I want to do for them either. I guess that's ... did I hit everything?

Chair Morin asked Board, any questions? I'll start. It's got nothing to do with this, but it's going to tie in somewhere so I'm going to ask anyway. What's your idea for a pool fencing, and where would that be going? Ms. Burl replied we had asked to tie into their fence. I'd left a couple texts and a phone call. We're waiting to hear if we can tie into their fence. If we can, then we would just need it on the front portion and around the back. We wouldn't have to disrupt that property line. We're really trying to maintain the integrity of what they're building there while still offering privacy that looks nice. On the other side, I can see right through their lot to the other neighbor that put a privacy fence right up against their fence. I don't want to do that.

Chair Morin said okay. I'm going to be reading an email or a letter that was sent by one of your neighbors. They're mentioning another shed on the property. Is there another shed on the property? I'm not seeing it in the plan. Ms. Burl said no, I think on the plan it shows—the original plan there was a trout house on the property because it used to be McMann's and Gendron's, I think, and they actually hatched trout. That had to be knocked down in order to get a CO on the house. That's not there anymore. There is a chicken coop, which I'm wondering if that's what they're considering. That is on the very far, when we had moved in, we actually had to move it three different times by crane in order to meet wetland setbacks. But there's no access to it, so I no longer have chickens because I can't get to it because of the wetlands. I would show you on this map. Let me see. I can show you where it is. It's right here. Chair Morin said okay. Way out there. Ms. Burl said yes. There's really no access because you see this brook that runs here. Then there's a 50-foot setback on the brook. There's one picture that shows really well and I'm not sure if it's in this. I might not be able to find it as quickly as I wanted. Chair Morin asked how tall is the roofline? Do you know offhand? I couldn't see it on those. Ms. Burl answered no because that wasn't the right blueprint for it. I can certainly find that out. It's small enough that it can fit on a truck. They actually bring it assembled. I'm sure there's some height requirements for that. Chair Morin said any other questions from the Board?

Mr. Casale asked Ma'am, the west side of the property—why can it not go on the west side of the pool? Ms. Burl replied great question. Right here, because where the wetlands, we're in the setback. The wetlands setback is right about where my hand is. Mr. Casale said so, I'm looking at the plot, and if that shed is to scale, it would seem to me that you could just tuck it in behind the pool on the west side and not interfere with that 50 feet. Ms. Burl said yes. There's a slope down right now, because the pool has to be the highest spot on the property. Right now they're going to have to build a retaining wall to the back of the pool. If I did something like that, which I do think it would still potentially be tight, but if we did consider doing something like that, it means the patio is going to have to be extended out much further as well to lead up to the shed. Do you see what I'm saying? There's going to be a retaining wall coming in like right here. Mr. Casale continued okay. When you say patio, you're talking about basically the walkway around the pool? Ms. Burl agreed. Mr. Casale asked so you have a walkway and I understand your desire for the overhang, but that's taking up quite a bit of room. It's one of the things that the abutter had mentioned. The fact that you have other spots, you could even use umbrellas, but you have other spots on the house. If you were to cut that awning area, I don't even want to call it a porch, but that overhang out, this shed could fit much better not only where you have it currently, but move it closer to the pool but also on the west side, right? Ms. Burl said yes. You could put it on the west side. I'm not sure I'd be able to get my tractor up in and around given the retaining wall. It's meant to be dual purpose here. I'm not sure how I would access it from that side, Right now I'd be accessing it from the driveway portion. That would make it a challenge. The covered part—the back of our house is full sun. I work 8 to 5. I get home and it is beaming outside on that porch. I was looking for a bit of respite for my kids. I've got one that we think he's a vampire. We're so Irish. He can't sit in the sun. There's no escaping it. Further, in the winter I need a place to store the chairs and all the patio furniture that's going to be out there. I'd like to tuck it underneath that covered spot and keep it protected. Mr. Casale said okay, thank you.

Ms. Burl asked did you want to read the letter first? Chair Morin said yes. I wanted to get the questions done up here first. I'll ask is there anyone from the public who would like to speak? [negative]

I do have a letter from Nicole and Kai Nalenz at 112 McAllister.

Thank you for your consideration of the proposed building for our side of the fence. We share the side property line with the requestor and as the abutter most impacted by the proposal, we ask that you deny the proposed variance as current plotted on the map for the following reasons:

Applicant already has two porches; one covered, one screened. Steps alongside the pool as pictured on the next page making the open half of the proposed structure redundant. If the bar area was removed, a shed housing the pool pump, water heater, accessory storage, would easily fit within the Town's setback requirement and negate the need for a variance. While the north side of the pool does slope as noted in the application, the yard is currently dug up so regrading and reusing the soil excavated from digging the pool hole would alleviate the slope issues. Retaining walls are often used to address slope issues. Please see the current photo attached for a visual. The north side has several acres of distance to the next neighbor and would address our proximity concerns. Yes, pool heaters require ventilation especially when enclosed. As neighbors, we do not want exhaust fumes emitted 5 feet from our property line. A chimney will increase the height of the proposed structure. From the efficiency standpoint, it would be best if the pool heater was closer to the propane tank which is on the north side of Ms. Burl's property. Regarding tractor storage, there are already four garages and a shed at the property. There are several other areas in the 7 acres where a tractor shed could be placed. The proposed shed would be highly visible from multiple rooms in our home, which would reduce our property value. Party noise

disruptions already affect our elementary school child's sleep as his bedroom is adjacent to the applicant's property. Seeing that the proposed building is literally named Siesta Poolside Bar by the manufacturer, brings great concern that parties hosted 5 feet away from our property will increase noise issues. Since there is no Town noise ordinance, our hands would be tied if the Board were to allow a bar gathering area to be built so close to our property. We appreciate the attempt to rectify privacy concerns, but the applicant should also plant trees and install a privacy fence instead. A safety fence will be required for the pool anyway. In summation, since there are existing porches and options available to the house to house the tractor or pool accessories within the Town's guidelines, the variance request is not in the spirit of the ordinance which is retain setbacks unless there are no alternatives. Thank you.

Chair Morin asked are there any other questions from the Board? I know Neil asked a little bit about some areas, the west. Why not the north side? If it's going to be part of the pool area, why not the North side of the house because it almost looks like it would be within the setback area? Ms. Burl said yes, great question. Here's the picture here of the slope. This is the house in question over here. This is the slope. There's about a 4.5-foot drop in a very short amount of time. It would be really challenging to put a shed there. If I built an entire retaining wall, I could but then I'd land the same problem of I can't access it with the tractor if there's a retaining wall. Chair Morin replied but we're not talking to go way back that far. It would be right up next to the pool, which by our slope map that we're looking at is maybe so that's about maybe 98, 99 where the pool is at. That's not, maybe a foot—foot and a half? It doesn't go back to 96 until you get all the way to the well cap. Ms. Burl said yes, and you can see the wetland. This is the well right here. This is the wetland line here. It slopes pretty consistently down from the top of the pool, and I'm not sure height-wise, like I said, the pool had to be the highest point of the property. It may be higher than the grading you're seeing. I'm not sure where that's pulling from. Chair Morin replied right, the pool itself, but why not the.... Ms. Burl said it's about 3 feet from there to here. Chair Morin asked from where to here? Ms. Burl answered from the edge of the pool down to like this area. If I were to put a shed here, it would be about a 3-foot drop. It's about 4 by the time you get to the well. Further, if there's concerns about noise, which I also have an elementary school child, so our noise ends early. Chair Morin said we kind of deal with that, but our biggest thing is the setbacks. We're looking at the setbacks to try to alleviate. Ms. Burl said at the end of the day, the pump—it was curious to me the mention of the pump and its location. His pool pump is right under his window on his property, number one. Number two, his pool pump will be closer to my house than mine will be to his house, number two. Number 3, I got the whisper soft pump. It's the quietest pump on the market, and it compares decibels to just underneath the sound of soft rain. It's 45 decibels. It's the quietest. A library is considered 30 decibels. So his pump is actually noisier than my pump. Further the pump isn't the issue. Technically, the pump can go anywhere. Chair Morin said the pump's not really the issue. It's the building—that's the issue. That's what we're dealing with. Ms. Burl said yes, but it sounded to me like he was struggling more with the pump and building, but I could still put a 120 square foot building within 5 feet of that line, so that's what I'm struggling with a little bit. Chair Morin said I think we're struggling too—or I am anyway a little bit. Any comments from the Board?

Mr. Gilbert asked maybe it's not an appropriate question to ask, but what's the tractor for? Ms. Burl replied the yard. Mr. Gilbert said it's a yard tractor—not a snow removal kind of thing or? Ms. Burl said no. I'm actually keeping it for my Dad. He lost his wife. She passed away, and he sold everything and had me hold on to his tractor until he settles somewhere eventually. But he's in an RV in Florida right now. Mr. Gilbert asked is it really big? Ms. Burl answered it's a medium-sized tractor. I took the measurements on it. It's more long than anything. Mr. Gilbert continued but not high? Ms. Burl responded it's not high, no. It's just more long because it has the backhoe and it has a bucket on the front. Mr. Gilbert said okay, I know what you're talking about. Thank you. I see what you're trying to do

is come in that paved driveway and go right in there, to Neil's point you can go the gravel driveway on the other side, sort-of, but I understand what you're doing. Ms. Burl said yes, the only challenge would be if there were a retaining wall, to build it up high enough, I wouldn't get the tractor in and if I put it down bottom, then it wouldn't be a pool house. Mr. Casale said yes, but you also have the west side. You may not be able to put your nice party area there, but if it's not that side you can also—you don't need the variance. It doesn't look it. Ms. Burl said it would cut into the patio area, but we could put it there and I could put up 120 square-foot pavilion right on the line. You see what I'm saying? Mr. Casale said you can, but it's not our issue. Ms. Burl said I know. Mr. Casale said you're 5 feet from the property line. Ms. Burl said and his fence is actually a little off the line, too, so it would be a good distance. The alternative, unfortunately is that I'm going to have to end up putting up two sheds. The one proposed is definitely going to increase his value. It's a \$30,000 shed from Post Woodworking, and it's very beautiful. I think it looks a lot better than a fence would down the line if I can't get privacy from a shed. Chair Morin asked any other questions?

Mr. MacPherson said that's a pretty good-sized shed. Can you do less? Ms. Burl said yes, I'm amenable. At the end of the day, I wanted to fit the tractor in it and have some sunshade, and somewhere to store the stuff. I had hoped to have a conversation with them about what that looked like. If it was adding a little fence around the back of the pump. I would do that. If it was putting a sound barrier up, I would do that. I'm amenable to what their concerns are. Unfortunately, they haven't had that conversation with me. I still don't know if I can tie into their fence with my fence. So, we have a couple of issues we have to work out on our end. Chair Morin said the way the letter sounded, I don't think so. Ms. Burl said well in that case, then, we probably don't have an issue at all because there will be a privacy fence going down. Chair Morin asked anything else from the Board? [nothing]. Anything else from you before we go into deliberations? Ms. Burl said no. I'm open to suggestions if it needs to be a little bit smaller or whatnot, we'll do what we can to make it work. I want to be a good neighbor. I want them to be happy at the end of the day even though I'm not 100 percent certain that's possible. I didn't want to put a shed down in the middle of my front lawn and I didn't contest when they did.

Mr. Gilbert asked for clarification if you're going to build something like this, is this open area going to face the pool? Ms. Burl said correct. Mr. Gilbert said okay, that's what I thought.

MOTION: Ms. Thomas moves to go to non-public input for deliberation. Mr. MacPherson seconds the motion. Roll call vote taken – all in favor. Motion carries 5-0

1. Granting the variance would not be contrary to the public interest because:

(1) Whether granting the variance would alter the essential character of the locality:

Chair Morin said per se a shed won't. This is half shed/half pool house.

(2) Whether granting the variance would threaten public health, safety or welfare:

Board agrees no.

2. The spirit of the ordinance is observed because:

Chair Morin said the spirit of the ordinance is to have a buffer between structures and properties. This one is tight. Mr. Casale said and there's alternatives. Chair Morin agrees there are some alternatives, and unfortunately the neighbor on that side is not happy with 5 feet. I would think

definitely different if the neighbor came in with a positive recommendation. But 5 feet is tight. The only per se positive part of it is that if it's put up the way the picture looks, at least things aren't falling towards the other property, they're going to the sides, staying on that property—rainwater, because it would be coming down this way. Mr. Gilbert added plus if she's pointing it toward the pool, then the tractor coming in from that side, then he's seeing the back end of it. Chair Morin said I'm having a hard time with that piece personally. Any other comments to that piece?

3. Granting the variance would do substantial justice because:

Chair Morin said it would give them the opportunity to get their shed in the location which is optimal for them, but unfortunately I think it's encroaching a little too much, and there are some alternatives to the north and west.

4. The values of the surrounding properties will not be diminished for the following reasons:

We've heard no expert testimony in that.

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 because:

Chair Morin said it does have that specific point that she brought up about being a large lot, but very small buildable lot. Mr. Casale said I don't see it as a hardship, though, because there are alternatives.

(A) Denial of the variance would result in unnecessary hardship because:

(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 because:

Chair Morin said it's that scale of justice type thing, and it's not quite even by my perspective anyway.

(ii) The proposed use is a reasonable one because:

A shed is reasonable as long as it's in the right place.

(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:

MOTION: Mr. Casale moves the Zoning Board of Adjustment deny the request for a variance from Article III, Section 275-22A, Table 1, Table of Dimensional Regulations, to permit the construction of a 17' x 20' shed 5 feet from the side setback where 25 feet is required, at 116 McAllister Road, Lot 2-14-4, Zoned R&A, as per our deliberations. Mr. Casale seconds the motion. Roll call vote taken – all in favor. Motion carries 5-0. The variance is Denied.

MOTION by Mr. Gilbert to move back to public input. Ms. Thomas duly seconded the motion. Roll call vote taken – all in favor. Motion carried 5-0.

Chair Morin said that has been denied. Ms. Burl asked do you have recommendations aside from, like are there any modifications that can be made? Chair Morin said you'd probably be better off speaking with Planning and see what kind of ideas they have. Ms. Burl said okay. If I have a conversation with the neighbor, and they so feel to change their mind? Ms. Thomas replied you'd still need the variance. Ms. Burl said still need the variance, so we're doing the same thing again. Got it. Chair Morin said a variance will still be needed in that area. Ms. Burl replied but I don't need one for 120 square foot shed on 5 feet, right? Chair Morin said if the town says you can do that, you can do that.

Item 6: Matt Kazakis - Request for a variance from Article III, Section 275-22A, Table 1, Table of Dimensional Regulations, to permit the construction of a 16' x 24' garage/shed 11 feet from the side setback where 25 feet is required, at 248 Wilkins Street Extension, Lot 42-2, Zoned GR (and adjacent Lot 684-8 in Manchester).

Mr. Matt Kazakis testifies: My name is Matthew Kazakis. I live on 248 Wilkins Street Extension. I also own a little piece of property that's part of Manchester that's my right-of-way so that I can get to my property. Four years ago it was built, and we moved in and we love where we are. I live there with my wife and my two little girls. I guess I'll just go right into reading these so to not take too much time. I put together a PowerPoint, so then I can just go over why I'm doing this. I guess I'll just go through this first—read the answers and then I'll go over my PowerPoint.

Variance is not Contrary to Public Interest.

There is no encroachment on the usable land to any abutters' homes or property. The neighbor, Jeff, has a clear, visible view of my lot from there. He's the only one really except for if you go over to the Manchester side. Granting this variance will not diminish the value of the neighboring properties and it will not threaten public health, safety or welfare.

The Spirit of the Ordinance is Observed.

Every effort to place a garage within a setback does not feasible meet the topology and landscape. I'm going to go more into that with my property when I show you the PowerPoint. The location has been carefully considered to be a fixture within the existing property's lot. Adding minimal intrusion to the setbacks allows the garage to integrate with the existing driveway and landscape. The location has ideal elevations, specifications that will allow material from foundation to be removed and reused within the property. Other locations on the property would require a great deal of fill. I have a great deal of—it's not wetlands, I always say wetlands—but I have a lot of storm water because I'm on a hill. I have to deal with that. The whole idea of me having this shed is to get a tractor, because I've dug a lot of trenches in the last 4 years and a lot of holes and I don't want to do it anymore. I also have a 300-foot driveway—60 plus meter driveway—that I have a little snowblower that I don't want to snow blow when I turn 50 in a few years. So that's the whole idea of the garage.

Granting the Variance Would Do Substantial Justice.

The new garage will be a nice addition to the beautiful neighborhood. The garage will match the current house and add pleasant barn-style. I have a drawing of it. I'll show you the plan for the garage. It is two parts. Obviously store house material. I do have a zero-turn now that I put in my 12 by 12 shed that I built the first year I moved in there. Unfortunately, with the storm water I have now, I can't really move it until—even now it's still wet in my backyard because even the snow's melted for weeks now, but I get all the water down from the hill. So, it's just what I deal with, and I would like to keep that somewhere else so that I can move it. In my front yard, I can thatch, and I can do more stuff with it. I just can't move

it until it's completely dry otherwise, I'd leave ruts in my backyard. It's also to house a tractor and other materials in the backyard, in the shed/garage, whatever you want to call it.

Values of Surrounding Properties Would Not be Diminished.

Jeff is the only one. It does sit right beside his driveway, and it is directly in between our two houses. You'll see in the lot that my property actually goes through his driveway. It's like a right-of-way. You'll see that.

Literal Enforcement Would Result in an Unnecessary Hardship.

The property is a new lot and the existing structure is set back 300 plus from the road. The natural landscape and topology are what is driving this request and for me to ask for this location.

Denial of the Variance Would Result in an Unnecessary Hardship.

The original lot was subdivided, and has a natural slope. My lot used to be part of the next-door neighbor's lot, and the one above that as well. It was all subdivided. This land takes a lot of water coming down the hill and stormwater as well at the end of the snow season. It's just very wet. When we get a lot of rain, I have to deal with all that. So, it's what adds to the natural landscape.

The Proposed Use is Reasonable.

The garage will house various outdoor items such as lawn chairs, bikes, my grill, etc., things throughout the yard. It is reasonable to have a detached garage that will someday house a tractor, because that's my plan for it, and help control the water and various outdoor landscaping projects as well as cleaning my driveway, snow removal. I've already dug French drains and all kinds of other stuff and I'll show you stuff with that in my presentation. The only impact, really, is between me and the adjacent lot that Jeff owns on 42-5, and he has a direct line of sight of it. I've talked to him, and he doesn't have a problem with it. If he did, then it wouldn't even be an option. That's where I'm at with that. Existing structures on the property are all set toward the back and side of the lot. The front of the property has steep-slope irrigation piping, and it will require excavation work to be completed. It collects a lot of water. It would be very difficult for me to put it there. It would be a big undertaking.

This is my property. I'll just run through this real quick. As you can see, this was taken just the end of the season when I have all my stakes up in my driveway. This is proposal. I've actually had Alternative Design draft these plans. This is what I'd like to build. Just a 16' by 24' garage. It has a single door on one side. I have the full plans on here. I'm welcome to show them. It will be a concrete foundation. Here's my plot plan, and this is where the proposed location is. This is the property looking at it from the street. You can actually see the slope as you're looking at it. I purchased the property from GPS to build this single-family home. As you can see it's like smack right next to the house to the right of it. Like I said, what it will be used for: storage, outdoor items, bikes, grill, etc., and a tractor. I do write car in here. I do have two young kids, so eventually, maybe, you know, there's likely going to be another car in our life. I don't like clutter, so this is just going to help us a lot. Right now, I can't even move in my 12 by 12 shed now. I even have stuff in the basement. It will help free space. Examples of that are just here. This is my existing garage.

You can see this is the wall in my basement where I've got bikes. I just got stuff everywhere. This is my current shed. This is what I have now. I can't even move this now. I currently have things around my yard that I would prefer not to have outside of my house. But I don't have anywhere to put them. I'm the kind of guy who would want to put a wheelbarrow in the shed. Now if I do, I can't even walk in the

door. It's kind of like where I'm at with that. I try to keep things clean. The most natural part of the property that would accommodate the structure is the location that I've chosen.

If you look at my lot, right here, to the right you can see that it's very wet. It collects a lot of water, and it slopes down. Along that rock wall on the left, it pools. When we have big rainstorms, it's just like a complete river along my rock wall. The same with over here. There's actually a French drain you'll see coming up in here. The front yard has a pretty decent, I would say like 8 feet, if you follow that red line across all the way to the rock wall, it drops off quite a bit. There is an existing pipe. You can kind of see the hump in my front yard. It was done when they did the driveway. That collects all the water that's on the right side of the driveway and helps feed it down over the yard. The stone wall gets flooded. It gets completely flooded. My yard is wet. The back is worse, but that's where my well is. It's kind of where all the water's been drained from the existing lot that originally had the first house on it. I went through some ideas, and I threw them on this to show you guys I have considered other spots to put it. I obviously have my septic system right in front of my house. It's not an ideal place for a shed.

I highlighted a spot here which could potentially take a shed, but it would require a bunch of excavation, it would also put a shed right in front of my house. From the street side, I would have a shed in my front yard in front of my house—not ideal. It's not something I want. Also, it would require a bunch of excavation work to bring the grade up, to level it off and make that work. That's what I'm hoping not to do. The front yard also has the right side, which, within the setbacks, I can actually slam it up against the driveway, but I've been here for 4 years. If you look at this right here, you can actually see this little candy cane right there? That's actually the drainpipe from my septic system. It's already been hit by Amazon once. They've already towed another Amazon guy out of the driveway over there. They numerously break stakes. I don't want something that close to my driveway. It's a safety hazard. It should not be that close to the driveway. It needs to sort-of have like a natural place for it back away from the driveway. The area under the rock wall gets a lot of water, which is right here. It's very wet. You can actually see this line if you follow the little hand. There's actually a 200-foot perforated pipe dug by not only yours truly that catches water and pushes it toward the pipe. That helps collect the water and move it out of there. It needs to be redone. It needs to be done with a big machine. Once again, another reason for the tractor. This shows you a better example of that with the drainpipe and where it all collects to and goes. The reason for not wanting it in this location, obviously, is because it's too wet. The natural curve of the driveway would be to set it back. I could turn this and slam it up against my driveway like I said, but it just becomes a safety hazard at that point. I just think it's going to get hit. I've already had one guy towed out of there another guy hit a pipe and numerous stakes broken during the winter months. My driveway is over 60 meters long. They deliver a package when they're not supposed to go down your driveway, and they hit the gas pedal and they think they're going to make it and they don't because it doesn't go exactly straight. Unfortunately, that's what happens. I don't want a structure right up there. It's just not a good choice. It's a safety problem.

The backyard – this area right here is a potential option, but unfortunately if you see the red line right here, it's very wet. This red line actually is where all the water comes down from the hill. My neighbor, Jeff, to that side of me, actually has a stone bridge. He has a stone gully that's dug throughout his backyard and he has a walk bridge that goes over it because it collects all the water and it funnels it that way. It actually is great, because that's what feeds my well, and that's what allows us to have such great water. Unfortunately, it's very wet. I also have the problem of my propane tank here. If I ever did want to bring a heavier machine, more than the 700-foot zero turn, a structure that big is not feasible to drive over your propane pipe without putting in a metal plate and all the other stuff to deal with the water in the pipe. That would be another issue. This shows you how the water comes down. This is late spring,

but you can see this hand gulley right here that I dug. This collects all the water. This will fill up. We had the storms yesterday, and down here was all filled up with water. What happens is I have a French drain that I dug around my shed, and then I also have a drain that goes straight across my yard that I also dug, that ties into that. When the water collects too high, it manages it and helps push it down to the lower slope, which is on the other side of the lot, in order for me to control the water. This area would be a huge amount of excavation work. Just like the front yard in the same regard. It would be a big problem.

This is my cheesy Photoshop. I just clipped it out of the thing and I showed you, this is the natural driveway. You have the rock wall. This is just an open area, and this would be what would house the garage. I would eventually, obviously tie the driveway into that. But the idea is to put that at the same grade as the house. Same color siding—everything—and put that in that location. This is just more of me being funny with my adding a little clip art in there. I did text my neighbor. We do talk a lot. We abut yards, and we don't really have a lot of privacy between us. I just thought I'd throw that on there that he approves. He asked me who he could email. I gave him Kathleen's email. Chair Morin said yes. We have it in our packet, so we have his email. Mr. Kazakis said I didn't know what else to do with that. That's pretty much it.

Chair Morin asked questions from the Board? Mr. Casale asked even if you don't move it further back from the property line, why not orient it so it's parallel to your houses so that the garage is not facing the street? It seems like it would just work better, because you would have less distance to move equipment in and out because it would be facing your driveway versus.... Mr. Kazakis responded I just did that because there's a rock wall that does that natural—so it just makes the most sense aesthetically. That's what my mind did. I didn't pay an engineer to do that. I paid for the design. I paid to have a surveyor come out. I guess I could have gone that one more step. To me that's why I chose that. Just a little story on that. I wasn't sure if I could draw it and then go for my variance and then working with Kathleen, he had to give me a stamped approval. I put a stake out thinking because it's really hard to tell where that line is. He told me where I put my stake was 17 feet. I said can you just mark it at 11, because it's so hard to tell. The plan is, because I would really like it to have some kind of buffer between me and Jeff a little bit more, because the whole side of his back house is a porch. It wraps around his house. So he's always looking at us, and I kind of feel bad because he's always looking at us. I have the privacy of my backyard, but his backyard looks at my house and my front yard. I kind of feel bad in that regard. This actually adds like a buffer, and it would be a nice structure in that regard. So I asked just to kick it back because it's really hard to tell. I'm okay with moving it a little bit either way. I'm really easy. I think kicking it sideways was more just to make it sort of go with the property. Mr. Casale said I was just curious. Thank you.

Mr. Gilbert asked who'd brown shed is that? Is that the neighbor's shed? Mr. Kazakis said yes. That's what I mean. It's hard to—the line there, if you're looking at this right here, this is actually his driveway. He has a driveway on each side of his house. That's part of his driveway. That rock wall has drains built into it because that used to all be on the same property. So I take all that water from that property, and it dumps it down to me. Mr. Gilbert said I was just curious as to why that shed wasn't on this plan, but now I understand why. It's over there. Mr. Kazakis said it's not my shed. Mr. Gilbert said got it. Thank you.

Chair Morin asked any last items? Mr. Kazakis said no, that's really it. Thank you.

MOTION: Mr. Casale moved to go into non-public input for deliberation. Ms. Thomas seconded the motion. Roll call vote was taken - ALL IN FAVOR – unanimous. MOTION carries.

1. Granting the variance would not be contrary to the public interest because:

(1) Whether granting the variance would alter the essential character of the locality:

Board agrees no.

(2) Whether granting the variance would threaten public health, safety or welfare:

Board agrees no.

2. The spirit of the ordinance is observed because:

Mr. Casale said yes. There's no where else to put this. Chair Morin said he gave us a lot of options. Mr. Casale clarified non-options! Chair Morin said it's a hard property to get past the water.

3. Granting the variance would do substantial justice because:

Mr. Casale said yes because he has very little room. Board agrees.

4. The values of the surrounding properties will not be diminished for the following reasons:

Board agrees the values will not be diminished.

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 because:

Mr. Casale said it does have special conditions. Chair Morin said yes, especially with the water flow.

(A) Denial of the variance would result in unnecessary hardship because:

(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 because:

Mr. Casale said it would prevent overcrowding. The one neighbor is okay with it. He has no other options. Board agrees.

(ii) The proposed use is a reasonable one because:

Board agrees it is reasonable.

(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:

MOTION: Mr. Casale moves the Zoning Board of Adjustment grant the request for a variance from Article III, Section 275-22A, Table 1, Table of Dimensional Regulations, to permit the construction of a 16' x 24' garage/shed 11 feet from the side setback where 25 feet is required, at 248 Wilkins Street Extension, Lot 42-2, Zoned GR (and adjacent Lot 684-8 in Manchester), per our deliberations. Ms.

Thomas seconds the motion. Roll call vote taken – all in favor. Motion carries 5-0. The variance is Approved.

MOTION by Mr. Gilbert to move back to public input. Ms. Thomas duly seconded the motion. Roll call vote taken – all in favor. Motion carried 5-0.

Chair Morin said all right. You're all set.

Chair Morin asked ladies, anything else for us this evening? [nothing] So we'll accept one last motion for the evening.

MOTION: Mr. Gilbert moves to adjourn the meeting. Ms. Thomas duly seconded the motion. Roll call vote was taken – ALL IN FAVOR. Motion carried 5-0.

Meeting adjourned at 10:03 pm.

The next meeting will take place on May 17, 2022.

Respectfully submitted,

Sue Forcier