

**LONDONDERRY ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053**

MINUTES FROM 10/19/16 MEETING

Chairman Smith called the meeting to order at 7:00 p.m. Members introduced themselves. The following members were present: Jim Smith, Chairman; Neil Dunn, Vice Chair; Jim Tirabassi, Clerk; Jacqueline Benard, member; Bill Berardino, alternate member; and Suzanne Brunelle, alternate member. Also, in attendance were Richard Canuel, Senior Building Inspector and Laura Gandia, Associate Planner. Chairman Smith appointed Suzanne Brunelle as a full voting member for the meeting for cases 2 and 4, and Bill Berardino as a full voting member for cases 1, 2 and 3. Chairman Smith reviewed the hearing procedures.

I. APPROVAL OF MINUTES

J. Tirabassi made a motion to accept the September 2016 minutes as presented.

Motion was seconded by J. Benard.

Motion was granted, 5-0-0.

II. REPORT BY TOWN COUNCIL – N/A

III. PUBLIC HEARING OF CASES

A. CASE NO. 10/19/2016-1: REQUEST FOR A SPECIAL EXCEPTION FOR A HOME OCCUPATION REFINISHING ANTIQUE FURNITURE, STEVEN M. JOHNSON (APPLICANT), 173 PILLSBURY ROAD, MAP 6 LOT 99-8, ZONED AR-1

J. Tirabassi read the case into the record, and stated that there were no previous cases. B. Berardino was appointed as a full voting member for this case. Steven Johnson and Victoria Johnson, of 173 Pillsbury Road, presented to the Board. V. Johnson stated that she refinishes antique furniture part-time mostly as a hobby, and as a result of people loving her work, she started selling some of her pieces. She stated that she works a couple of hours a day and sometimes on the weekend and sells a few pieces a week. J. Smith asked her where she does her work and she answered in the driveway. He explained to her that a requirement of receiving a special exception for a home occupation is for all the work to be done inside with no storage outside. She stated that she does understand the restrictions. She stated that her neighbors have to understand that even if she does not receive the special exception tonight, she is still going to be refinishing pieces for herself and her home. The Board and the presenters discussed the difficulty in separating having a hobby and running business, and the perception of her now refinishing pieces for herself outside. S. Johnson explained that V. Johnson is a stay at home mother with their 5 year old son, and usually works from noon to 2:30 in the afternoons and maybe a couple of hours in the evening. He stated that she does not have a business front or website, is not

advertising, and does not have business cards. He stated she goes to goodwill and purchases pieces of furniture that she sands/refinishes, and puts them on facebook. He explained that she does not have a lot of tools (hand sander and a jigsaw). He stated that the situation is before the Board because she was cited by the Town. He did not understand why they are not allowed to do things on their property. V. Johnson stated that she does not have a company name, and the summer before she was very busy but not this summer. She contended that she should be able to refinish furniture in her yard. She stated that she could see that why her neighbor would be upset by the view of furniture piled up in her yard but that has been removed. She expressed frustration over the difference between the sounds of a weed whacker, sander and tractor. J. Tirabassi explained that the difference is she is running an at-home business. J. Smith referenced the Code Enforcement letter and the criteria of a home occupation. V. Johnson said she understood the letter, and she sold her huge work table so she could work in her garage. J. Smith stated that if she is granted the special exception, and she is observed performing work outside then she would be in violation of the special exception resulting in appropriate action by the Code Enforcement Officer.

J. Benard asked for clarification of question 12 on the submitted application. V. Johnson clarified that they are not seeking to add an additional employee other than themselves, and that she checked that she was because Steve Johnson is the home owner, and she wanted to be sure she was included. The application asked in question 12 to verify that only members of the occupant's immediate family residing on the property will be employed – this was checked yes and it was also checked yes that the applicant was requesting the employment of an additional employee. J. Smith asked for public input.

Abutter, Donna Zannoni, 166 Pillsbury Road, spoke in opposition to the request. On behalf of Sue Finnegan (168 Pillsbury Drive) and Therese Torre (166 A Pillsbury Drive), she expressed concerns over chemicals, waste storage paint, OSHA regulations, environmental issues, well water run-off with chemicals, traffic, contamination with well water, wetlands, and wildlife. She spoke of there being tons of furniture in the driveway and chemical concerns. She noted that V. Johnson was seen wearing a mask when working.

Abutter, Carl Demers, 171 Pillsbury Road, spoke in opposition to the request. He stated that the applicant's work area is 25 feet from his sunporch. He stated he has an artisan well and lived there for 20 years. He stated that she is definitely conducting a business, and presented the Board with a 30 plus page packet of documents showing items for sale on facebook (A DIY Darling page and A Sweet as Sugar Life page for selling cupcakes and confections). He stated that the business is run 7 days a week – sun up to sun down at different times a day under tents with tarps outside. He stated that her business is saturated with social media and advertising on a routine basis. He noted that the product is customized and customers pick up their products (noting that the road is dangerous). He stated that there are trailers, and this business adversely affects the property and neighborhood by sight, smell and noise.

Abutter, Sonia Fortier, 1 Jake Road, spoke in opposition to the request. She stated that she lives diagonally from the applicant. She echoed the same concerns as the previous abutters. She also expressed concerns over lead paint noting that her property is part of the Bear Meadow conservation area. She also expressed great concerns over the noise stating that she can hear it inside her house and over the smell of paint especially in the summer. She stated that she could smell paint and chemicals

the whole summer.

V. Johnson stated that she does not deal with lead paint, and that she does not reuse products or brushes that would affect the water or the environment. She stated that 50-60% of work is rolled on paint or done by hand. She stated that she did not work much this summer. S. Johnson stated that V. Johnson does not use special products – just material you can purchase at home depot. V. Johnson stated there is no thinner, acetone or stripping. She thought that her neighbors were teaming up on her. S. Johnson stated that it is not a 24-7 operation but rather 2-3 days a week weather permitting. V. Johnson stated that she does not advertise but does have a facebook page, DIY Darling, and is part of the Londonderry Yard Sale page and Shabby Chic pages. She stated she sells to people mostly from town, and she has a trailer but does not have anyone come to her home with a trailer. She stated she will deliver pieces to customers. She added that she does not make a lot of money. She explained that she will buy a piece for \$25 and sell it for \$100. She also briefly described a property boundary issue (land dispute) with a neighbor. S. Johnson stated she sells 2-3 pieces a week. S. Johnson spoke of the difference between running a business and selling some furniture on Craig's List. V. Johnson stated that last winter she was very busy selling 10 pieces a week from February-April and during the summer, it was not busy resulting in the backup of furniture in her driveway.

Abutter, C. Demers stated that he is not friends with the other two abutters that were present. He reiterated that her business is 25 feet from his porch, and any land dispute is irrelevant to tonight's proceedings.

Abutter, D. Zannoni stated that she is not friends with the other two abutters and noted that the driveway is loaded with furniture. V. Johnson stated that the driveway is not loaded with furniture.

Member N. Dunn stated he noticed the furniture in the driveway, and spoke of the difference between having a hobby and operating a business as well as enforcement issues. V. Johnson stated that she was informed by the Building Department that she able to continue to do her work while her application was pending. J. Tirabassi noted the contradictions in her testimony and her husbands – she said it was a business and he said it was not. He also described what constitutes a business, and noted that she is working on the products she is selling. He asked what happened to the residue from sanding. She stated that it is collected in her sander. Member B. Berardino asked about her facebook page where she advertises her products. She stated that the name of her facebook page is DIY Darling, and B. Berardino contended that was her company name. Abutter C. Demers added that there is sand and paint residue flying into the air. J. Smith noted that she was able to continue to operate until a decision was made by the Board. As of right now, he stated that she was acting within the guidelines given to her by the Code Enforcement Officer. J. Benard asked for clarification of what hours she was seeking to operate. J. Benard noted that the application stated work is performed 2-3 hours a day two to four days a week. V. Johnson noted that during her work, her garage will still be open and her concerns with people filing complaints if she operated outside of the hours. After some discussions, V. Johnson requested the following hours of operation: Monday – Saturday, 9:00 a.m. to 6:00 p.m. N. Dunn asked if she tested for lead given that she works with antique furniture. She stated she has not come across it, and works primarily with varnish and stained tops. She stated that the only time she wore a mask was when it was really cold. J. Benard asked how customers receive their pieces. V. Johnson stated that they deliver and

customers pick up. J. Smith asked if there were any deliveries (of products/supplies) in conjunction with refinishing the furniture, and V. Johnson replied no. Abutter C. Demers questioned the hours of operations, and expressed his disapproval with them especially with hours on the weekend given that it is a residential area. Abutter, S. Fortier expressed concerns over the weekend hours, and stated that hearing tools and smelling paint is not what she wants to experience at her home on the weekend. She also noted parking concerns – people will park on Jake Road, a dangerous curved road, if the driveway is full. Chairman Smith closed the public input.

The Board deliberated the criteria associated with the granting of the special exception as outlined in 3.12.1 as follows:

- (1) The Home Occupation shall be carried on by the occupant only within a dwelling and/or garage and shall be incidental and secondary to the use of the property as a dwelling for dwelling purposes and shall not change the residential character thereof. For purposes of this section, a garage shall be defined as a detached accessory building or portion of a principal building used or occupied for the parking or temporary storage of household goods and/or motor vehicles of the occupants of the premises.
- (2) No exterior renovations or construction, nor the outside storage of any materials related to the proposed home occupation will be permitted as part of a Home Occupation.
- (3) The Home Occupation shall not occupy more than twenty-five percent (25%) of the normal living area (as defined in Section 4.7 of the ordinance) of the home, regardless of the location of the home occupation on the property.
- (4) In order to qualify as a Home Occupation, only members of the occupant's immediate family residing on the property may be employed. Upon request, the Board of Adjustment is authorized to permit the employment of one additional employee on site.
- (5) In considering a special exception for a Home Occupation, the Board of Adjustment shall consider, in addition to the requirements set forth above, whether the proposed Home Occupation will adversely affect the property involved, or neighboring properties, by reason of any unusual sight, light, noise, smell, traffic or other effects of the Home Occupation. The Board shall consider the adequacy of off-street parking for anticipated customers, although no parking areas in excess of those necessary for normal residential purposes will be allowed.

The Board took exception to criteria 5 and concerns about noise, sight, light, smell and traffic during all hours of the week. The smells and residues of paint chemicals, the sound of tools, and customer traffic were all concerns. The Board noted it is a residential area where you want peace and tranquility. The Board also expressed health concerns over the fumes and toxins to the applicants and the neighbors. The Board pointed to the advertisements for several pieces. The Board also noted typically you do not even know that a home occupation exists.

Jacqueline Benard made a motion to deny the applicant's request in Case No. 10/19/2016-1 for a special exception for a home occupation refinishing antique furniture, Steven M. Johnson (Applicant), 173 Pillsbury Road, Map 6 Lot 99-8, Zoned AR-1

Bill Berardino seconded the motion.

The motion was granted, 4-1-0. The Chair voted against the motion.

The applicant's request for a special exception was DENIED.

B. CASE NO. 10/19/2016-2: REQUEST FOR A VARIANCE AFTER-THE-FACT FROM LZO 2.3.1.3.C.2 TO ALLOW A 24 X 24 SQUARE FOOT GARAGE WHICH EXTENDS INTO THE 15 FEET SIDE SETBACK, JOE McCUNE (APPLICANT), 36 COTEVILLE ROAD, MAP 013 LOT 90-1, ZONED AR-1

J. Tirabassi read the case into the record, and stated that there are no previous cases. S. Brunelle was appointed as a full voting member in this case. Joe McCune presented to the Board. He described the construction of the 24x24 SF garage/workshop (built in 2012) as it exists today which encroaches approximately 4 feet into the 15 foot setback. Chairman Smith asked why a building permit was not pulled. J. McCune stated that he did not have a reason, admitted he made a mistake, and apologized to the Board and to the Town of Londonderry. J. McCune stated that the structure is built well, and is aesthetically appealing while blending in well with the surrounding properties. He stated that he stores equipment, tools, and cars in the garage/workshop. On the neighboring lot closest to the garage, he stated there are a deeded right-of-way and a drainage easement for his pond which comprises a third of his land limiting the buildable land on his property. He described the encroachment of the back corner of the garage. He noted that all of his neighbors support his application, and the structure is not visible from the road. J. McCune referenced the pictures of the garage. J. Smith asked R. Canuel if he inspected the structure. R. Canuel stated that Dan Kramer, Assistant Building Inspector, was working with the applicant. R. Canuel also stated that the structure has not been inspected, and a permit application is pending the granting of the variance. S. Brunelle asked about the right-of-way. J. McCune stated that it runs between him and 38 Coteville Road. He stated that when his brother-in-law sold the property next to him, there was a right-of-way created to allow access to the back property still owned by his brother-in-law. J. Smith asked the applicant to address the five points of law.

The five criteria were addressed by J. McCune as follows:

- (1) Variance will not be contrary to the public interest: the structure is attractive and blends in well with other structures in the neighborhood; tools and cars are stored in the garage;
- (2) Spirit of the ordinance is observed: there are no safety issues, no encroachment on neighbor's property (on the lot closest to the garage there is a deed right-of-way for access and a drainage easement for the pond that passes along the back side of the garage onto the closet lot);
- (3) Substantial justice will be done: there is little to no loss to the public but a substantial loss to the applicant to not allow the garage;
- (4) The values of surrounding properties are not diminished: the structure is not visible from the road, is aesthetically pleasing, and blends in well with other structures in the neighborhood;

and

- (5) 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: 1/3 of the lot is composed of a pond, and the proposed use is a reasonable one (the building of a garage for storage is reasonable).

J. Smith asked if there was any public input, and there was none. J. Tirabassi noted for the record that there were five letters from abutters all in favor of the applicant's request (letters were from Michael Demers, 30 Coteville; Michael Buxton, 31 Coteville; Alan & Debra Ball, 33 Coteville; James Peck, 34 Coteville; and Kevin & Cheryl Burns, 38 Coteville). J. Benard expressed her frustration with the applicant not seeking a building permit. J. McCune understood her frustration and apologized. J. McCune was asked about the garage positioning and stated the location of two large maple trees was one of a factor in determining the location of the garage as well as the pond and layout of his house. He stated that when he was building the garage he did not think he was encroaching into the side setback. He stated that he took advantage of an opportunity he had to build it (friends that were willing to help him). Chairman Smith closed public input, and the Board deliberated the five points for the granting of the variance as follows:

- (1) Variance will not be contrary to the public interest: the street is a dead-end street and not heavily travelled; five supporting letters from abutters.
- (2) Spirit of the ordinance is observed: there are no safety issues, the structure is functional and there is an easement and a right-of-way allowing for a significant buffer;
- (3) Substantial justice will be done: there is a right-of-way and drainage easement, there is no gain to the public only a loss to the applicant;
- (4) The values of surrounding properties are not diminished: the garage is aesthetically pleasing, and blends in well with the other structures in the neighborhood;
- (5) 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: 1/3 of the lot is composed of a pond, and the proposed use is a reasonable one (the building of a garage for storage is reasonable)

Jim Tirabassi made a motion to grant the applicant's request in Case No. 10/19/2016-2 for a variance after-the-fact from LZO 2.3.1.3.c.2 to allow a 24 x 24 square foot garage which extends into the 15 feet side setback, Joe McCune (Applicant), 36 Coteville Road, Map 013 Lot 90-1, Zoned AR-1 subject to the building inspector's approval and conformance with current building code.

Suzanne Brunelle seconded the motion.

The motion was granted, 5-0-0.

The applicant's request for a variance was GRANTED.

C. CASE NO. 10/19/2016-3: REQUEST FOR A VARIANCE FROM LZO 2.3.1.3.C.1 TO CONSTRUCT A COVERED PORCH ON THE FRONT OF THE HOUSE WHICH EXTENDS INTO THE 40 FOOT FRONT SETBACK, RYAN HANSON & SCOTT SYLVIA FAMILY TRUST (APPLICANT), 71 ALEXANDER ROAD, MAP 11 LOT 52, ZONED AR-1

J. Tirabassi read the case into the record, and indicated that there are no previous cases. Bill Berardino was appointed as a full member for this case. Ryan Hanson and Scott Sylvia presented to the Board. S. Sylvia stated that they are seeking to construct a covered porch on the front of their house. He noted that the front of the house faces to the side. He stated that the house was built in the 1930s and encroaches in the front setback. He stated that a 2 ft x 4ft portion of the front porch is the only encroachment, and will not result in any further encroachment than what already exists. S. Sylvia reviewed the five points as follows:

- (1) Variance will not be contrary to the public interest: the porch is not any closer to the road than what the house already is, the house and a front porch was built in 1931, the front of the house does not face the street, and only a corner of the porch is encroaching.
- (2) Spirit of the ordinance is observed: there are no safety issues, and not going any closer to the road than what the house already is;
- (3) Substantial justice will be done: the loss to the applicant is greater than the loss to the public because the porch is not any closer to the road than the house already is, the porch is not facing the road, the house was built in 1931, and only a corner of the porch is encroaching;
- (4) The values of surrounding properties are not diminished: the addition of the porch will enhance the value of the home and surrounding properties;
- (5) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: the front house was built in 1931 and built inside the front setback, the front of the house does not face the street, there is no further encroachment than what already exists and the proposed use is a reasonable one (the addition of a front porch)

There were no questions from the Board, and Chairman Smith asked for public input. Abutter, Pam O'Brien, 70A Alexander Road, spoke in favor of the request. Abutter Lewis O'Brien, 70 Alexander Road, spoke in favor of the request. Chairman Smith closed public input, and the Board deliberated the five points for the granting of the variance as follows:

- (1) Variance will not be contrary to the public interest: the house and a front porch was built into the front setback in 1931;
- (2) Spirit of the ordinance is observed: the house and a front porch was built into the front setback in 1931;
- (3) Substantial justice will be done: allow the owners use and enjoyment of their property and bring it back to its original design with little to no loss to the public;
- (4) The values of surrounding properties are not diminished: the porch is aesthetically pleasing, and is an improvement;
- (5) No fair and substantial relationship exists between the general public purposes of the

ordinance provision and the specific application of that provision to the property: the lot is unique as it is an existing nonconforming lot with the house originally constructed inside the front setback, and the proposed use is a reasonable one (the addition of a front porch is reasonable).

Jim Tirabassi made a motion to grant the applicant's request in Case No. 10/19/2016-3 for a variance from LZO 2.3.1.3.C.1 to construct a covered porch on the front of the house which extends into the 40 foot front setback, Ryan Hanson & Scott Sylvia Family Trust (Applicant), 71 Alexander Road, Map 11 Lot 52, Zoned AR-1.

Bill Berardino seconded the motion.

The motion was granted, 5-0-0.

The applicant's request for a variance was GRANTED.

D. CASE NO. 10/19/2016-4: REQUEST FOR A VARIANCE FROM LZO 2.3.1.3.A.1 MINIMUM LOT SIZE REQUIREMENT OF 60,000 SF TO PERMIT A DUPLEX WITH SIX BEDROOMS ON A 52,272 SF LOT, WILLIAM MERRILL REVOCABLE TRUST (APPLICANT), ONE WEYMOUTH ROAD, MAP 15 LOT 186, ZONED AR-1

J. Tirabassi read the case into the record, and stated that there are no previous cases. S. Brunelle was appointed as a full member for this case. Matt Peterson, Hillside Design Group, presented on behalf of the applicant. He described the area of the subject parcel, 1 Weymouth Road, noting it is on the corner of Weymouth Road and Mammoth Road abutting an industrial parcel with commercial parcel south of it – a transitional lot from Industrial to AR-1. He noted that the lot next to it was granted variance to build the same duplex. He stated that 1 Weymouth Road has 52,272 SF and is required to have 60,000 SF to construct a six bedroom duplex (3 bedrooms in each unit). He added that currently he could build a single family residence with six bedrooms or a duplex with a den.

M. Peterson reviewed the five points as follows:

- (1) Variance will not be contrary to the public interest: he pointed out to the Board the public interest relating to bedroom limits per lot size ensures consistent homes sizes throughout similar lot sizes and yields adequate land per; the transitional location of this lot from Industrial to Agricultural-Residential; the construction of the same unit on the abutting lot which is similar to other multi-family units in the area serving as a good transitional development;
- (2) Spirit of the ordinance is observed: construction of similar units along the same roadway would be in the spirit of the ordinance;
- (3) Substantial justice will be done: by allowing the construction of a 2-three bedroom units

compared to a single family six bedroom home would do substantial justice for the lot owner;

- (4) The values of surrounding properties are not diminished: the same duplex is under construction next door; the property abuts industrial land;
- (5) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property: The applicant stated that the relationship between the public and the ordinance is to regulate size of duplexes in similar lot size areas, and in this case the abutting property is building a three bedroom (also, another abutter is industrial land), and the proposed use is a reasonable one (residential use is a reasonable use in the AR-1 district)

N. Dunn asked about public water and sewer, and R. Canuel stated that the lot is supported by public water and sewer. J. Smith asked for public input, and there was none. The Board reviewed the location and transitional nature of the lot. Chairman Smith noted that the applicant was 8,000 ft short. He closed public input, and the Board deliberated the five points for the granting of the variance as follows:

- (1) Variance will not be contrary to the public interest: the lot is in a transitional area and the proposed structure will be consistent with other properties in the area;
- (2) Spirit of the ordinance is observed: the applicant can build the same size building regardless of the number of bedrooms – overall configuration of the building does not change dramatically;
- (3) Substantial justice will be done: allows reasonable use of the property;
- (4) The values of surrounding properties are not diminished: it would be in line with the values of surrounding properties, and would increase them;
- (5) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: the transitional nature of the lot makes it unique, and the proposed use is a reasonable one (a residential use in a residential zone).

Jim Tirabassi made a motion in Case No. 10/19/2016-4 to grant the request for a variance from LZO 2.3.1.3.A.1 Minimum Lot Size Requirement of 60,000 SF to permit a duplex with six bedrooms on a 52,272 SF lot, William Merrill Revocable Trust (Applicant), One Weymouth Road, Map 15 Lot 186, Zoned AR-1

Jacqueline Benard seconded the motion.

The motion was granted, 5-0-0.

The applicant's request for a variance was GRANTED.

E. CASE NO. 10/19/2016-5: REQUEST FOR A VARIANCE TO LZO 2.3.1.3.C.2 TO

**CONSTRUCT A GARAGE 5 FEET INTO THE 15 FEET SIDE SETBACK, DAVID J. NADEAU,
FOUR MATTHEW DRIVE, MAP 16 LOT 46-9, ZONED AR-1**

J. Tirabassi read the case into the record, and stated that there are no previous cases. Bill Berardino was appointed as a full member for this case. David Nadeau, Four Matthew Drive, presented to the Board. He stated that he is seeking to construct a 24x34 SF detached garage which will encroach 5 feet into the side setback. He noted that currently he has a two car garage underneath his house which was built in 1990 that he wishes to convert into more living space. He explained the positioning of the garage as it relates the driveway and the house. He noted that there will be 10 feet between the garage and the house to allow him enough space to access the backyard. He reviewed the five points with the Board as follows:

- (1) Variance will not be contrary to the public interest: there is no adverse effect on public interest; and the garage does not alter the character of the neighborhood or threaten the health, safety or welfare of the public;
- (2) Spirit of the ordinance is observed: the proposed garage will be in-line with the existing characteristics of the parcel and the neighborhood; the existing driveway is three feet from the property line and to move the driveway would require excavating the whole front yard to realign the driveway with the garage;
- (3) Substantial justice will be done: there is no loss to the general public;
- (4) The values of surrounding properties are not diminished: the proposed garage is in-line with the existing characteristics of the neighborhood, and will increase values;
- (5) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property: the lot is unique with the existing driveway three feet from the property line and the septic location, and the proposed use is a reasonable one (a garage is a reasonable use in the AR-1 district).

The Board and the applicant discussed the repositioning of the garage as well as the location of the driveway, the width of the garage, the house, septic and work involved in moving the driveway. There was no public input. Chairman Smith closed public input and the Board deliberated the five points for the granting of the variance as follows:

- (1) Variance will not be contrary to the public interest: the lot was constructed with a driveway three feet from the property line with the septic located in the back; the Board also commented on the locations of neighboring houses;
- (2) Spirit of the ordinance is observed: same rationale as number 1;
- (3) Substantial justice will be done: allows reasonable use of the property;
- (4) The values of surrounding properties are not diminished: addition of a garage is in line with the surrounding properties and would increase them;
- (5) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: The Board noted the uniqueness of the lot with the placement of the driveway, the septic restrictions, the location of the house lot and neighboring houses; and the proposed use is a reasonable one (a garage on a

residential home).

Jacqueline Benard made a motion in Case No. 10/19/2016-5 to grant the request for a variance to LZO 2.3.1.3.C.2 to construct a garage no more than 5 feet into the 15 feet side setback, David J. Nadeau, Four Matthew Drive, Map 16 Lot 46-9, Zoned AR-1.

Bill Berardino seconded the motion.

The motion was granted, 5-0-0.

The applicant's request for a variance was GRANTED.

IV. COMMUNICATIONS & MISCELLANEOUS: N/A

V. OTHER BUSINESS:

- A. Jim Tirabassi performed the second reading on proposed changes to the rules of procedure as follows:
1. To insert in front of paragraph 1 Members and Alternates the following sentence:
"Pursuant to RSA 673:3, the Zoning Board of Adjustment shall consist of 5 full members who are appointed in a manner prescribed by the local legislative body."
 2. To remove from Application/Decision section 2.a "Londonderry Post Office."

Chairman Smith asked for comments and/or public input, and there was none. He noted that a final vote will be taken on the changes next month.

Bill Berardino made a motion to adjourn at 9:50 p.m.

Jim Tirabassi seconded the motion.

The motion was granted, 5-0-0. The meeting was adjourned at 9:50 p.m.

RESPECTFULLY SUBMITTED,

CLERK

TYPED AND TRANSCRIBED BY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT SECRETARY.

APPROVED (X) WITH A MOTION MADE BY Jim Tirabassi, SECONDED BY Jacqueline Benard 5-0-0