

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

DATE: JULY 20, 2011

CASE NO.: 7/20/2011-2

APPLICANT: PANCIOCCO BUILDERS, INC.  
392 SPOFFORD ROAD  
AUBURN, NH 03032

LOCATION: 28, 26, 24 AND 22 MEADOW DRIVE; 7-7, 8, 9, 10; AR-I

BOARD MEMBERS PRESENT: MATT NEUMAN, CHAIR  
JIM SMITH, VOTING MEMBER  
LARRY O'SULLIVAN, VOTING MEMBER  
MICHAEL GALLAGHER, VOTING ALTERNATE  
JAY HOOLEY, NON-VOTING ALTERNATE  
NEIL DUNN, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING OFFICER

REQUEST: VARIANCE TO ALLOW TWO DUPLEX LOTS WITH NO FRONTAGE ON A  
CLASS V OR BETTER ROAD AS REQUIRED BY SECTION 2.3.1.3.2.

PRESENTATION: CASE NO. 7/20/2011-2 WAS READ INTO THE RECORD WITH NO PREVIOUS CASES LISTED.

Clerk Neil Dunn read Exhibit "B" into the record, a letter from an abutter.

MATT NEUMAN: If you want to just state your name and address for the...

PATRICIA PANCIOCCO: Sure. My name is Patricia Panciocco. I'm an attorney and also and owner with my husband of the building company that owns this piece of property, so I wanted to put that on the record. My address is 392 Spofford Road in Auburn. We lived in Londonderry for a very long time and this is one of the pieces of land that we still own here. I'd like to begin with a little bit of background information, if that's okay. I believe there's an awful lot of paperwork that we submitted to the Board members that Jaye has made available to you to acquaint you with some of the information that we've looked at relative to this property before approaching this Board. We're quite mindful of the zoning ordinance and this is actually my practice area, so I do take that pretty seriously. I'm before Boards very often and I understand that you can only give relief in circumstances that warrant it. So with that said, I'll give some brief information on the history and the work that we've done to investigate the property and then I'm hoping to turn it over to Mr. Baskerville who

44 can describe in more detail the physical characteristics of the property and why we're approaching the Board  
45 with the request that we have.

46  
47 MATT NEUMAN: Well, first of all, can I...who exactly is Mr. Baskerville and what is he doing here?  
48

49 ROBERT BASKERVILLE: Robert Baskerville, I'm the president of Bedford Design Consultants. We are a licensed  
50 civil engineering and land surveying company in Manchester.

51  
52 MATT NEUMAN: Okay.  
53

54 ROBERT BASKERVILLE: And I am a professional engineer.  
55

56 MATT NEUMAN: I won't hold that against you.  
57

58 PATRICIA PANCIOTTO: Okay, so to get back to the matter at hand, this property is located at the end of  
59 Granite Street and if you want to count the width of Granite Street, the fifty (50) foot width of the right of way  
60 as frontage, you could do so but we've taken the cautious road and said out front that we don't have any  
61 frontage on these four (4) lots, all of which are approximately a hundred and fifty (150) wide and  
62 approximately four hundred (400) feet deep. They are all zoned AR-I. In the AR-I zone, a permitted use is a  
63 single family home as well as a duplex home with increased size and frontage. They are all existing lots of  
64 record with no road frontage other than that width of Granite Street which I just described. So, to get back to  
65 our request, we have four (4) single family building lots there. We've requested relief from the frontage  
66 requirement from Section 2.3.1.3.2, I think, is that right, Rich? I think...  
67

68 RICHARD CANUEL: I...yes.  
69

70 PATRICIA PANCIOTTO: There was a typo in the original application. I wanna make sure I've got that correct.  
71 And we're asking for this relief for circumstances that will become apparent as I go through the history. If the  
72 Board grants this variance request, we're prepared to merge the lots into two (2) larger lots on which we hope  
73 we can build two (2) duplex homes, similar to the homes that are on Mohawk Drive and the other homes that  
74 are in Fox Run Estates. We actually own two (2) properties in that area and we actually just built the one on  
75 Meadow. So that's a representation and I put a picture of that home in the package, so that at least you  
76 would have a sense of what we're proposing. So to get back to the history, before we go into the five point  
77 criteria and the evidence we feel supports our request, I thought it would be worthwhile to go through what  
78 we've done and give the Board a little bit of history about this parcel of land. The parcels in this area...we  
79 actually took the title back to the middle 1700's when we first bought this property, which is quite a distance  
80 back and of course, you went back to a certain point, it got confusing and then it cleared up again before  
81 people started doing things that they shouldn't have done. Our story, though, doesn't begin until 1907 when,  
82 if you refer to the diagram that I brought this evening with the orange stripe going through it [Exhibit "A"],  
83 you'll see seven (7) different parcels of land that are outlined in red. All of those parcels were owned by a  
84 gentleman with a name of Talbot Buttrick. He began to acquire those properties and by 1923, he owned all  
85 seven (7) of them and running through the middle of them, in the orange stripe, is the former layout of the old  
86 Meadow Drive or Meadow Road. It's called varying things in the deeds that we've looked at. Now, just to  
87 mention, I put this on this on the tax map to give you a point of reference. Those little lots within each parcel

88 weren't subdivided at the time. This was all raw land. That Meadow Drive parcel...or Road, I should say, it  
89 bisected these parcels, and it was named because it ran through an area of town that was consistently a  
90 meadow. And there's history books that we actually went and looked at that describe this area and it was all  
91 open at that time and a good deal of it was field. The road as you see it in the orange stripe was prescriptively  
92 created and dates back to the original settlers in this area of the state. Prescriptive roads are created by  
93 twenty (20) years use by the public. So this became a regularly traveled road. And as such, a parcel on either  
94 side of that prescriptively created road owns to the center line of the road. That's the presumption under  
95 New Hampshire law. And that's an important thing to remember for reasons I'll explain in a moment. In  
96 1926, though, the Town of Londonderry, on the Town Warrant, and I've attached those in my package and it's  
97 on pages 20 through 24. You have a Town Warrant, you have the minutes and you also have the little card  
98 that I found in Public Works when we first bought this parcel of land or at least looked into buying it, which  
99 kind of pointed me in a direction of where to look about the status of Meadow Drive as it relates to the four  
100 (4) lots that I've colored in yellow in the center of my diagram. What we found was the Town fully  
101 discontinued that full length of Meadow Drive. No public rights. Gone. Not a Class VI road but a fully  
102 discontinued road for the full length of that orange strip. The warrant article described it as running from  
103 Kendall Pond Road to the homestead of Charles Anderson, which is actually on the other side of Route 102.  
104 We found that in the history books also. So the public rights in Meadow Drive were fully extinguished at that  
105 time in 1926. So with that all done, Mr. Buttrick proceeded to go off and start selling these parcels off.  
106 However, when he did so, he described the parcels that he did manage to convey before he died by the stone  
107 walls that ran along the side of the road. So, at the end of the day, what we did is he left that strip of the road  
108 for the parcels where he did not convey both sides in his estate. His estate, a gentleman by the name of  
109 Haimer came to own it and he actually, and this is how we cleared the title, he quitclaimed the interest in that  
110 road, because the fee of that road was owned by him, to Panciocco Builders, which allowed us to gain access  
111 through Granite Street to reach the four (4) lots that I've colored up in yellow. Now I know that's an awful lot  
112 of information all at once and R.O.W. law is a very tortured area of law for one to grasp in a few short  
113 moments. But what's important here is that portions of Meadow Drive were replatted by various plans  
114 brought to the Town at points further into the 1990's but the portion in front of those four (4) lots that are  
115 colored in yellow was never replatted. So it's gone and it has been gone since 1926.

116  
117 LARRY O'SULLIVAN: What do you mean by "gone"? Can I ask what you mean by "gone"?

118  
119 PATRICIA PANCIOTTO: There's no road there. What you have there is an old woods road. There are no  
120 public rights, it is not a Class VI road, and it's basically just a traveled path through the woods.

121  
122 LARRY O'SULLIVAN: Do we have any question about that? I mean, is that an issue for us?

123  
124 RICHARD CANUEL: Well, there is a question about the status about that right of way, whether that actually  
125 does exist. If you look on a former map and you can see it on the subdivision map here, is that it shows as a  
126 right of way continued through...

127  
128 MATT NEUMAN: Mm-hmm.

129  
130 LARRY O'SULLIVAN: Yeah, we see.

132 RICHARD CANUEL: ...beyond Granite Street and connect to Mohawk Drive. But if you look on the records  
133 that were developed for the Town GIS system, there's a break in that right of way...

134  
135 PATRICIA PANCIOTTO: Right.

136  
137 RICHARD CANUEL: ...along the frontage of what would essentially be lot seven (7). That's been discontinued  
138 at some point in time and I think the applicant has far more history on that than I do.

139  
140 PATRICIA PANCIOTTO: Yes.

141  
142 RICHARD CANUEL: So, yeah, that is not clear. And if you look at the GIS system, you will see that there is a  
143 break in that right of way.

144  
145 MATT NEUMAN: Yeah, that's clear.

146  
147 PATRICIA PANCIOTTO: Well, in addition to that, in your packet you have a number of iterations of the Town's  
148 tax maps in this area that I've included for the Board to look at. The same thing is shown, Rich. It's fairly  
149 consistent throughout the 1900's, up until the present, actually. So the road...there is no public road in front  
150 of these four (4) lots anymore, so effectively, if you want to count the width of Granite, that's all it has. And  
151 that's how it came to be, but the story doesn't end there. If you go through the packet and you turn to what is  
152 your page 28, and I don't know if page 28 is marked on the package that Jaye has put in there. If you look at  
153 plan 03128, you'll see the old woods road right at the bottom of the map. The map is dated April 11, 1961 and  
154 this map was recorded in the registry of deeds. You see the stretch of Mohawk Drive that's down near the  
155 Dunkin Donuts, as it leads down towards where Meadow is, but you see the old woods road, you see the  
156 stone walls and you can see the irregular width. They showed it on the map here. This map does not plat a  
157 new road or create a new road like a subdivision plan does, but it does recognize there's some sort of traveled  
158 way there. But in 1961, there was no public road. If you turn to page 27 and turn back a page, I think, in your  
159 package, you'll see plan number 427. Plan 427 does the exact same thing. This actually platted Twin Isles  
160 Road and Tinkham Lane but Meadow Drive is show as an existing road and it's actually showed dotted for  
161 some reason that I haven't figured out. A lot of these plans don't have a lot of detail. That's dated 1962. And  
162 if you back up to one more plan, you will find plan 529 and 529A. This plan created Birchwood Drive. And it  
163 recognizes that Twin Isles Road existed and it shows over to the left hand side Meadow Drive and shows it as  
164 an existing road. It doesn't plat the road but I think there was a false assumption made some time ago as to  
165 the existence of Meadow, when in fact, it doesn't exist. Now, in this particular plan, though, 529, this is the  
166 plan that created the four (4) lots that are before the Board tonight. It shows a temporary turn around and it  
167 shows a road coming up from, what I believe...what road is this, Bob, down here? Oh. Yeah, Meadow.  
168 [indistinct]...but it kind of [indistinct].

169  
170 ROBERT BASKERVILLE: I'd have to [indistinct] through the map. You can't read it on this one.

171  
172 PATRICIA PANCIOTTO: Yeah, but it shows that it's existing and it creates four (4) new lots on a road that really  
173 didn't exist, which was a faux pas, but nonetheless it occurred. This plan is dated August of 1965. All these  
174 lots exist still. In fact, there's homes on Birchwood Drive, both sides of it. So effectively, what we have and  
175 why we're here tonight is we have four (4) lots of record but no road and that's why we're here to request the

176 relief that we were asking for. The other thing that's worth noting also in your packet, on pages 18 and 19 are  
177 a couple of agreements that I found in the Town records many years ago when I was trying to figure out what  
178 had happened here. Even here you'll see that the developer of the subdivisions that we just looked at, they  
179 actually conveyed Meadow Drive, shown on 427 and 427 isn't the plan that created these four (4) lots. And  
180 then in another agreement, they agreed to convey to the Town and there was a deed to convey to the Town  
181 only paved portions of certain roads. And that's back in the day, I think, when things weren't as carefully  
182 analyzed as they are now. So there was a great deal of confusion I would say, back then, as to the status of  
183 various roads and this just happened to fall through the cracks. You'll also see, too, and I won't belabor the  
184 point, even later plans, such as the one created in 1970 for Kendallwood Condominiums as well as the plan  
185 that created the lots in Fox Run Estates, they also show Meadow Drive and show it as an existing road but  
186 don't tell us a whole lot about it, which Bob will talk about that little strip of Meadow that leads in from  
187 Mohawk towards the subject property. So basically, as I said, what we have is a dirt road going through the  
188 woods and four (4) existing lots of record which is why we're here tonight. Now with all that said, I'm gonna  
189 turn the floor to Bob because he can tell you more about the physical characteristics and the survey work  
190 that's been done fairly recently with this property.

191  
192 MATT NEUMAN: Okay, and we are gonna need somebody to walk through the five points.

193  
194 PATRICIA PANCIOTTO: I'll do that when Bob's done.

195  
196 MATT NEUMAN: Well, you know, I think maybe you might want to do that now and then we'll come back to  
197 Bob.

198  
199 PATRICIA PANCIOTTO: I can do that but some of the five points relate to some of the information that's of a  
200 more technical nature that if I could...I don't think you're gonna be that long.

201  
202 ROBERT BASKERVILLE: I'll try to be quick.

203  
204 MATT NEUMAN: Alright, well, let's try to be quick then.

205  
206 ROBERT BASKERVILLE: Again, Robert Baskerville, I'm a civil engineer. We were hired several years ago. Pat  
207 had already done all this work on the right of way of the road to determine what she owned. She approached  
208 us to try to solve the riddle of based on what she bought, how can see access those lots. She owns four (4)  
209 house lots and a fifth piece of land which is the strip that never got deeded to anybody else. She did purchase  
210 that, so she owns five (5) lots. So we went out and we did two (2) foot topography on the whole lot. We had  
211 Jim Gove map the soils and the wetlands on the lot. Last July, we met with Tim Thompson, John Trottier of  
212 Engineering and Richard and laid out a plan and we laid out probably six (6) or seven (7) options of what can  
213 we do? Many of them needed a variance and we wanted advice. What's the most likely? I won't go through  
214 them all but we sat down and just took a little straw poll and came up with the top three options; what can we  
215 do? All of them, in one way or another, had to do with our access coming from Mohawk. So if I can describe  
216 the plan I put up on the Board [Exhibit "D"], the blue outline is the four lots that exist. In gray I put the two  
217 existing Town roads that are close to the property.

219 MATT NEUMAN: Is it possible to move that so we can...I really can't see it, to be honest with you.

220

221 ROBERT BASKERVILLE: Okay.

222

223 MATT NEUMAN: Neil, you probably can't. That's better for me. Everybody see that alright?

224

225 JIM SMITH: Yeah.

226

227 MATT NEUMAN: Great. Thank you.

228

229 ROBERT BASKERVILLE: So the lots are outlined in blue. There's four (4) lots. I didn't highlight it but there's a  
230 strip of land in front of it which was the previous Meadow Drive. There are two (2) Class V roads in the area.  
231 One is Granite Street that comes down and stops. I think it was made a Class V road by a petition after it was  
232 originally a private road, so it's one of those Town Roads that has no cul de sac, no hammerhead, no turn  
233 around, the Town just pushes the snow up to the end and drops it on our land and just leaves it and then I  
234 think the plow has to back up. Off to the right hand side is the existing Mohawk Drive and that's a paved road,  
235 a Class V road. All of our plans that we looked at, the top three that we thought were the most likely to  
236 succeed all involved us getting access from Mohawk. The number one plan that John Trottier preferred was to  
237 try to solve the right of way issues and to build a Town road from Mohawk to Granite. That would have given  
238 us legal frontage for three (3) of the four (4) lots and they thought if we did that, they might support to you  
239 getting a fourth house lot, even though there's only enough frontage for three (3). So the top three plans all  
240 involved somehow us getting our access out to Mohawk, preferably building a Town road to meet the  
241 frontage requirement. Due to the snow, we didn't survey it over the winter, we went out this spring and we  
242 surveyed this stretch of Meadow Drive between the Panciocco property and Mohawk and we went up and  
243 down Mohawk far enough to check the sight distance requirements per the Town sight distance requirements.  
244 You see two (2) lines there, again, I forget which is orange and which is green, but one of those is the sight  
245 distance if you only had one driveway, the shorter of the two lines, it's two hundred and twenty (220) feet.  
246 The longer line is three hundred and sixty five (365) feet long. And that's if you have three (3) or more units, it  
247 becomes a common driveway or a Town road. Both of those failed the Town sight distance requirement.  
248 There's a tree in the next lot and it goes over the property line. So per the Town requirements, it fails, even  
249 for an individual driveway. And it failed pretty substantially if it were a common driveway or a Town road.  
250 Right at our intersection where Meadow Drive comes out, Mohawk begins to curve, so what you get is that  
251 line goes over the right of way line for the lots. Per engineering standards, that's not allowed. We would have  
252 to buy the lot or buy an easement from the lot, then we could have that permanent right of way there. So we  
253 went in, I sat down with John Trottier and talked to him about it. All of the options that involve going to  
254 Mohawk do not work from a sight distance standpoint to get a road out there. That is our first option.

255

256 [technician inserts new CD]

257

258 ROBERT BASKERVILLE: We went in and laid out where two (2) duplex houses can be, and they're shown here  
259 in this plan. They're in about the center of the lot. I think there's about a hundred and fifty (150) feet in front  
260 of them and about two hundred (200) feet behind each one of them, back to the back line. The one on the  
261 left as you look at it is up on a hill, it's about twenty (20) feet up. The one on the right is fairly level. It's easier  
262 to get to. We have done test pits, we've designed septic systems, we've designed driveways. If the Board

263 does approve these variances, I'll have to go in and get septic system approval, building permits, driveway  
264 permits from Engineering, so we will have to go back with Engineering. We talked to John about how to  
265 design the end of Mohawk and I think his concern was it's a snow plow issue. He actually wanted to go out  
266 and talk to the snow plow drivers of...does he want a hammer head, does he want to push the snow front.  
267 He's not sure what the snow plow drivers want to do. So we'll work with him, so I think we'll kind of help to  
268 improve an existing...

269  
270 NEIL DUNN: Do you mean Granite?

271  
272 ROBERT BASKERVILLE: What did I say?

273  
274 NEIL DUNN: Mohawk.

275  
276 ROBERT BASKERVILLE: Yes, I meant Granite.

277  
278 MATT NEUMAN: Thank you, Neil.

279  
280 ROBERT BASKERVILLE: So we really met with the Town, met with John and just looked at every option of we  
281 can't find a way to build a Town road that's feasible to create the frontage. So based on that, the only option  
282 appeared to be to come of the end of Granite and we think we have a very safe way of getting two (2)  
283 driveways off the end of Granite. They'll both go off into separate directions. Being an engineer, I could go on  
284 for an extra half hour but I promised to be brief.

285  
286 MATT NEUMAN: Appreciate that.

287  
288 NEIL DUNN: And how does that relieve the plow concern? You still end up with a basically...'cause it's private  
289 property where you're crossing into your spire. You end up with a...

290  
291 ROBERT BASKERVILLE: If I could get up just to the Board for a minute. What we've suggested to John; we own  
292 this, is to extend the road and perhaps build some type of hammer head here. So instead of the plow coming  
293 in and I don't know how far he backs up, he can pull in here, back up here and then go out this way. A lot of  
294 towns do hammer heads. The issue we talked about today was this plan shows we were gonna leave an area  
295 here for him to put the snow. He doesn't know whether they wanna put the snow at the end or on both sides,  
296 so we said we would work with him but I can't submit driveway permits to him until this step is done.

297  
298 MATT NEUMAN: Mm-hmm.

299  
300 ROBERT BASKERVILLE: I have to go [indistinct] him and he'd have to agree this is how we want to do it and  
301 we'll work out the details with...

302  
303 LARRY O'SULLIVAN: Do you have a conceptual with the Planning Board?

304  
305 ROBERT BASKERVILLE: No. The lots are already subdivided. So these two dashed lines can disappear with a  
306 voluntary merger.

307 I don't have to go to the Planning Board because there's no subdivision. So we don't have to go to the  
308 Planning Board. Driveway permits, septic system design, building permits. It's a driveway permit where John  
309 Trottier and Janusz will say here's what I want, here's how I want you to build this.

310  
311 MATT NEUMAN: Mm-hmm.

312  
313 ROBERT BASKERVILLE: We've talked to them and they said that's something we can work out once we achieve  
314 this step.

315  
316 MATT NEUMAN: Okay. I think we've got the idea and the history now. I think we need to walk through your  
317 five points and then we'll...get going with that. Do you want to go ahead and present...?

318  
319 PATRICIA PANCIOTTO: Sure. Okay, the first point, not contrary to the public interest. To evaluate whether a  
320 restriction should be relieved and it would not be contrary to the public interest, we have to presume that the  
321 restriction serves a public purpose and therefore figure out what purpose does that serve? Or again, whether  
322 the relief will alter the general character of the neighborhood. The application before you requests relief from  
323 the frontage requirement in the ordinance for two (2) duplex lots. The frontage, obviously, for a practical  
324 purpose, serves as an access to a particular lot. And more often than not, that's applied to a new lot. But as  
325 to a public purposed served generally, it's basically used to control the density and to keep residential  
326 dwellings and other types of structures apart from each other. With the common driveway we've proposed,  
327 we surely can provide access. Controlling the density by the use of frontage, we don't need it, we can more  
328 than adequately meet the lot sizing requirement as well as the soils requirement to accommodate the  
329 structure we're proposing. And the setbacks from the lot lines are greater than they would be if we were to  
330 put four (4) single family homes in there, so relief from the frontage requirement in this particular case, which  
331 is very unique, surely is not going to compromise the purpose served by the frontage. So for that reason, we  
332 don't feel it is contrary. As to the spirit of the ordinance, that's very similar to not contrary to the public  
333 interest. Once again, the density of buildings is controlled through the use of frontage and it also preserves  
334 the character of the neighborhood. What we're proposing to build here, the same structures are right on  
335 Mohawk Drive and in the Fox Run Estates area generally. On the other end, in Granite, we have condominium  
336 units that are far more modest than what we proposed to put here. Although there are single family homes  
337 that are adjacent to this property, we don't feel it has an adverse impact on that. It, in fact, is a good  
338 transition because they're larger structures than you see, perhaps, like on Granite Street. And those single  
339 family homes are buffered by very thick woods. And we're proposing to put these particular structures closer  
340 to what was the frontage of these lots or intended to be the frontage, to leave as much of the rear of the  
341 property undisturbed. The topography is pretty steep back there also. Also, we don't feel the access is  
342 compromised because even in the ordinance itself, there's a back lot development concept that's available to  
343 applicants who donate certain of their frontage to agricultural purposes. You can have up to four (4) single  
344 family homes at the end of a twelve hundred (1,200) foot long driveway. And it can be gravel, for that matter.  
345 So, this is not something that is that novel that it's totally excluded from the ordinance, albeit in a modified  
346 form. So, contrary to the spirit of the ordinance, we don't think it is. We're trying to make do with what we  
347 have to work with here, which has been something that's evolved over time and it just snowballed.  
348 Substantial justice. The loss to the applicant under this prong of the test must be, let's see, the loss to the  
349 applicant by strict application of the ordinance, must be outweighed by a greater public gain. That was stated  
350 by the Supreme Court in Malachy Glen V. Chichester. Denying us an ability to get into this property and



351 waiving the access requirement because we really are without an option to build a public road to create  
352 frontage denies us all reasonable use of the property. And we don't feel that the frontage relief gains...the  
353 frontage relief is going to compromise or bring any benefit to the public, or to strictly enforce the frontage.  
354 I'm getting all backwards here. And in light of the sight distance concerns, the only way we can do it is the  
355 way that we're proposing. Property values will not be diminished. As I mentioned earlier, there are lesser  
356 values in Kendallwood. The duplexes that we're proposing are just like those that are right around the corner  
357 and we feel as though we're sufficiently removed from single family dwellings that this shouldn't be a problem  
358 for them either, especially in light of the heavy woods in the area. As to the uniqueness of the property and  
359 the hardship, I think that much of what we've explained to you tonight and entered into the record as  
360 evidence demonstrates that our options are very limited. As has been explained, hardship arises when they  
361 ordinance, as applied to a property with unusual characteristics, which is unique in its environment denies all  
362 reasonable use of the property. The facts that we've presented to the Board are surely unique and very  
363 unusual. It's not something that I've seen before. So with that in mind, we don't feel that the general  
364 purpose, if we're going to letter (A.i), that the general purpose of frontage as applied to this property is  
365 compromised because we are doing that of our own volition and spacing the dwelling to comply with the  
366 ordinance. We don't feel as though any waive or compromises the public purpose and clearly the uniqueness  
367 of the circumstances associated with this property surely support the hardship as to the property and the  
368 limited options we have. The proposed use we have here before the Board are the two (2) duplex lots as  
369 opposed to what would otherwise be four (4) single family homes, for which a variance would be required for  
370 those also. We're proposing to merge the lots so that we have two (2) larger lots, actually larger than we even  
371 need for the duplex and to access them by a common driveway. We also feel that's a benefit to the Town  
372 because when we're willing to work with the Town to accommodate its needs for snow storage, but we're also  
373 not imposing upon the Town the maintenance and burden of maintaining another public road which we can't  
374 build anyway. So, with that, if there are any questions, I am happy to answer them. There's an awful lot of  
375 information we've submitted tonight. And Bob will be here also.

376  
377 MATT NEUMAN: Go ahead.

378  
379 LARRY O'SULLIVAN: Okay, so can I ask you Bob if there is any way that you can build a successful or acceptable  
380 road to the frontage of the lots in your opinion?

381  
382 ROBERT BASKERVILLE: Not as they currently stand, no.

383  
384 LARRY O'SULLIVAN: Okay. The common driveway. Who's going to have ownership of the common driveway?

385  
386 ROBERT BASKERVILLE: There's one (1) driveway to each duplex.

387  
388 LARRY O'SULLIVAN: Okay, so each driveway is going to be interfaced to what road, Granite?

389  
390 ROBERT BASKERVILLE: Yes.

391  
392 LARRY O'SULLIVAN: And so do you have any type of an idea of what that's going to look like in the way of the  
393 spacing between the driveways, things along those lines?

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ROBERT BASKERVILLE: Mm-hmm.

LARRY O'SULLIVAN: Is that up there and I just don't see it?

ROBERT BASKERVILLE: Yes.

LARRY O'SULLIVAN: 'Cause it's way too far for me.

ROBERT BASKERVILLE: My apologies. I didn't want to get too much into the engineering. One of them leaves to the right, goes up here, this goes up at about an eight (8) percent slope and comes back this way, and then there's only about a two (2) percent slope here, so this is level here. One thing about this whole spot too is that this lot is probably a good twenty three (23) feet above the end of Granite here, which is why one driveway will take off to the right, come back and go this way and go to the one (1) duplex. This will be the remaining lot line. This driveway will go over to this duplex. This side of the lot's fairly flat. This will only be five (5) feet above this. So I'm pretty level here, pretty high here, and then the whole lot keeps going up here to a high point, then it starts going back down hill [indistinct].

LARRY O'SULLIVAN: Was there any idea, you mentioned that you had seen or heard of the conservation lands that were then donated because you have less frontage on a Class V or VI road or better?

PATRICIA PANCIOTTO: I'm sorry, I'm not sure I understand the question.

LARRY O'SULLIVAN: We have a means that...what is that? It's almost like a trade. Richard, do you know what I'm referring to on that one.

NEIL DUNN: I believe she brought it up herself, that you could have four (4) residential units with the twelve hundred (1,200) foot gravel driveway as long as you gave something up?

RICHARD CANUEL: You're talking about the back lot development provisions?

LARRY O'SULLIVAN: Right, yeah.

PATRICIA PANCIOTTO: Yes. Yes.

RICHARD CANUEL: Yeah, that wouldn't really apply here.

LARRY O'SULLIVAN: That doesn't apply here then.

PATRICIA PANCIOTTO: No.

RICHARD CANUEL: Yeah, basically, the back lot development provisions are to sort of preserve agricultural parcels. Yeah, that really wouldn't apply.

438 NEIL DUNN: So even if it was four (4) houses in the existing configuration, it would not apply,  
439  
440 RICHARD CANUEL: That's right.  
441  
442 LARRY O'SULLIVAN: Right.  
443  
444 NEIL DUNN: So that....okay, thank you.  
445  
446 LARRY O'SULLIVAN: Okay, those are the three that I had so far but I have others. Somebody else can take a  
447 turn.  
448  
449 MATT NEUMAN: Well, keep going.  
450  
451 NEIL DUNN: If I may, Mr. Chairman?  
452  
453 MATT NEUMAN: Neil, go ahead.  
454  
455 NEIL DUNN: How big are the existing lots now? I know 26 claims on the record that it's one point two (1.2).  
456 Are they all?  
457  
458 ROBERT BASKERVILLE: I'd prefer to see that actual original subdivision plan.  
459  
460 [Indistinct conversation]  
461  
462 ROBERT BASKERVILLE: The four (4) lots, not including the strip of Meadow Drive, starting with the one on  
463 your right is one point five nine (1.59) acres and one point three one (1.31), so the combined lot would be two  
464 point nine (2.9) acres. Then the next lot is one point two five (1.25). The third lot, which is kind of "L" shaped,  
465 is one point two (1.2), so when we combine those, this would be just short of two and a half (2.5) acres. Two  
466 point four five (2.45) acres.  
467  
468 LARRY O'SULLIVAN: On the map that I'm looking at, one of them is circled 34, another one is circled 33,  
469 another one is 32...  
470  
471 ROBERT BASKERVILLE: Exactly.  
472  
473 LARRY O'SULLIVAN: Okay. And on our case requirements, we have 28, 26, 24, and 22 Meadow.  
474  
475 NEIL DUNN: That's the address. The lots are different than the...  
476 LARRY O'SULLIVAN: Okay, the relationship between them is...? Does it matter? No, I guess not since they're  
477 abutting lots, right? Okay.  
478  
479 MATT NEUMAN: No, I mean, that's a plan number. [indistinct] as opposed to the legal address.  
480

481 JAY HOOLEY: It probably has nothing to do here but for 911, we might want to rename or number these when  
482 they go up because you got a Meadow Drive off of South and a Meadow Drive and it's not gonna get you here.

483  
484 ROBERT BASKERVILLE: Yeah, that's a good point.

485  
486 PATRICIA PANCIOTTO: Good point.

487  
488 NEIL DUNN: You bought the properties in 2003?

489  
490 PATRICIA PANCIOTTO: Yes, I believe we did.

491  
492 NEIL DUNN: So you know about all that history, obviously, when you made the purchase.

493  
494 PATRICIA PANCIOTTO: No. No.

495  
496 NEIL DUNN: And you're a land attorney or a zoning attorney? Okay.

497  
498 PATRICIA PANCIOTTO: I didn't go to law school until after I did this. Believe it or not. We bought the  
499 property, my attorney cleared the title, but we did not survey. We always thought we could come down  
500 Meadow Drive and come right in from Mohawk.

501  
502 NEIL DUNN: But 2003 wasn't that long ago. I'm just curious 'cause I wanna make sure the record was right. It  
503 said 2003 you purchased the property.

504  
505 PATRICIA PANCIOTTO: I believe that's about right because that's right about when Mr. Haimer signed the  
506 deed for Meadow Drive, which was required for us to even cross over Granite Street to get to the four lots.  
507 Because we didn't own that strip that Bob just referred to, the Meadow Drive right of way. That wasn't part of  
508 the lots.

509  
510 JIM SMITH: I just want to make one point. The way the driveways are proposed, you would need an  
511 easement on one lot for the driveway on the other?

512  
513 ROBERT BASKERVILLE: For that short front stretch. Correct.

514  
515 JIM SMITH: Yeah.

516  
517 MATT NEUMAN: Right, that's something they would take care of later on.

518  
519 PATRICIA PANCIOTTO: Yes.

520  
521 NEIL DUNN: Richard, if I may, I know in other cases, the driveway, it's one (1), it splits to two (2), when we  
522 look at five and two, substantial justice and two, spirit of the ordinance, it looks confusing. The diagram they  
523 have there looks confusing for emergency services.

525 RICHARD CANUEL: It does and that was one of the issues I looked at when I first saw this layout where that  
526 driveway actually splits and that's something that would have to be addressed with our Public Works  
527 Department when we go through the driveway permit process. The concern here as far as zoning is that the  
528 lots have access to a public right of way.

529  
530 NEIL DUNN: Right, but we're basing that on the five points and as number two, spirit of the ordinance, which  
531 again gets back to the emergency and spacing, safety, whatever...

532  
533 LARRY O'SULLIVAN: Safety.

534  
535 PATRICIA PANCIOTTO: Mm-hmm.

536  
537 NEIL DUNN: So that's why I'm trying to figure that part out.

538  
539 RICHARD CANUEL: That's right. How that driveway access, how that arrangement actually ends up. I know  
540 Mr. Baskerville talked about the hammer head at the end of Granite Street there. That is a possibility and  
541 that's something that we would have to address when we do the driveway permit approval process. So, from  
542 my perspective, I think what the Board needs to address is is there adequate access there to the public right of  
543 way to allow those lots to develop?

544  
545 ROBERT BASKERVILLE: If I may add one other point. I mentioned how bad the sight distance was or it didn't  
546 meet Town requirements on Mohawk. On Granite, it's straight and flat, so we've got very good sight distance  
547 on Granite.

548  
549 PATRICIA PANCIOTTO: And if I could just add to that one more item, I had referred to the back lot  
550 development ordinance, not because I think it applies here. I know it does not. But my point was that, in that  
551 particular ordinance, it allows for up to four (4) single family homes to be accessed by a driveway that's shared  
552 up to twelve hundred (1,200) feet long. Now with all that said, these driveways that we're proposing are  
553 considerably shorter and it was only in that context, as to access to the public way, that I mentioned that.

554  
555 LARRY O'SULLIVAN: I was hoping that our conservation...lands group could benefit from what you may be able  
556 to provide for them here. However...

557  
558 MATT NEUMAN: Mmm.

559  
560 JIM SMITH: I think that was envisioned with land in front of the lots, though.

561  
562 LARRY O'SULLIVAN: And farm land to boot, right, so...

563  
564 PATRICIA PANCIOTTO: I think it was. Yes. So it clearly doesn't apply here but it was the access component  
565 that, if that works, this really isn't that far of a stretch.

566  
567 JIM SMITH: Was there any thought given to developing a road along the front of those lots off of the Granite?

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MATT NEUMAN: So coming down Granite and then T-ing off?

JIM SMITH: Yes.

MATT NEUMAN: One going to both sides?

NEIL DUNN: Or a big cul de sac?

ROBERT BASKERVILLE: We did look at that and...there's so many plans. This was like a puzzle. There were so many options and we just kept trying each option and as we tried each one, we would strike out. If you look at several of your Town GIS plans, one option was to build Meadow all the way from Twin Isles all the way to Mohawk if we had enough right of way, which we don't. But there's a home that I believe is number 1 Twin Isles where Meadow goes up and nowadays you have to put a horizontal curve in so you have a general sweeping curve. They go up to a point and the roads just tinks and takes a turn. And of course, her house looks like it's about twenty (20) feet up with a hill going down across the road. You can't build a road around that corner by her house. So I can't get all the way from Twin Isles over. When I get up to Mohawk, I don't have site distance to be able to build a Town road there. And there's the whole issue of who owns what, how wide is it, who sold it to who and it was such a mess. The only option was trying to then build cul de sacs there but I've got twenty five (25) foot cuts and there's a lot of ledge out there, so it would all be blasting ledge. Even if you built a cul de sac, I then would have such a steep grade, I wouldn't be able to access the lots. And in our early meeting of In July of last year, building a cul de sac was something that technically would meet the reg but nobody was in favor of it, it was just too impractical due to the slopes and the ledge. So there was no way to build a Town road along that stretch.

MATT NEUMAN: Alright, just going back to the way the lots are laid out here. So in blue, it's highlighted, I mean, that's the...

ROBERT BASKERVILLE: Blue is the entire exterior.

MATT NEUMAN: Okay.

ROBERT BASKERVILLE: I left the center line a solid blue, which is that line, would remain.

MATT NEUMAN: Mm-hmm.

ROBERT BASKERVILLE: What Pat has volunteered is that if this were granted, she'll take the two outside lots and you can do a voluntary merger, so I dashed those lines. Those two (2) lines would disappear. So instead of four (4) lots, you'd end up with two (2) lots.

MATT NEUMAN: And Meadow Lane, or what was Meadow Lane is left out of those lots.

ROBERT BASKERVILLE: That's correct. It's a separate piece of land.

612 MATT NEUMAN: And so who owns those?  
613  
614 PATRICIA PANCIOTTO: We do.  
615  
616 ROBERT BASKERVILLE: Meadow Lane?  
617  
618 MATT NEUMAN: Mm-hmm.  
619  
620 PATRICIA PANCIOTTO: That strip at the bottom?  
621  
622 MATT NEUMAN: Well, at the top of the lots.  
623  
624 ROBERT BASKERVILLE: It's at the top of my plan.  
625  
626 PATRICIA PANCIOTTO: Okay. We would probably just merge that into the lots. We have no reason to keep  
627 that, do we?  
628  
629 ROBERT BASKERVILLE: I suppose so.  
630  
631 MATT NEUMAN: Well, it's a little confusing looking at this plan where you see you've got, I mean, Meadow  
632 Lane is essentially still...  
633  
634 LARRY O'SULLIVAN: Still a road.  
635  
636 PATRICIA PANCIOTTO: Mm-hmm.  
637  
638 MATT NEUMAN: Right, I mean, the way it's laid out here.  
639  
640 ROBERT BASKERVILLE: From what I understand is, Pat got a deed from Haimer...  
641  
642 PATRICIA PANCIOTTO: Mm-hmm.  
643  
644 ROBERT BASKERVILLE: ...which deeded everything that he still owned...  
645  
646 PATRICIA PANCIOTTO: Right.  
647  
648 ROBERT BASKERVILLE: ....then it's up to an attorney and a surveyor to decide what that is. In addition to the  
649 strip in front of us, she has strips going both ways.  
650  
651 PATRICIA PANCIOTTO: Right.  
652  
653 ROBERT BASKERVILLE: She just suggested it would probably just make sense to merge those into these.  
654  
655 PATRICIA PANCIOTTO: Right, to the extent that we can.

656

657 ROBERT BASKERVILLE: Just so it, in essence, disappears and belongs to somebody,

658

659 PATRICIA PANCIOTTO: Right.

660

661 ROBERT BASKERVILLE: 'Cause one problem with it is, is over the last seventy (70) years, everything on both  
662 sides got subdivided off. It left a strip of no-man's land that nobody ever got deeded. She purchased that  
663 deed, why not just merge them into these while we do it and then it all disappears.

664

665 JIM SMITH: Okay, that extends all the way up to the right?

666

667 PATRICIA PANCIOTTO: To the right? Jim, do you mean to Mohawk?

668

669 JIM SMITH: Right.

670

671 PATRICIA PANCIOTTO: Yes.

672

673 JIM SMITH: So you would probably deed those to whoever owns those adjacent lots?

674

675 PATRICIA PANCIOTTO: On that strip, I can't really say. I'd have to think about that but as to the piece that  
676 relates to...that's at the bottom or the top of those lots, there's no need to keep that but what I would  
677 probably want Bob to do is close the survey so I know exactly what we have there. We haven't actually pulled  
678 all those details in that area pulled together.

679

680 MATT NEUMAN: Essentially, though, I mean these lots would be inclusive of Meadow Lane, so they would  
681 actually...

682

683 ROBERT BASKERVILLE: Right.

684

685 PATRICIA PANCIOTTO: Yes.

686

687 MATT NEUMAN: ...extend up to, I don't know what it is, ten (10) feet or twenty (20) feet or whatever.

688

689 ROBERT BASKERVILLE: And to go to Jim's question, one thing I just thought of which I forgot to do...that lot  
690 which is what's left of Meadow Lane...

691

692 MATT NEUMAN: Mm-hmm.

693

694 ROBERT BASKERVILLE: A couple thousand feet long, thirty (30) feet wide, is one lot. To deed it to several  
695 different parties, I'm assuming I'd have to go back to the Planning Board and subdivide it.

696

697 PATRICIA PANCIOTTO: That's true.

698

699 ROBERT BASKERVILLE: That has no frontage. So I don't think I can deed it to separate lots.



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PATRICIA PANCIOCCO: That's true.

ROBERT BASKERVILLE: I think the entire length of it will have to be deeded to one of these two (2) lots.

PATRICIA PANCIOCCO: Yup.

ROBERT BASKERVILLE: Know what I mean?

PATRICIA PANCIOCCO: That's a good point. But then again...

ROBERT BASKERVILLE: As he rubs his head, I know, it's what we've been doing for a year.

PATRICIA PANCIOCCO: And Meadow's a separate strip, too.

MATT NEUMAN: Let me ask you this real quick, what's the total area for all four (4) lots right now?

ROBERT BASKERVILLE: It was two point five (2.5) and three (3)...

NEIL DUNN: That's about four,....five point three something?

PATRICIA PANCIOCCO: Okay.

MATT NEUMAN: And when you're giving us that area, is that inclusive of Meadow Lane?

ROBERT BASKERVILLE: No.

PATRICIA PANCIOCCO: No.

ROBERT BASKERVILLE: That is without Meadow Lane.

MATT NEUMAN: Okay.

ROBERT BASKERVILLE: Meadow Lane's in addition to that.

MATT NEUMAN: Alright, so are you taxed separately on Meadow Lane?

PATRICIA PANCIOCCO: No. I don't think the Town knows that it's there.

NEIL DUNN: It's in limbo.

PATRICIA PANCIOCCO: They didn't know it was discontinued.

744 LARRY O'SULLIVAN: Wouldn't surprise us.  
745  
746 PATRICIA PANCIOCCO: And it just...it fell through the cracks, I think.  
747  
748 MATT NEUMAN: And to be...it's a little troublesome to me. The Town, you know, when we have no...the  
749 Town knows nothing of this, it's not being taxed. The Town loves to tax.  
750  
751 PATRICIA PANCIOCCO: Yes, they do. They all do. They'll know about it.  
752  
753 MATT NEUMAN: Yeah, I'm not sure if we don't need a little more guidance from the Town before we can  
754 make a ruling on this. In not knowing the...and again, I know you presented a lot of history to us but before  
755 we just go ahead and issue a ruling one way or the other, I think we need to know, you know, how the Town  
756 feels about Meadow Lane and where exactly it stands on that.  
757  
758 PATRICIA PANCIOCCO: I guess my question would be, what do you mean, how do they feel about it?  
759  
760 MATT NEUMAN: Well, I mean, it's a piece of property that...  
761  
762 PATRICIA PANCIOCCO: That I own. We own it.  
763  
764 MATT NEUMAN: But you're not being taxed on it.  
765  
766 LARRY O'SULLIVAN: It doesn't matter. It doesn't matter.  
767  
768 PATRICIA PANCIOCCO: It's basically...  
769  
770 JIM SMITH: That's between the Assessor...  
771  
772 PATRICIA PANCIOCCO: That's between me and the Assessor, I suppose once the survey's done. I didn't know  
773 it, either.  
774  
775 LARRY O'SULLIVAN: So when you do the merger of lots 34 and 33 and 23 and 32...  
776  
777 PATRICIA PANCIOCCO: We'll know it then.  
778  
779 LARRY O'SULLIVAN: ....will you include the land from Meadow Drive?  
780  
781 PATRICIA PANCIOCCO: Yes.  
782  
783 ROBERT BASKERVILLE: To one of those.  
784  
785 PATRICIA PANCIOCCO: In one way or another, it'll be recognized by the Town. That I can say.  
786  
787 JAY HOOLEY: In the Town GIS, Meadow doesn't exist.

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MATT NEUMAN: You can't...the Town GIS, I mean that's...

LARRY O'SULLIVAN: It's old. Yeah, it's old.

MATT NEUMAN: I mean, that's not gospel, unfortunately.

ROBERT BASKERVILLE: One problem about delaying it is Pat's had another surveyor, famous for his research work; Don Wilson...

PATRICIA PANCIOCCO: Don Wilson.

ROBERT BASKERVILLE: ...work on this for years.

PATRICIA PANCIOCCO: Oh, he did. He finished in 2002 [? indistinct].

ROBERT BASKERVILLE: Thirty days from now, the Town will still really not have any better idea of what they own and where.

PATRICIA PANCIOCCO: Right.

ROBERT BASKERVILLE: There's no clear answer. I think it's just better to deed everything in that deed to one of these and attach it.

PATRICIA PANCIOCCO: Right.

ROBERT BASKERVILLE: And then it will all just have to go under the legal description for that lot.

PATRICIA PANCIOCCO: Right.

LARRY O'SULLIVAN: We don't really care how you deed it, we just care about the merger.

MATT NEUMAN: Right.

[indistinct comments]

LARRY O'SULLIVAN: That's all we...

ROBERT BASKERVILLE: It's just gonna clean...it goes away.

PATRICIA PANCIOCCO: That can be a condition...

MATT NEUMAN: No, I know, and I guess it's just, you know, I'm looking at this plan and not including Meadow Drive...

832  
833 ROBERT BASKERVILLE: Right.  
834  
835 NEIL DUNN: There's nothing buildable left.  
836  
837 MATT NEUMAN: No, but it should be part of the two lots.  
838  
839 ROBERT BASKERVILLE: Right.  
840  
841 LARRY O'SULLIVAN: Just a little bit of verbiage that...  
842  
843 PATRICIA PANCIOCCO: It will be.  
844  
845 MATT NEUMAN: Yeah. Okay. Are there any other questions from the Board before we open it up to public  
846 comment? No? Alright, at this time, we'd like to ask anyone in support of the variance, come forward. Okay,  
847 not seeing anyone in support of it, anyone in opposition of...  
848  
849 LARRY O'SULLIVAN: Or questions.  
850  
851 JIM SMITH: Or has questions.  
852  
853 MATT NEUMAN: ...or has questions, please feel free to come forward.  
854  
855 BARBARA RICHARDSON: I am Barbara Richardson from 7 Birchwood Drive and where she's proposing to put  
856 these properties is in my backyard.  
857  
858 MATT NEUMAN: Okay. Where exactly....7 Birchwood?  
859  
860 BARBARA RICHARDSON: I'm not convinced that she even owns Mohawk Drive, I mean Meadow Lane. I mean,  
861 it's a dirt path. And we certainly don't want anything else back there.  
862  
863 MATT NEUMAN: Okay.  
864  
865 BARBARA RICHARDSON: Thank you.  
866  
867 MATT NEUMAN: Thank you.  
868  
869 MARK COLEMAN: Mark Coleman, 7 Twin Isles Road. This also would be in my backyard. I think if you drive  
870 around that whole area, it's already very congested back there with condos, duplexes, what have you. It's a  
871 very busy area and I think adding more to that would just have a very drastic effect on the property value of  
872 what's going on around there and we're on single family houses on Twin Isles and Meadow and whatnot and I  
873 just think it adds congestion.  
874  
875 MATT NEUMAN: Okay. Thank you.

876

877 BERNIE POWELL: Good evening. My name is Bernie Powell, I live at 9 Birchwood Drive. Essentially, it's also  
878 in...the proposed properties are in my backyard. We're a little confused about this Meadow Lane and kind of  
879 splitting the property and merging the property, et cetera. One of our concerns is is well drilling, obviously, is  
880 gonna need to be done and we're concerned that that may affect our wells, building foundations, obviously  
881 some excavation. How is that gonna affect us there? Driveways, how actually close to the properties and the  
882 houses are these driveways actually gonna be going in? Are they gonna be much closer to Granite? How far,  
883 you know, there was a mention of something that they're approximately a hundred and fifty (150) feet wide  
884 and four hundred (400) feet for...

885

886 JIM SMITH: Can I interrupt him for a second?

887

888 BERNIE POWELL: Mm-hmm.

889

890 JIM SMITH: You wanna rotate that plan so they audience can see it and that might help answer some of these  
891 questions?

892

893 MATT NEUMAN: Yeah, that might help. Thank you, Jim. Good idea.

894

895 BERNIE POWELL: We're trying to get an idea of how far back the houses...are they gonna be much closer  
896 towards the Granite and up towards the front of Mohawk or whatever or are they gonna be in the middle of  
897 the property, which, obviously, there's gonna be some backyard availability. How close to the back of our lots  
898 is this going to be? I've had issues in the back of my yard, coming straight back from Granite, where kids are  
899 drinking right at the back of my property. I've had to call police several times to get people who are actually  
900 building little lean-to's on the back of my property. My concern is I don't want the possibility of more people  
901 getting in behind, if it's duplexes, obviously they're gonna probably be probably of higher quality than some of  
902 the condo area that's right behind our house, too, but that's one of my concerns. I don't want more people  
903 potentially up in the back of my property running the risk of getting hurt in the woods in behind the house and  
904 me having to be liable for that kind of thing, so the idea of having more property and more intrusion towards  
905 the back of my property is not something that I'm in favor of. Thank you.

906

907 MATT NEUMAN: Okay. Thank you.

908

909 JOHN BICKNELL: Hello, John Bicknell, 3 Birchwood Drive. Also one of the neighbors and basically my issues  
910 are many of theirs. I have one other question is, number one is the proposed driveway, for the sake of calling  
911 it that, what was the proposed length or is there a length given to that yet? How long that they wanted it.

912

913 LARRY O'SULLIVAN: It's right there on...

914

915 MATT NEUMAN: Well, yeah, if you look on the plan.

916

917 LARRY O'SULLIVAN: All he's got is approximate now, anyway, so...

918

919 MATT NEUMAN: Right, there's still a permit process they're gonna have to go through for that.

920  
921 JOHN BICKNELL: Mm-hmm. I understand that.

922  
923 ROBERT BASKERVILLE: Two hundred and fifty (250) feet here. This one's only a hundred and fifty (150) feet  
924 from the road which would probably go and hundred and twenty (120) feet over and a hundred and twenty  
925 (120) feet out.

926  
927 JOHN BICKNELL: Okay. Thank you. I guess...during the presentation, I keep hearing the word "unique"  
928 thrown in there and after a while, I say to myself, "unique," that means it's either hasn't been done very often,  
929 if at all, or it's been done very rarely, this kind of request, so I guess the question that may come back to the  
930 Board is, will we be citing precedent here? I don't know. I'm not an expert in this field. But it kind of caught  
931 my ear, I said, "unique," that's all I hear is unique. Strange. And that's about it. Thank you.

932  
933 MATT NEUMAN: Thank you. Anyone else in the audience who would like to come forward?

934  
935 KEITH OGDEN: Yeah, short and sweet here, Keith Ogden at 5 Twin Isles Road. This also would abut my  
936 property, single family home and personally would rather it wasn't there.

937  
938 MATT NEUMAN: Thank you. Alright, anyone else in the audience?

939  
940 LARRY O'SULLIVAN: Did you want to address any of those issues that they may have or can Richard address  
941 them or...? I'm talking about the lot sizes, the things that are required, the things that the Town requires for a  
942 two family to be sitting on a piece of property that is owned without frontage and the rights for somebody to  
943 develop a piece of property that has no frontage. I mean, that's what really what people were asking.

944  
945 MATT NEUMAN: No, you're right and I think everyone needs to understand that people own property and  
946 they have the right to develop it as long as it falls within the guidelines set forth by the Town. The applicant is  
947 here for a variance based on the frontage. In all other ways, they do meet the guidelines set forth by the  
948 ordinance. Understanding that it may not be exactly what you might want in your neighborhood, they're fully  
949 in their right legally to put that property...to build the structure that they're looking for. I don't know, Richard,  
950 if you wanted to add anything else to that or...?

951  
952 RICHARD CANUEL: No, you pretty much said it.

953  
954 MATT NEUMAN: And if the applicant wants to come forward again and address any of the issues raised? Oh,  
955 no...

956  
957 BARBARA RICHARDSON: May I, sir? I don't understand how she can...you can have the variance to do this  
958 when there's not even access. There's no access to this property.

959  
960 LARRY O'SULLIVAN: That's exactly what we're addressing today.

961  
962 MATT NEUMAN: Right. That's what we're here to discuss.

964 NEIL DUNN: Well, Granite, if you look at the map, which maybe you didn't have the preview before of it,  
965 Granite does provide a Class V road right to the property. So what they're looking at is frontage on that  
966 road, and I wanted to dead end that way, they're talking about a hammerhead and something that the Town  
967 Planning Board would accept. So they're still here for frontage because typically you need more frontage, but  
968 they're not...

969  
970 MATT NEUMAN: And I think it's a little hard when you're looking at it because in essence, the line above  
971 where it's highlighted truly is the lot line that we're looking at here.

972  
973 BARBARA RICHARDSON: So the dashed line, is that Meadow?

974  
975 ROBERT BASKERVILLE: This is the...what everybody calls Meadow, which is that woods path. That runs right  
976 all the way through here.

977  
978 BARBARA RICHARDSON: Of which we're not clear who owns. Since nobody's paying taxes on it.

979  
980 MATT NEUMAN: What's been presented is that it's owned by the applicant.

981  
982 BARBARA RICHARDSON: Okay, thank you.

983  
984 MATT NEUMAN: Do you wanna...?

985  
986 PATRICIA PANCIOTTO: Actually, could I approach, just to give these to Jaye?

987  
988 MATT NEUMAN: Go ahead.

989  
990 PATRICIA PANCIOTTO: This is the deed to Meadow [Exhibit "C"]. It's public information. It's on the Registry  
991 of Deeds.

992  
993 NEIL DUNN: That's a copy for her to keep?

994  
995 PATRICIA PANCIOTTO: Yes, you can keep that. I just wanted to respond to one question that arose about  
996 precedent.

997  
998 MATT NEUMAN: Go ahead.

999  
000 PATRICIA PANCIOTTO: The concern about this being precedential for another piece of property; there is no  
001 such thing. The property's unique in every variance by nature...

002  
003 MATT NEUMAN: Absolutely. No, that's...

004  
005 PATRICIA PANCIOTTO: Okay. I know that one of the abutters asked that. I just wanted to make sure it was  
006 covered. Thank you.

007

008 MATT NEUMAN: Jaye, when you're done, can I see that deed?

009

010 LARRY O'SULLIVAN: It was a good pickup, though. Uniqueness is the thing that we require to allow a variance.

011

012 MATT NEUMAN: Anyone else wanna see this deed? Did the applicant have any other further comments  
013 before we pull this back to deliberation? Or, I'm sorry, any questions from the Board before we pull back to  
014 deliberations to the applicant or Mr. Baskerville?

015

016 ROBERT BASKERVILLE: The only thing I might just mention is one thing that has happened, too, is changing of  
017 the regulations. I believe she said that Meadow was discontinued in 1926. A lot of these regulations like sight  
018 distance are fairly recent compared to 1926, so when the road was originally discontinued, you've seen old  
019 town roads; they twisted and turned and went all over the place. Those would not be allowed per today's  
020 regulations. So from the time that the lots were created, all of the regulations have been updated and  
021 changed in addition to...which is part of what makes this unique is that the regulations no longer allow what  
022 was allowed at that time.

023

024 LARRY O'SULLIVAN: Our horses got a lot wider and faster.

025

026 NEIL DUNN: Richard, this might sound silly. A nonconforming use, kind of weird thing? Or no because it  
027 would be a new road, the road doesn't exist, so if they wanted to use Meadow with the...?

028

029 RICHARD CANUEL: It's not a matter of an existing, nonconforming use. It doesn't qualify under those  
030 provisions.

031

032 NEIL DUNN: I just was curious.

033

034 RICHARD CANUEL: They're existing lots of record. They were created inappropriately. I mean, we have  
035 numerous lots around town that have been created inappropriately. It's an existing lot of record. The lots are  
036 allowed for whatever uses are allowed in that particular zone. Being the agricultural-residential zone, it's  
037 either single family or two family dwellings. The applicant isn't asking for anything outside of what the  
038 ordinance allows, so...

039

040 NEIL DUNN: I guess I meant more for the roads.

041

042 RICHARD CANUEL: Yeah.

043

044 NEIL DUNN: Would the road, the old road, be a nonconforming?

045

046 RICHARD CANUEL: Roads and rights of way don't necessarily qualify for conforming or nonconforming under  
047 the provisions of the ordinance. It's the individual lots themselves.

048

049 LARRY O'SULLIVAN: That has nothing to do with zoning, right?

050

051 RICHARD CANUEL: Right, that's correct.



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NEIL DUNN: Well, I don't know, I was just curious if there was something there to it. That's all.

MATT NEUMAN: Mm-hmm. Okay, any other questions?

LARRY O'SULLIVAN: Now that would be precedent.

MICHAEL GALLAGHER: How far back are they sitting, let's call it from Granite.

PATRICIA PANCIOCCO: From the end of Granite?

MICHAEL GALLAGHER: Yes, because...or even...

NEIL DUNN: From the back of the lot...

MICHAEL GALLAGHER: [indistinct] How far back...

PATRICIA PANCIOCCO: [indistinct]

MICHAEL GALLAGHER: There you go.

ROBERT BASKERVILLE: If I can [indistinct].

MICHAEL GALLAGHER: Yeah, just...

ROBERT BASKERVILLE: The front of the house...

MICHAEL GALLAGHER: Yeah.

ROBERT BASKERVILLE: ...will be about a hundred and eighty (180) feet from Granite. The back of the house at its nearest point will be about a hundred and ninety five (195) feet to the back lot line.

MICHAEL GALLAGHER: A hundred and ninety five (195) feet, so that should...

ROBERT BASKERVILLE: Roughly in the center, more a little closer to Granite than the back.

JIM SMITH: If you were to draw the setback lines, I'm not sure where you would call the front of the lot, but the other sides would have a fifteen (15) foot setback so on any other lot, you could build within that zone, in other words, as close as fifteen (15) feet to a property line. So having a hundred and ninety (190) feet from that back property line is well over what would be the minimum required of fifteen (15) feet, so...

MATT NEUMAN: Did you have another question? If you'd like to come forward. We're not gonna do this all night, but...

096 BERNIE POWELL: Is there any information that you're seeing in your package there that is gonna lead anyone  
097 to believe that at a future time, they're gonna build behind these and add...  
098  
099 MATT NEUMAN: Well, what do you mean, "build behind" them?  
100  
101 BERNIE POWELL: In other words, add another house, potentially behind these lots.  
102  
103 MATT NEUMAN: Again, in order to build, they have to follow the zoning of Londonderry, the Town of  
104 Londonderry, so they need to get building permits, they need to go through the process, so...you know, they  
105 can't just can't decide to put something up right on the property line.  
106  
107 BERNIE POWELL: Right, that's what I mean. But I mean, in the future, if another variance was asked for to be  
108 able to build another one closer to the back of these lots...  
109  
110 MATT NEUMAN: Well, that would be...I mean, we're talking about a subdivision or something like that...  
111  
112 BERNIE POWELL: Well, that's a whole other process which...  
113  
114 NEIL DUNN: Richard, could they build a second duplex or house on the back lot on the same lot if they  
115 wanted?  
116  
117 BERNIE POWELL: Or is there some way...  
118  
119 RICHARD CANUEL: Not without subdividing the property further.  
120  
121 NEIL DUNN: Not without subdividing.  
122  
123 MATT NEUMAN: Right, which means Planning Board approval. It's not like they can just go ahead and do  
124 that.  
125  
126 LARRY O'SULLIVAN: They don't have the lot sizes to do it anyway. They don't have the lot sizes.  
127  
128 MATT NEUMAN: Right.  
129  
130 LARRY O'SULLIVAN: So, this is it.  
131  
132 MATT NEUMAN: Right. You know, it looks like the applicant's proposing building basically in the middle of  
133 essentially what will be two (2) lots. They're going from four (4) lots to two (2) lots.  
134  
135 LARRY O'SULLIVAN: Or they could be building four (4) homes.  
136  
137 MATT NEUMAN: Right.  
138  
139 BERNIE POWELL: I understand. Thank you.

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MATT NEUMAN: Okay, well, I think it's probably time to pull it back to deliberation and...

LARRY O'SULLIVAN: Fine with me.

DELIBERATIONS:

LARRY O'SULLIVAN: Okay, so we know there's gonna be a discussion with Public Works. It was Public Works about the driveways, alright?

MATT NEUMAN: Right.

LARRY O'SULLIVAN: So that has to happen. We have to include that in anything that we wind up if we, you know, feel they met all the points, which I do. We also, in my opinion, should also put some kind of a requirement that the presentation showed centered homes on the lots, that kind of thing.

JIM SMITH: No, no...

MATT NEUMAN: I don't know if that's even necessary. Again, they've gotta follow along the ordinance.

LARRY O'SULLIVAN: Whatever the ordinances are. Fifteen (15) feet is it.

MATT NEUMAN: Right, within their rights to...I think, aesthetically...

LARRY O'SULLIVAN: They can put it within fifteen (15) feet.

MATT NEUMAN: Aesthetically, it makes sense for that.

JIM SMITH: Within the normal setbacks.

MATT NEUMAN: Yeah.

LARRY O'SULLIVAN: Okay.

[overlapping comments]

JIM SMITH: The only point I would like to clarify; what are we gonna call the front of this lot?

MATT NEUMAN: The front of the lot, essentially, I mean, see that's what, I think when you look at this plan, it's a little confusing because the blue line truly is not the front of the lot. It would be the edge of Meadow Lane or Meadow Drive.

LARRY O'SULLIVAN: Yeah, thirty some odd feet more.

184 MATT NEUMAN: Right.  
185  
186 LARRY O'SULLIVAN: If that's as wide as Meadow Lane is.  
187  
188 MATT NEUMAN: Right.  
189  
190 LARRY O'SULLIVAN: Right.  
191  
192 MICHAEL GALLAGHER: But they own that.  
193  
194 LARRY O'SULLIVAN: They own it, so, and it's gonna be part of these lots.  
195  
196 MATT NEUMAN: And it's gonna merge when they do the lot merger.  
197  
198 LARRY O'SULLIVAN: So what I would suggest for that one is that we include the merger of the lots, 33, 34, 23,  
199 32 with the portions of Meadow Drive that are associated [indistinct] .  
200  
201 NEIL DUNN: Can I get clarification from Richard? Will they automatically, when they go to the driveway  
202 proposal, they would automatically go to renaming it, the property, whatever, Granite Street?  
203  
204 RICHARD CANUEL: That's a good question. I think that's something we would have to address between our  
205 Public Works Department and the Assessing Department because there certainly would have to be addresses  
206 assigned to both of those parcels and it would be dependent upon where that public access actually is and  
207 where those address numbers fall, so, yeah, that would definitely...we'd have to approach that when we do  
208 the driveway...  
209  
210 NEIL DUNN: Is that something we need to make a conditional thing or no?  
211  
212 MATT NEUMAN: I don't think that's...  
213  
214 RICHARD CANUEL: I don't think that it's necessary.  
215  
216 LARRY O'SULLIVAN: I don't wanna talk about Public Works anyway. Discussion on the driveway with Public  
217 Works is gonna required anyway.  
218  
219 MATT NEUMAN: It's a requirement.  
220  
221 NEIL DUNN: Right, but...  
222  
223 JIM SMITH: Larry? I think we have to be careful about what we say about the merger. I think that what they  
224 were suggesting that the strip of land, which is normally Meadow Lane, would be merged with one of the two  
225 lots.  
226  
227 LARRY O'SULLIVAN: So? That fits the requirement of what I was requesting.

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JIM SMITH: If you don't, you would have to subdivide that strip and then they would have to go to the Planning Board to do that.

LARRY O'SULLIVAN: What I was asking for that there was a merger of those lots with a portion of Meadow Drive, whether it be one or part or all of Meadow Drive with any of those lots.

NEIL DUNN: So four (4) lots to two (2)...

LARRY O'SULLIVAN: Just so long as we have...No, we're going from five (5) lots to two (2) because Meadow Drive is a lot.

NEIL DUNN: Okay, yeah, that's fair.

JIM SMITH: Meadow should merge with one (1) of the two (2) lots.

NEIL DUNN: I don't care, whatever they want, as long as they merge it.

LARRY O'SULLIVAN: I don't care which one it is. What do we care?

JIM SMITH: Yeah, one (1) of the two (2).

MATT NEUMAN: I mean, in this case, it would be the one on the left because that's where, I mean, you've got the access point. I mean, I don't think that's really in our.

JIM SMITH: I'm just trying to avoid forcing them to make a subdivision, which is...that way they don't have to go to the Planning Board.

LARRY O'SULLIVAN: Oh, I see what you mean.

JIM SMITH: If they try to split that Meadow Drive, that would be a subdivision.

LARRY O'SULLIVAN: Right. Right, so...you know, if they make the determination that's the way they wanna do it, then they can do it that way. If they don't want to do it that way, fine. Just as long as we take care...

JIM SMITH: Okay, I don't wanna put a restriction...

LARRY O'SULLIVAN: I wanna take care of Meadow Drive with this variance.

JIM SMITH: It needs to be merged with one of the two (2) lots and that's all we need to...

LARRY O'SULLIVAN: That's fine. Exactly what I was saying.

MATT NEUMAN: [indistinct]

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LARRY O'SULLIVAN: Nope.

MATT NEUMAN: You sure?

LARRY O'SULLIVAN: That's exactly what I was thinking of.

MATT NEUMAN: You look like you want to make a motion.

LARRY O'SULLIVAN: We haven't heard from Neil. It's Neil's turn.

NEIL DUNN: I'm still contemplating. So emergency services is gonna be taken care of by the [indistinct] and crew.

LARRY O'SULLIVAN: Well, we all agree, I suspect, that a denial would be denial of reasonable access and reasonable use of the land.

MATT NEUMAN: Mm-hmm.

LARRY O'SULLIVAN: Do we all agree with that?

JAY HOOLEY: Are you gonna walk through the five...?

LARRY O'SULLIVAN: Okay, well, that's the primary one that I had any issue with and I believe that they covered it, so...If you wanna walk through the five and make a motion at the same time, o right ahead.

JAY HOOLEY: I mean no, I was just asking.

MATT NEUMAN: Jay, do you wanna walk through? I mean, do you have an issue with any other ones?

JAY HOOLEY: No.

MATT NEUMAN: I don't know that it's necessary to...

JAY HOOLEY: That's why...fine.

MATT NEUMAN: Unless we feel a need to.

LARRY O'SULLIVAN: You saw me making notes, though. It seems especially since when they responded that they cannot build a successful or acceptable road to the frontage of all the lots, that in itself forces us to do something that's different than what we all have.

MATT NEUMAN: Mm-hmm.

316 LARRY O'SULLIVAN: Legally. My question about the common driveway, obviously, there isn't gonna be a  
317 common driveway. It's gonna be multiple driveways. Public Works is the one who's gonna have to deal with  
318 that, though. Not us.

319  
320 MATT NEUMAN: Absolutely. No, you're right.

321  
322 LARRY O'SULLIVAN: So other than that, I had no other issues. Substantial justice is done.

323  
324 MATT NEUMAN: Mm-hmm.

325  
326 LARRY O'SULLIVAN: The spirit of the ordinance is observed. We get to use those now increased, as soon as  
327 they build the buildings on them, increased taxes, yea, yea. And...

328  
329 MATT NEUMAN: And I think the position of the buildings and the lots, I mean we're talking the middle of the  
330 vacant land at this point.

331  
332 LARRY O'SULLIVAN: There's not gonna be any...well, it's a totally reasonable use of the property.

333  
334 MATT NEUMAN: Alright, is anyone ready to make a motion?

335  
336 LARRY O'SULLIVAN: I make a motion that we approve case 7/20/2011-2 as presented with the restriction that  
337 the approval happens after the merger of lots 34 and 33 and 23 and 32 with any or all of the portions of  
338 Meadow Drive land. Is that okay, Jim? Does that fit your...so that they don't have to do the subdivisions and  
339 what have you.

340  
341 NEIL DUNN: The lots are wrong, though.

342  
343 JIM SMITH: No, what you need to say is that Meadow Drive be merged into one (1) of the two (2) lots.

344  
345 MATT NEUMAN: Along with the...I mean, both lots being merged. I mean, all four (4) lots be merged into two  
346 (2), inclusive of Meadow Drive.

347  
348 JIM SMITH: Well, in other words, you're gonna have one (1) pair of lots into one (1), the other pair into  
349 another and Meadow Drive attached to one (1) of those two (2) merged lots.

350  
351 LARRY O'SULLIVAN: That way we're forcing them to make a choice which one. Why should we be forcing  
352 them to make...

353  
354 MATT NEUMAN: We can just say lots be merged into two (2) lots.

355  
356 LARRY O'SULLIVAN: Okay.

357  
358 NEIL DUNN: But it's not 32, the lots are tax map 7, 7, 8, 9, and 10 plus Meadow.

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MATT NEUMAN: I think all we need to say is lots be merged into two (2) lots. Okay, you can make that motion. I'll give Jim the...

MATT NEUMAN: I was just offering that up, so....

LARRY O'SULLIVAN: Go ahead.

NEIL DUNN: Where did you get the 32 from? I wasn't sure...

LARRY O'SULLIVAN: Those are the numbers on the maps...

NEIL DUNN: Oh, that was the old map.

JIM SMITH: Well, that's an old map, too.

LARRY O'SULLIVAN: I have 1962's here, I have fifteen different years of maps and they all seem to have different numbers, so...

NEIL DUNN: No, I just wanted to make sure we had the right map.

LARRY O'SULLIVAN: ...I just picked those.

JIM SMITH: Want me to make an attempt?

LARRY O'SULLIVAN: Okay, I'll withdraw my motion. It wasn't seconded, but I'll withdraw it.

JIM SMITH: I'd like to make a motion on case 7/20/2011-2 to grant to combine lots 28, 26, 24, and 22 into two (2) duplex lots with the land commonly known as Meadow Drive in front merged into one (1) of those resulting two (2) lots.

MATT NEUMAN: Is there a second?

LARRY O'SULLIVAN: I'll second it.

MICHAEL GALLAGHER: I'll second it.

LARRY O'SULLIVAN: Okay, Michael seconded it.

MATT NEUMAN: Mike seconded it. All those in agreement with the motion acknowledge by saying 'aye.'

NEIL DUNN: Aye.

LARRY O'SULLIVAN: Aye.



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JIM SMITH: Aye.

MICHAEL GALLAGHER: Aye.

MATT NEUMAN: Aye. Opposed?

[no response in opposition]

RESULT: THE MOTION TO GRANT CASE NO. 7/20/2011-2 WITH RESTRICTIONS WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,



NEIL DUNN, CLERK  
TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

**APPROVED AUGUST 17, 2011** WITH A MOTION MADE BY LARRY O’SULLIVAN, SECONDED BY JAY HOOLEY AND APPROVED 5-0-0.