

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

DATE: OCTOBER 21, 2015

CASE NO.: CASE NO. 10/21/2015-4

APPLICANT: HENRY A. AND ELIZABETH J. ROUX
54 OLD DERRY ROAD
LONDONDERRY, NH 03053

LOCATION: 54 OLD DERRY ROAD; 16-23-14; AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIRMAN
JACKIE BENARD, VOTING MEMBER
NEIL DUNN, VOTING MEMBER
DAVE PAQUETTE, CLERK

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

REQUEST: VARIANCE TO ALLOW A DETACHED GARAGE WITHIN THE FRONT
SETBACK WHERE A MINIMUM OF 40 FEET IS REQUIRED BY SECTION
2.3.1.3.C.

PRESENTATION: D. PAQUETTE READ THE CASE INTO THE RECORD. NO PREVIOUS CASES.
NO LETTERS.

JIM SMITH: Who will be presenting? Okay, we'll go through the same spiel just so...I'm sure you heard it. We only have four people you need three positive votes. If you wish, you can continue to next month and hopefully we'd have more...your choice. Do you want to continue?

ELIZABETH ROUX: We will continue, yeah.

JIM SMITH: Who will be presenting?

ELIZABETH ROUX: I will Elizabeth Roux.

JIM SMITH: And, address for the record.

ELIZABETH ROUX: I'm sorry 54 Old Derry Road.

JIM SMITH: Okay, go ahead.

ELIZABETH ROUX: I can go through the five points.

JIM SMITH: Any background you want to give before you start the five points?

ELIZABETH ROUX: What we'd like to do is build a 2-stall garage, and the variance we need because we are close to the property line. We are 19 feet. I was corrected on that. We are 19 feet away from the front property line of the proposed garage.

JIM SMITH: Okay.

ELIZABETH ROUX: The first point, the variance will not be contrary to the public interest. The variance will not injure the public or private rights of others. No roadways or other properties will be obstructed with the variance being granted. No wetlands are involved. There will be no adverse effects to the public at large. There is a buffer of a stone wall and trees to the west (the street side) and north back of the garage abutter side of the proposed site and there should be numerous pictures (See Attachment #1). Okay, yeah, there probably up there yeah. The spirit of the ordinance is observed. There will be no health, safety or negative effect to the general welfare to the community or the neighborhood. The proposed site will not be obstructing any surrounding properties from their use. The proposed garage will be in likeness to our present home and garage on the same parcel. Substantial justice is done. Proposed garage site will be positive. For myself, I have been diagnosed and have been living with multiple sclerosis. So, first to have the garage at this site will be helpful to me. It will be close access to vehicle to unload and load contents out of the vehicle. In the winter time with snow and ice it could be challenging for me if we were to build the garage down back below there could be...it would be closer access for the vehicles, tools, lawn mower, snow blower, etc., and those types of things. Proposed area is much more secure location for us to be able to see from our house and there's no loss to the general public. Propose garage site...the values of surrounding properties are not diminished. The proposed garage site will not lessen the values of surrounding properties. Values should increase with the new construction of garage, and number five the unnecessary hardship I guess I'm going to start with...yeah I'll start with the first one. Unnecessary hardship for the garage...if it's built in another area down back which would be the only other choice for us the driveway would be a downgrade and not level for access for me. The downgrade will present water, snow and ice building up pooling in front of the garage. There's always been water buildup down back, and in the winter time that would not be...that would not be good for me trying to utilize the garage. Because there is a downgrade in various pictures I took also (see Attachment #1). I took many pictures, it does show a downgrade to go back if that's where the garage were to go. That's the only other option we truly do have for on our property. The lack of accessibility would be greater for me as well as for my husband to Henry. It's not a secure location down back. We can't see it from our house, we have a garage that's next to it presently, and to see the garage that would be down back next to the other garage, or in back of the garage, we wouldn't be able to see if there was anything going on out there at all. Less accessibility for anybody to utilize anything that would be in the new garage. It could, if the garage to be put down back not on the proposed site that we would like, it could impede us from accessing and receiving delivery of firewood to our back yard which if you can see there's a path there that kind of goes to the back where our wood pile is and there are various pictures I have of that as well. That we have delivery of wood and that is how we heat in the winter, as well as we do have oil, but mainly by wood, and if for any reason a truck would need to get in the back also...again, if a garage were built, it could impede from

trucks getting in and out. Whether it be to move furniture, receive furniture, whatever needed to be out back. I could also hinder us from our water pump if for any reason we needed to have repairs done on that because that's down in back as well by the shed there. There's a picture. The expense would be greater also. It would be 50-60 feet maybe from the street down back which we would need paving which would be a 40-50 foot driveway to go down back. Possibly a telephone would have to be installed for access for electricity and proposed use is a reasonable one. The garage will not be a safety issue or harm the public in any manner. It will add to the property values. The proposed garage will be built on our property. We would be able to utilize our property manner for us in our present needs and in the future. Safety issue for me will be greatly diminished and would be more useful for me. Accessibility to garage for us will be more useful in the proposed area. Security for garage and contents would be greater in the proposed area. Then there is a stone wall and a tree that buffers the proposed garage on the...see if I...on the west side closest to the street. The garage would be a 24x30 in the proposed area, and that is it for me I believe.

NEIL DUNN: Mr. Chairman, if I may? In your opening statement you said it was 19 feet from your property line and in the paperwork it says 13?

ELIZABETH ROUX: That is correct, my husband corrected me on that. Obviously, a typing error on my part.

NEIL DUNN: So, which one is proper?

ELIZABETH ROUX: 19.

HENRY ROUX: It would be 25 feet from the white line in the road...by the road.

ELIZABETH ROUX: 26 feet.

HENRY ROUX: 26...but 25.

JIM SMITH: You're saying the building proposed is how far from the white line of the road?

HENRY ROUX: It would be 25 feet.

JIM SMITH: Okay, when you say the white line is that white line on the edge of the road?

HENRY ROUX: Yes.

NEIL DUNN: And, 19 from the property line, and if you were to square it up with your existing garage, it looks like you would have 40 feet?

HENRY ROUX: If we put it down, that's like a slanted hill that goes down.

NEIL DUNN: But, don't you have to walk down the slant to get into the house and your actually walking further? I'm just looking...

ELIZABETH ROUX: No.

NEIL DUNN: ...on a road like that not being 40 feet back and being 19, well I can see stuff go flying out. I don't know, you know, it's our duty, our responsibility to look at other options, and that's all I'm trying to get at. You know, you talk about the slope, but it looks like you're actually putting it further away from the home you'd have to walk into?

ELIZABETH ROUX: Um...

NEIL DUNN: I'm just looking for answers to that, I guess?

ELIZABETH ROUX: ...Yup.

HENRY ROUX: It would be further away, it'd be down back would be like beside the other one...in that picture (see Attachment #1).

NEIL DUNN: Right, but to get in the house being further down...

HENRY ROUX: Yeah.

NEIL DUNN: ...would actually be closer to the entry to the house, I guess?

HENRY ROUX: No, no it would be further away.

ELIZABETH ROUX: No, the present garage and then our house is to the right of it. There's a walkway there in between the garage and the house which is how we get into the house. If the garage is down back, and the proposed area is the green (see Attachment #1), you see 25 feet maybe from the door. If we build down back where the little shed is that's much further.

NEIL DUNN: No, no I was...

JIM SMITH: I think what he was trying to suggest is on the side of the present garage you've got a...?

HENRY ROUX: Wall.

JIM SMITH: ...a wall with a slightly built up area. If you were to take that wall and area out and build a garage parallel...or the front of it would be parallel to the existing garage and extend it along. Why couldn't you do that? If that's what you're trying to do?

NEIL DUNN: Or, even 90 degrees to it so you almost have a little courtyard on the same pavement. I don't know, to me it looks like there's room, and it'd be closer...

ELIZABETH ROUX: Um...

HENRY ROUX: I put a lot of hard work into that wall though...

ELIZABETH ROUX: Yeah.

HENRY ROUX: I built that wall myself.

ELIZABETH ROUX: That's our...President Bush wall that we built with the money. Yeah, I don't know if you can see pictures of that?

JIM SMITH: Well, yeah, okay.

NEIL DUNN: I...

ELIZABETH ROUX: And, if we had to go and I don't know how much further we haven't even measured...I don't know how long that little pavement wall is there? We'd have to tear...I believe we have the pictures, I'm not sure? That would possibly depending on how far out that goes that would obstruct us from going out back, having wood delivered.

JIM SMITH: So, in that sketch that you've drawn. You're showing an existing driveway. Is that a turnaround?

HENRY ROUX: It's like a basketball court.

ELIZABETH ROUX: Correct.

[Overlapping comments]

ELIZABETH ROUX: Correct.

JIM SMITH: So, what you're trying to do is utilize that as the entrance into this proposed garage?

ELIZABETH ROUX: Correct, which I think at first when Henry...he...the land was given to him by his grandmother. His grandmother owned I would say all of Old Derry Road (Londonderry line to Auburn Road) and then a lot of Auburn Road, she bought the property in 1926...over 300 acres of land. The land was given to him by his grandmother in 1974.

HENRY ROUX: My grandfather built that wall out front there...

ELIZABETH ROUX: The stone wall, yeah, and I think that was the...he's retired now, our mortgage is paid, so it's like a good time to build a garage. We have four vehicles. I would be more accessible for me with my MS. I don't know what my future holds. Right now, it is stable. I have had bouts. It's stable at this time, but I don't know what the future will be.

JIM SMITH: So, the property line diverges from the road as it goes from...west to east.

HENRY ROUX: Yeah.

ELIZABETH ROUX: I don't even think Henry knew that the property line was even at such an angle and degree there. The stone wall...it's closer. It's to the north of the property. You can see what an angle that it goes at north. The stone wall, he thought he had always owned and maintained...didn't realize it was quite a difference in the front property line from south to north.

HENRY ROUX: Yeah, it used to be straight at one time, but there was a dirt road at one time too, so.

ELIZABETH ROUX: Yeah.

JIM SMITH: Again, we're dealing with a road that's probably established by rite of passage.

ELIZABETH ROUX: Correct, and Henry has lived Old Derry Road his whole life. His mother lived next door. His brother lives next door right now. His mother passed away, but his brother lives there now, so there's...and we're just...

JIM SMITH: I almost hate to ask. How many people live in the house?

ELIZABETH ROUX: Two.

JIM SMITH: And, you have four vehicles.

ELIZABETH ROUX: Yeah, he has his own vehicle. I have my vehicle. He has a truck that he's had since 1977 brand new for plowing, and he has a summer car, and 30 years of or more of collecting. Whether it be lawn mowers, snow blowers...so on and so forth. Children's things, you know...you know how it goes.

JIM SMITH: Ah, I'm kind of playing devil's advocate because if you were to build a garage out back and you have the existing garage in front would it make any sense to store those vehicles that goes which are not utilized on a daily basis in the rear garage and kept the...

HENRY ROUX: My plow truck, I try to...

JIM SMITH: ...vehicles in use up front?

HENRY ROUX: ...keep my plow truck up top when it's going to snow so, and I put the others...I'd have to put the new one down in the garage, or one of the Explorers.

JIM SMITH: You see what I'm getting at about...

HENRY ROUX: Yeah, I see what you're getting at.

ELIZABETH ROUX: Yeah, I understand that I...I don't know just...

JIM SMITH: I mean no matter how you cut it you can only drive two vehicles at any one time no matter what.

ELIZABETH ROUX: Right.

JIM SMITH: You know, I'm just...you know.

ELIZABETH ROUX: You're right. He takes his car to work. I use my car for what I need to and like I said, he has a summer car and he used that, and then we have the truck which isn't just for plowing. It's for whatever doing in the yard that needs to be done, and so on.

JIM SMITH: But, I think what I'm trying to suggest that vehicle is used more intermittently than the other two vehicles?

ELIZABETH ROUX: Yes, at this time, yes that was your daily driver, but yes...yeah.

JIM SMITH: I mean to build a building...

HENRY ROUX: There's so much water down there in the spring. The water runs right down...

ELIZABETH ROUX: Right.

HENRY ROUX: ...I have a pond in the back as you can see in one of the pictures there's a pond (see Exhibit #1).

ELIZABETH ROUXH: Maybe, yeah.

HENRY ROUX: Right now it's dry, but in the spring it's full and the water runs. You can see my well right there beside the shed.

ELIZABETH ROUX: Um, hmm.

HENRY ROUX: So, I don't really want to do too much digging down there, and I don't want to put it right against my wall. I'd have to put it this way a little but then I wouldn't be able to see it from my house.

JIM SMITH: Any other comments or questions from the Board?

ELIZABETH ROUX: I don't know if the pictures of the trees and the rock wall that is there as a buffer to...some of the...

JIM SMITH: Yeah, we...

ELIZABETH ROUX: ...you can see the way the driveway goes and you turn around there that...

DAVE PAQUETTE: Those trees would stay?

ELIZABETH ROUX: ...yeah those trees, yeah.

DAVE PAQUETTE: With the construction?

ELIZABETH ROUX: Then there's a buffer of the back to the abutters. His brother's yard of trees. The main reason is accessibility for me. Sometimes he isn't home. If say my vehicle is parked down back to the non-proposed area I may not have somebody to get it for me, if need be. Everything is for accessibility for me and for him, he's not 25 anymore.

NEIL DUNN: How high is that stone wall that you have your plow truck on?

HENRY ROUX: Five feet at the highest point.

ELIZABETH ROUX: It is.

HENRY ROUX: It kind of wraps right around the garage and I will fill that opening if I do get the garage. The little opening that is up there, I have the rocks right on the side to fill that.

NEIL DUNN: Isn't that where your wood comes in? The stone wall in the front towards the road is that where...?

HENRY ROUX: Yeah, it's a road.

NEIL DUNN: I figured that's where your wood truck came in? It does make good access there.

HENRY ROUX: Yeah.

JIM SMITH: Did...when you talked with Zoning administrator did he talk to you at all about the section which talks about someone with a physical disability?

ELIZABETH ROUX: Nope.

JIM SMITH: Okay.

ELIZABETH ROUX: When they asked...you know when I told them the main reason was for my disability for MS they just kind of smiled and that was it.

JIM SMITH: Okay, I'm just going to go through one section just so you...so it's on the table. It says not withstanding subparagraph IB "Any Zoning Board of Adjustment may grant a variance from the terms of the Zoning ordinance without a finding of hardship arising from the condition of the premises subject to the ordinance when reasonable accommodations are necessary to allow person or persons with a recognized physical disability to reside in or regular use the premises providing that...A. Any variance granted on this paragraph shall be in harmony with the general provision and intent of the Zoning ordinance; B. In granting

any variance pursuant to this paragraph the Zoning Board of Adjustment may provide in a finding including in the variance but the variance shall survive only so long as that particular person has a continuing need to use the premises.

NEIL DUNN: That's typically for ramps and stuff that would be...

JIM SMITH: Well, I mean...

NEIL DUNN: ...they'd rip down the garage?

JIM SMITH: ...well...?

NEIL DUNN: ...I don't know...

JIM SMITH: Well, with her physical potential condition...in other words you have MS diagnosed...

ELIZABETH ROUX: Um hmm.

JIM SMITH: ...you're currently in remission, which means you don't have...you're not exhibiting any particular symptoms for the moment right?

ELIZABETH ROUX: For today, you are right.

JIM SMITH: Could be all together tomorrow?

ELIZABETH ROUX: That's correct.

JIM SMITH: So, by putting this garage up front it's providing her a more accessible means to get to that garage which would be an accommodation to this provision. I'm just saying, it's something that we could look at.

DAVE PAQUETTE: But, didn't you just read that in the event that they would to sell the property, move or whatever...?

JIM SMITH: Well...

ELIZABETH ROUX: He's not moving.

DAVE PAQUETTE: I'm not saying that you are, but you...

ELIZABETH ROUX: After sixty-four years.

DAVE PAQUETTE: Well all find an end and...

JIM SMITH: Well it says...the way it's worded let me go over it again "In granting any variance pursuant to this paragraph this Zoning Board of Adjustment may provide" which is...give you some wiggle room...

DAVE PAQUETTE: Right.

JIM SMITH: ..."In a finding including the variance that the variance so shall survive only so long as a particular person. So, you could put that into the variance, or you don't have to.

DAVE PAQUETTE: Okay.

JIM SMITH: Given that this is a...

DAVE PAQUETTE: Fixed structure...

JIM SMITH: Fixed structure, I would say you would almost have to do that because it would be unreasonable in my mind to require them to rip the building down if she moved from that premises but the advantage of that you don't...we wouldn't have to determine that a hardship exists to grant it.

DAVE PAQUETTE: Understood.

JIM SMITH: Everybody...?

NEIL DUNN: No, no that's great and that's good input but I guess I still wonder other than the wall that's in the way by bringing a garage...moving that further back may be not forty because forty might push them into their garage. Unfortunately, we don't really have good measurements. I really don't like the nineteen so close from the white line of the road because of possible damage and that...

[Overlapping Comments]

NEIL DUNN: It's really getting encroaching.

[Overlapping Comments]

DAVE PAQUETTE: The white line is twenty six...

[Overlapping Comments]

NEIL DUNN: Twenty-five, excuse me, but nineteen from the property line that is tapering that's kind of a moving number two. It seems to me there is room to move it closer that would be more accommodating and getting that but albeit maybe in front of the stone wall backing up...I don't know to me, I understand forty might be a stretch but you know...we have some kind of rubbery numbers...

JIM SMITH: Okay, okay let's go a little bit further and okay. Where you say...where you access the back of your property you evidently looking at it from the roadway you go to the left of that wall that you built?

ELIZABETH ROUX: Yes.

HENRY ROUX: We go out behind the garage towards the house.

JIM SMITH: In other words the house is...I'm looking at the house the garage then you've got that little built up area...

HENRY ROUX: Yeah...

JIM SMITH: So, you would go like this to go to the house?

HENRY ROUX: Yeah.

[Overlapping Comments]

JIM SMITH: So, if they pushed the garage back, it would narrow that opening down to the point where they couldn't access the rear of their property...

ELIZABETH ROUX: Correct.

NEIL DUNN: If they pushed it forward from the opening of the stone wall it looks like...you can tell there's been traffic there. I don't know, to me I wish it was a little bit further back and it looks like there is some other options and I'm not saying get the full forty but...I don't know, I'm looking at it...

HENRY ROUX: Yeah, if I went forty I'd be facing my wall.

NEIL DUNN: Right, no and I understand that...I just you know, it seems awfully close, but again there's all of us here, I just throwing that out there it almost might be cheaper...

JIM SMITH: Okay, well just to go one step further if you pushed the garage back so it's even with the...

NEIL DUNN: Corner almost...

JIM SMITH: ...corner of the existing garage could you then drive in front of the garage to go to the rear?

HENRY ROUX: That wall comes passed the garage a little. I don't know if you can tell from the picture...see where I'm parked that wall comes...

JIM SMITH: Okay, what I'm trying to suggest just as another thing...if you push the garage back so it's...corner here...

HENRY ROUX: Yeah.

JIM SMITH: ...and comes up to here could access this the rear from around it that way?

HENRY ROUX: Yeah, I could move the wall but I'd probably have to move the wall over a little bit. I mean the opening I'd have to slide over. I was going to go...if I put it on this side, I was going to go right between the wall and the garage. That's where I was going to...

JIM SMITH: When you're talking about the wall you're talking about the wall that you built?

ELIZABETH ROUX: Yeah.

JIM SMITH: To break that...

HENRY ROUX: Yeah, that's what I was going to drive down that way to haul my wood out back.

JIM SMITH: Okay, what I'm suggesting if you move the garage so it's tight to that wall could you then go between the garage in the front of the property to go around that way?

HENRY ROUX: I wouldn't be able to go around that I think?

DAVE PAQUETTE: It would probably present a space issue between the shed and the back side of that garage...right? So, having to go now deeper into the property for the rear delivery?

NEIL DUNN: I don't know maybe we should discuss what's the forty foot setback for? In reality and in this application maybe it isn't...it's a small road, it's not going to get developed much more but...what is the intent of the of the forty foot set back from the property line?

JIM SMITH: I think to answer that question you would have to go back to when they wrote the original ordinance...

NEIL DUNN: I think it was open space...

JIM SMITH: Yeah...

NEIL DUNN: Safety and visibility...

JIM SMITH: Well, I'm not sure what safety provides?

NEIL DUNN: No, right so that's what I'm trying to say. In this case, like you said this is a road from way back when, I mean to be honest with you I would think it would almost be cheaper to put it somewhere else but I'm not arguing that point. If that's where they want it ...this road is an older road. Boy we're running into an awful lot of these where...there seems to be room and we're accommodating it...

HENRY ROUX: No one's come over that wall yet. They've hit it but they haven't come over it in the winter.

NEIL DUNN: I just you look it might be more beneficial.

DAVE PAQUETTE: Of course there's no...

JIM SMITH: Jackie do you have any comments?

[Overlapping Comments]

JACKIE BENARD: I see the possibility...I understand why you want the garage where you want it. I see other possibilities you know moving a little closer to maybe to achieve a further distance from the property line.

DAVE PAQUETTE: So, really the...

JIM SMITH: I think some of the problems we have with some of these cases...in the more recent homes there's requirement to have a certified foundation/plot plan when the house is built. So, we actually have something that's concrete that we can point at and we can actually establish where the property lines are. When you have a piece of property that has been there since you know forever as far as...we don't have that resource to really determine where the property line is unless for some other reason you happen to have it surveyed.

ELIZABETH ROUX: Um hmm.

JIM SMITH: Obviously, you haven't had to because there's a certain expense involved with that.

ELIZABETH ROUX: ...right.

JIM SMITH: Also, because of this particular layout for some reason the front property line is not parallel with the roadway for some reason who knows why so that you actually end up with an unusual situation where if the property line ran...started in the bottom...I guess it would be the northwest corner and went parallel to the road the full width you wouldn't be talking nineteen feet you'd be talking...

HENRY ROUX: Yeah, I'd have ten feet.

JACKIE BENARD: Right.

HENRY ROUX: Another ten feet I'm losing.

[Overlapping Comments]

JACKIE BENARD: Exactly.

NEIL DUNN: At worst, you could find it going through the building.

HENRY ROUX: It was the other end...it's right out to the road.

JIM SMITH: Yeah, yeah which is ...

HENRY ROUX: The other end...

[Overlapping Comments]

HENRY ROUX: I don't know why it slants in like that...my Grandfather made the stone wall.

DAVE PAQUETTE: That stone wall yellow outline of the map is not a legal line right?

JIM SMITH: No really, it's something that was superimposed by the GIS people and it's a...well basically what you're looking at is an aerial photograph which it's not based on something being surveyed. That...

ELIZABETH ROUX: Um hmm.

JIM SMITH: So we've got something that is taken by a plane that is flying over then somebody else came along and using their computer threw some lines on to it and like we were eluding to the one with the sign...two of three different pictures depending on which picture the line seemed to be moving because of the way it was generated not being an actual survey. So...

NEIL DUNN: If I may Jim, on the hand sketch you did with the property line curving in like that how did you come...?

HENRY ROUX: I got that from upstairs. She gave me that picture.

JIM SMITH: So, in other words you took the picture that we have that you're looking at and he made a sketch based on that.

DAVE PAQUETTE: Yeah.

NEIL DUNN: I didn't think the picture really...oh I guess it does...?

JIM SMITH: Yeah.

[Overlapping Comments]

NEIL DUNN: I guess that back corner I'd be afraid that...boy, I don't know...

JIM SMITH: Because you're saying thirteen feet at that point by the time you get to the back corner the proposed garage that may be down to ten feet maybe?

[Overlapping Comments]

HENRY ROUX: Yeah, I would lose ten feet. A garage would actually be like it would be almost twenty five...

JIM SMITH: But it's still the same distance from the white line?

NEIL DUNN: Yeah, I'm more concerned about the road and he finds out the building if someone does a proper survey the building on the right of way, or whatever...I don't know. Because it's so hard, ...you know that's not really our gamble I guess...I was just trying to get through what is the forty feet really about for openness and space and visibility and fire and that?

DAVE PAQUETTE: You're down to the spirit of that forty feet.

NEIL DUNN: Yeah, and then whether the allowance for disabilities...I'm fine with that it's more about protecting/offering a better solution and these ones with though property lines its...

JIM SMITH: I think part of the forty feet probably has more bearing where you have either a...

NEIL DUNN: ...intersection, curvy road...

JIM SMITH: ...curvy road or in a section where you are looking at visibility you know around a corner or something like this and in this particular situation the road in front of your property is relatively straight. It's not perfection straight but relatively straight.

ELIZABETH ROUX: Right.

JIM SMITH: So, you don't really have that...

[Overlapping Comments]

JIM SMITH: ...that concern of limiting your visibility around a curve so...

NEIL DUNN: Okay.

JACKIE BENARD: Well, then I guess I mean you built a beautiful retaining wall there...

[Overlapping Comments]

HENRY ROUX: I don't want to have to tear it down it took me a week and a half to build it.

JACKIE BENARD: Well, time materials it just almost seems a shame that you know...

HENRY ROUX: I don't want to cover it up and put a garage right beside it either.

[Overlapping Comments]

NEIL DUNN: You'll need it next to...

[Overlapping Comments]

NEIL DUNN: Jim could you reference the RSA number...more for the finding...

JIM SMITH: See how its worded there where it says "may" ...

NEIL DUNN: ...okay, so were on 674:33.

JIM SMITH: But it gives us a little more flexibility.

NEIL DUNN: Yeah, no, I'm fine using that I just wanted to reference the right Statute – 674:33...

[Overlapping Comments]

NEIL DUNN: So 5A...

[Overlapping Comments]

HENRY ROUX: I measured every which way. That would be the best place...

[Overlapping Comments]

JIM SMITH: But again what we're trying to do is explore any other possibilities.

[Overlapping Comments]

JIM SMITH: Okay, you all set?

NEIL DUNN: Yup.

JIM SMITH: Okay well no other comments? Any other questions? We'll close the public hearing at this point then.

DELIBERATIONS:

[Overlapping Comments]

NEIL DUNN: ...provided that any variance in general...

[Overlapping Comments]

DAVE PAQUETTE: Yeah...shall be in harmony with the general purpose and intent...

NEIL DUNN: And it talked with ...without hardship right?

DAVE PAQUETTE: Yeah, without a finding of hardships, so that there is not a hardship, but there is a disability to be...

[Overlapping Comments]

JACKIE BENARD: Which is 5a.

[Overlapping Comments]

JIM SMITH: Do we need to go over all of the five points?

JACKIE BENARD: You want me to list them or...

JIM SMITH: Yeah.

JACKIE BENARD: Okay, so we'll do it...roughly?

NEIL DUNN: I guess the only thing is a 5 is covered by 674:33...

JIM SMITH: Right.

[Overlapping Comments]

JACKIE BENARD: So should I just summarize it?

JIM SMITH: Yeah, yeah, it looks pretty straight forward. Okay, do we...on that do we reference applicant as a diagnosed with MS?

NEIL DUNN: I would think so yes.

JACKIE BENARD: I would put that into the notes.

DAVE PAQUETTE: Yeah, if we are referencing that ordinance or that regulation then we should probably...but without proof.

NEIL DUNN: We don't have proof of anything...

[Overlapping Comments]

DAVE PAQUETTE: Take their word for it. Good god.

[Overlapping Comments]

JIM SMITH: What we are doing now is the paperwork of what we just discussed.

ELIZABETH ROUX: Okay.

JIM SMITH: As soon as we do that we'll then make a motion and hopefully we'll wrap it up.

ELIZABETH ROUX: Okay, thank you.

[Overlapping Comments]

JIM SMITH: Somebody want to make a motion?

[Overlapping Comments]

JIM SMITH: Why don't we have Jackie do it?

DAVE PAQUETTE: Yeah, I think that's a good idea you have the notes in front of you.

JACKIE BENARD: Mr. Chairman, I'd like to make a motion to Grant Case No. 10-21-2015-4 in regards to the five points of law as required us to review are all falling under the RSA 674:33 Section 5a where the applicant has MS and a medical to grant the variance.

NEIL DUNN: I'll second that.

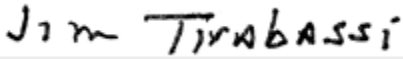
JIM SMITH: N. Dunn seconded. All those in favor?

ALL: Aye

RESULTS:

THE MOTION TO GRANT CASE NO. 10/21/2015-4 WAS APPROVED, 4-0-0.

RESPECTFULLY SUBMITTED,


JIM TIRABASSI, CLERK

TYPED AND TRANSCRIBED BY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT SECRETARY.
APPROVED WITH A MOTION MADE BY N. DUNN, SECONDED BY J. BENARD, AND APPROVED 5-0-0.