

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

DATE: OCTOBER 15, 2014

CASE NO.: 9/17/2014-2 (CONTINUED)

APPLICANT: LEONARD III AND LISA H. SANTOSUOSSO  
64 NOYES ROAD  
LONDONDERRY, NH 03053

LOCATION: 7 COTEVILLE ROAD; 13-74-1; AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIR  
JIM TIRABASSI, VOTING MEMBER  
ANNETTE STOLLER, VOTING ALTERNATE  
JACKIE BENARD, ACTING CLERK

REQUEST: VARIANCE TO ALLOW A TWO-FAMILY DWELLING ON A LOT WITH 44,510 SQUARE FEET  
WHERE AN INCREASED AREA IS REQUIRED BY SECTION 2.3.1.3.1.4.7.

PRESENTATION: Case No. 9/17/2014-2 was read into the record with 12 previous cases listed.

JACKIE BENARD: Mr. Chairman, there were no letters.

JIM SMITH: Who will be presenting.

PATRICIA PANCIOCCO: Good evening, Mr. Chairman attorney Panciocco. I'm here on behalf of Lenard and Lisa Santosuosso, and we're here tonight to request relief from section 2.3.1.3.1.4.7 which requires a much larger lot in the AR-1 district for a two family dwelling than is required for a single family. Single family dwelling requires one (1) acre lot. Property is known as tax map 13 for the record parcel 74-1, the address is 7 Coteville Road. The lot was created by a 1985 plan and in this neighborhood where the lots were created, you have a mix of single family homes and duplex homes. The property includes a 1.022 acre lot, a two (2) bedroom home, and a very very large garage that presumably was granted under one of the prior variances. Rumor has it although I don't know it for fact that the one of the former occupants of the dwelling operated some sort of construction trade out of that garage when that person lived there. Now although the lot fronts on Coteville Road it's near the end that's closer to New Hampshire Route 28, and the Northwesterly corner of the property is encumbered by an easement to Pennichuck Water Works for a pump station; however, the abutting properties on either side of the property of the subject are two family homes both of which have two (2) bedrooms in each apartment. The applicant is not proposing to enlarge the footprint of the house nor to change the exterior in a substantial way. What he is proposing he be allowed to do and there's a floor plan attached to the information that I provided to the Board [Exhibit "A"] that shows how he would like to renovate the inside of the very large garage as a two (2) bedroom apartment for his parents who are looking

45 to downsize. That two (2) bedroom apartment will have a three quarter ( $\frac{3}{4}$ ) bath and a half ( $\frac{1}{2}$ ) bath. So all  
46 tolled this building with its two (2) bedrooms and the two (2) proposed bedrooms will have a total of four (4)  
47 bedrooms which in a single family home is permitted as a matter of right in this zoning district on this size lots.  
48 In your package submitted earlier, there's a letter from the septic designer. He has confirmed the existing  
49 septic system will accommodate both apartments and he's also prepared a designed for a replacement septic  
50 system which has not been approved, but does conform with the regulations of the Town as well as the State.  
51 It only needs to go through that approval process and the replacement system would be available when it's  
52 needed. In addition, the applicant has made arrangements with Pennichuck Water Works to connect both  
53 units to Town water so called provided by Pennichuck Water Works. So the well that's on the site will no  
54 longer be needed. To go through the five (5) criteria, we say it's not contrary to the public interest to allow a  
55 additional two (2) bedroom apartment to be created within the confines of the existing garage. The proposed  
56 use will have a total of four (4) bedrooms as previously mentioned. Four (4) bedroom single family home is  
57 permitted on a lot of this size in the AR-1 district. A professional septic designer has confirmed the adequacy  
58 of the existing septic system and prepared the replacement system as soon as it goes through the approval  
59 process. There's a duplex home on either side of the property, and the owner will be bringing in Town water  
60 to the site when he renovates the interior of the garage. Not contrary to the spirit of the ordinance. The  
61 ordinances overall spirit in this case with the lot sizing is to protect water quality, and because he is going to  
62 connect each unit to Town water concerns about water quality within the confines of the lot are no longer a  
63 worry. This structure will not change in any material way. There may be more windows on the exterior within  
64 the confines of the existing structure itself. That will be the only change. It will not be enlarged. It would be  
65 substantially just to grant this variance because substantial justice requires that the lost to the applicant be  
66 less than the public gain if the ordinance was strictly enforced. The public will receive no benefit here by  
67 denying this variance. The applicant will be allowed by granting the variance to utilize the full size of the  
68 structure. The oversized garage has proven to be a challenge as to how it could be used, and in the past there  
69 has been requests submitted to use it commercially given its close proximity to Route 28, but since that's not  
70 something that was entertained by prior Boards, or Boards felt reasonable, it's provided him a unique  
71 opportunity to provide for his parents in a modest apartment within that same space. The values will not be  
72 diminished in the area because there are already duplex homes on either side and there are other duplexes  
73 homes within the same subdivision scattered amongst the single family homes that are already there. The  
74 little enforcement of the ordinance provisions are an unnecessary hardship due to the special conditions of  
75 the property as previously mentioned it's a very very large garage and to make use of the existing structure  
76 because it's not practical to take it down, it's still in good shape. There is no purpose served by disallowing  
77 that use when the abutting properties on either side are either side are already used in that fashion as a  
78 duplex home. The applicants proposed use as a duplex is a residential use and it expressly permitted in the AR  
79 zone although a larger lot is typically required to accommodate the protection of the water quality which in  
80 the AR zone is more often than not a well water, so there is no unreasonable aspect to the applicants request  
81 and use is presumed to be reasonable when its permitted. If that are questions, I'm happy to answer them.

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83 ANNETTE STOLLER: Mr. Chair?

84  
85 JIM SMITH: Yes.

87 ANNETTE STOLLER: You referred to this as the same similar to the duplexes because of the number of  
88 bedrooms, but my question is wouldn't that fit more into the accessory apartment definition that the Town  
89 has? I'm looking at you?  
90

91 RICHARD CANUEL: Are you asking me? Well the definition for accessory apartment is number one it's limited  
92 to one (1) bedroom and number two it's limited to a maximum of seven hundred and fifty (750) square feet.  
93

94 ANNETTE STOLLER: Which brings me to my next question, how many square feet does the garage have?  
95

96 PATRICIA PANCIOTTO: The garage square footage was not something that was easily calculated, but I did give  
97 you a diagram that the applicant provided. I think it's around nine hundred (900) square feet, but I can't say  
98 for sure.  
99

100 ANNETTE STOLLER: So, in essence it would exceed the allowable accessory apartment guidelines?  
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102 PATRICIA PANCIOTTO: Yes.  
103

104 ANNETTE STOLLER: Hum. I'm just thinking of another situation recently that all.  
105

106 JACKIE BENARD: Alright, so I have one question? The picture that I see so the garage is actually the aerial  
107 view that you have given us we can't really see the garage.  
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109 PATRICIA PANCIOTTO: Um hum.  
110

111 JACKIE BENARD: It appears that it's part of the house?  
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113 PATRICIA PANCIOTTO: Yes it is, part of a single structure.  
114

115 JACKIE BENARD: Okay, so there is a building off to if you have pulled into the driveway there's a building off to  
116 the left that's on that property that must be some kind of shed of some sort?  
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118 PATRICIA PANCIOTTO: The one that says pump house?  
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120 JACKIE BENARD: Oh okay, so that's the pump house?  
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122 PATRICIA PANCIOTTO: That's Pennichuck Waters.  
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124 JACKIE BENARD: Okay, so that's there pump house...  
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126 PATRICIA PANCIOTTO: Yes.  
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128 JACKIE BENARD: ...that's actually referred too. Okay, perfect.  
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130 PATRICIA PANCIOTTO: Ironically, although that pump house is there.

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132 JACKIE BENARD: Yeah.  
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134 PATRICIA PANCIOTTO: ...none of the homes on the street, even the other duplexes are connected to the  
135 water main. It goes down to the other side.  
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137 ANNETTE STOLLER: That happens in many locations.  
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139 PATRICIA PANCIOTTO: Yeah, its unusual thought that's it's not connected even on the lot next door. They're  
140 all on wells.  
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142 ANNETTE STOLLER: [Inaudible] I can show you some other locations in Town like that, exactly, but my concern  
143 is...well, I'm going to ask you a question you might not know the answer to?  
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145 PATRICIA PANCIOTTO: Um hm.  
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147 ANNETTE STOLLER: How close is this to the existing commercial structure on that road?  
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149 PATRICIA PANCIOTTO: There is no commercial...  
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151 ANNETTE STOLLER: There is a garage.  
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153 PATRICIA PANCIOTTO: ...the garage is within the same footprint of where it says existing building on the plan.  
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155 ANNETTE STOLLER: No, I mean not on your property, but further to the front of the road there is. Maybe you  
156 missed it?  
157  
158 PATRICIA PANCIOTTO: There's no commercial structure on the property.  
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160 ANNETTE STOLLER: I didn't say on the property. I meant how close is it to any commercial structures on that  
161 road?  
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163 PATRICIA PANCIOTTO: There were commercial type uses approved by...  
164  
165 ANNETTE STOLLER: Right.  
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167 PATRICIA PANCIOTTO: ...prior Boards for prior owners, I believe?  
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169 ANNETTE STOLLER: Maybe that's what I meant?  
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171 PATRICIA PANCIOTTO: That might have been? Yes, there's no commercial buildings on that street that I'm  
172 aware of.  
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174 JACKIE BENARD: I did have one other question.

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PATRICIA PANCIOCCO: Mm-hmm.

JACKIE BENARD: Upon entering into the existing drive way, is the entrance to the proposed apartment...are they using the same driveway? There using the same access just off to the back maybe?

[Overlapping comments]

PATRICIA PANCIOCCO: Presently, if you look at the plan, and if you're facing the building to the street.

JACKIE BENARD: Yup.

PATRICIA PANCIOCCO: There is an existing paved area that's used by the occupant of the two bedroom.

JACKIE BENARD: Yup.

PATRICIA PANCIOCCO: Their proposing to put a second driveway on the other side for his parents to use. That would be on the pump house side of the property.

JACKIE BENARD: Okay.

PATRICIA PANCIOCCO: Yup.

[Overlapping comments]

JIM SMITH: What are the approximate lot sizes of the lots with the duplexes?

PATRICIA PANCIOCCO: Okay, at 5 Coteville it's 1.38 acres, and at 11 it's 1.38 acres. This is 1.022 acres.

JIM SMITH: Okay.

PATRICIA PANCIOCCO: And the structures, Mr. Chairman are a little bit larger than the structure here. This one is approximately 2,100 square feet. The others on either side are 23 and 24 hundred square feet.

JIM SMITH: What do you know of the history of this lot? How it got to this size?

PATRICIA PANCIOCCO: Just what was in the file on the prior relief, and relief granted to prior owners. It appears, although not knowing for sure. It appears that many of the requests that were made for commercial or quasi commercial type uses were looking to take advantage of looking to take advantage of this oversized garage. My client has given that thought up and would like to finish the interior as a residential unit, so you'll have two very modest sized residential units on the site with Town water separate to each.

JIM SMITH: Richard, on the map it shows the adjacent lot at 13-77C-2A & 2B. Is that something to do with...?

219 RICHARD CANUEL: That's probably because it was condominiumized.  
220  
221 PATRICIA PANCIOCCO: Mm-hmm.  
222  
223 JIM SMITH: Okay, but essentially it's still one lot?  
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225 RICHARD CANUEL: Yes.  
226  
227 JIM SMITH: It's...to that crazy condo law that they had...  
228  
229 [Overlapping comments]  
230  
231 JIM SMITH: Well, okay. Having known some of the history of this lot 74-2 was subdivided from lot 74. So it  
232 was originally all one big lot. They subdivided lot 74-2 and they sized that for a duplex.  
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234 PATRICIA PANCIOCCO: Okay.  
235  
236 JIM SMITH: And then that created the size of lot 74-1...that being an acre. So it was laid out and each has a  
237 one acre lot...nothing more. This building has a tortured history.  
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239 PATRICIA PANCIOCCO: It's a pretty unusual building.  
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241 JIM SMITH: I believe if you go back far enough, it was part of a lumber yard. Way back when.  
242  
243 PATRICA PANCIOCCO: Yeah, some of the notes in the file suggested that.  
244  
245 JIM SMITH: Yup.  
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247 ANNETTE STOLLER: How long...I'm sorry, how long have your clients owned this property?  
248  
249 PATRICIA PANCIOCCO: Um, I think...  
250  
251 ANNETTE STOLLER: Roughly?  
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253 PATRICIA PANCIOCCO: I want to say about two years at most.  
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255 ANNETTE STOLLER: Okay.  
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257 PATRICIA PANCIOCCO: Not very long.  
258  
259 JIM SMITH: Any other questions from the Board? Anything...okay. Anyone in the audience who are in favor  
260 of this? Anyone opposed, or have any questions? Wanna approach the mic and identify yourself?  
261

262 MIKE SPELTZ: Mike Speltz 18 Sugarplum Lane. Without taking a position on whether the Board should  
263 approve or disapprove. My recommendation would be that should you decide to grant this variance that you  
264 impose three restrictions one that the total number of bedrooms not exceed four; two that the footprint of  
265 the structure not exceed its present square footage; and three and I don't know if this is possible...? Richard,  
266 maybe you can help me? That the previous variances that permitted a non-conforming use be withdrawn. I  
267 don't think any of those things are going to be contrary to what we just heard, but they might prevent  
268 problems in the future. Thank you.

269  
270 JIM SMITH: Okay, on your last comment Richard, what's the status on...

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272 RICHARD CANUEL: Well, the Board cannot certainly withdraw a previous variance or necessarily cause it to be  
273 null and void. However, by granting a new variance for the property that would make the previous variances  
274 null and void.

275  
276 ANNETTE STOLLER: Okay.

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278 RICHARD CANUEL: So someone at a later date couldn't come back and say well at one point in time, the  
279 variance was approved to allow a commercial use there I want to develop it for a commercial use. They would  
280 have to request that variance all over again.

281  
282 JIM SMITH: Okay. Any other comments? Any other questions? Having none any more comments from the  
283 applicant?

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285 PATRICA PANCIOCCO: I do feel strongly Mr. Chairman that the fact that the applicant is bringing in Town  
286 water to this particular structure and two separate services that helps to shore up if you will the shortcoming  
287 in the lot size. There is no intent to enlarge the structure and I do believe that you know if he was to  
288 contemplate that he'd surely be told he should be coming back to the Board.

289  
290 JIM SMITH: Okay. Well, if no further comments we'll close the public hearing and take it under advisement.

291  
292 DELIBERATIONS:

293  
294 JACKIE BENARD: The main house has how many bedrooms?

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296 JIM SMITH: Two.

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298 ANNETTE STOLLER: Two.

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300 JACKIE BENARD: Okay.

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302 JIM SMITH: The total will be four.

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304 JACKIE BENARD: Total four. Okay.

306 JIM SMITH: In the original building they had like an office area along that front and the whole rest of the thing  
307 is storage. So any more comments? Questions?  
308  
309 JACKIE BENARD: The proposed driveway that we have on our reference plans do we even have to take any of  
310 that into consideration right now?  
311  
312 RICHARD CANUEL: That's not part of the variance request, but I will make one comment. Our ordinance does  
313 require that when there's two driveways to a single lot they have to be at least fifty feet apart.  
314  
315 JACKIE BENARD: Okay. Thank you.  
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317 JIM SMITH: Yeah, you do get fifty feet. Wanna make a...  
318  
319 JACKIE BENARD: Motion?  
320  
321 JIM SMITH: Um.  
322  
323 JIM SMITH: Okay, let's go through the points of law. Okay, granting the variance would or would not be  
324 contrary to the public interest?  
325  
326 ANNETTE STOLLER: Would not.  
327  
328 JIM TIRABASSI: [Indistinct].  
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330 JIM SMITH: Well, we're not talking about...okay. We have a provision for what we call accessory apartment.  
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332 JIM TIRABASSI: Right.  
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334 JIM SMITH: Which is more about what you're talking about.  
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336 JIM TIRABASSI: Right.  
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338 JIM SMITH: We're not talking about this we're talking about a duplex.  
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340 JIM TIRABASSI: Okay.  
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342 JIM SMITH: Which is basically a building with two separate distinct living units. It could be one bedroom, two  
343 bedroom you know...up to whatever, so...  
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345 JIM TIRABASSI: Okay.  
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347 JIM SMITH: ...we're not worried about that type of situation.  
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349 JIM TIRABASSI: Okay, that sounds good.



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JIM SMITH: Okay.

JIM TIRABASSI: Now, let me ask this up hear about the...would there be...would it have to be sold as an entire unit?

JIM SMITH: Well, okay, if they wanted to sell them as two units as a condex. There's a whole other process they have to go through.

JIM TIRABASSI: Okay. Okay.

JIM SMITH: Much like what this...

JIM TIRABASSI: Right.

JIM SMITH: where they draw an imaginary line...

[Overlapping comments]

JIM SMITH: ...and I don't know why they came up with that law, but they did, and they actually have to go to the Planning Board...

[Overlapping comments]

JIM SMITH: ...subdivision plan, I guess?

JIM TIRABASSI: Okay.

JIM SMITH: So that's a whole other process.

JIM TIRABASSI: Okay.

JIM SMITH: And that's really how it's owned not how it's being used.

JIM TIRABASSI: Right.

JIM SMITH: So we're not talking about that.

JIM TIRABASSI: Okay.

JIM SMITH: We're talking strictly as a duplex and even on a duplex it doesn't have to be owner occupied...a duplex is a duplex.

JIM TIRABASSI: Okay, that's fine.

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JIM SMITH: Anyone can live there.

JIM TIRABASSI: Okay...

JIM SMITH: It just so happens it happens to be the owner and their parents in this area, but...

JIM TIRABASSI: Right. Right.

JIM SMITH: ...what happens next week...could be something totally different?

ANNETTE STOLLER: Next week it could be condominiumized?

JIM TIRABASSI: Right.

JIM SMITH: Well to do...

[Overlapping comments]

JIM SMITH: ...that they'd have to go to the Planning Board.

[Overlapping comments]

ANNETTE STOLLER: I know but that could be...

[Overlapping comments]

ANNETTE STOLLER: ...where it's going?

JIM SMITH: Could be? Not sure why anyone would wanna do it but...?

[Laughter]

JIM SMITH: ...given the nature of the building...okay, so...would it be in the public interest? [Indistinct]...it's another living unit on the same side. Not changing the building, so I guess so? At least I think so?

[Overlapping comments]

JIM SMITH: Spirit of the ordinance. It is one of the uses in a residential district. In fact, if it has both sewer and water available I'm not sure who would...made that rule? How close would it be on sewer and water?

RICHARD CANUEL: If the property was provided with municipal sewer?

JIM SMITH: Yeah.

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RICHARD CANUEL: It would only be required to be 52,500 square feet.

JIM SMITH: So...

RICHARD CANUEL: Whereas now it's required to be forty percent larger than the minimum one acre size.

JIM SMITH: Right.

RICHARD CANUEL: Which would be around sixty thousand square feet.

JIM SMITH: Yeah, so we have a provision which allows for a reduced lot size if you have both, but it doesn't address where you have just one of those.

[Overlapping comments]

JIM SMITH: Possibly something to be considered? Okay. Would it change the values of the surrounding properties? I don't believe so because the buildings going to stay the same, essentially as far as the looks of it. It's a reasonable use, I believe? You wanna make a...

JACKIE BENARD: Mr. Chairman, I'd like to make a motion to grant case no. 9/17/2014-2 to allow a two family dwelling on a lot with 44,510 square feet where...

JIM SMITH: Okay, wanna say two family four bedroom.

JACKIE BENARD: Two family four bedroom.

JIM SMITH: And no increase in the building size.

JACKIE BENARD: Okay, so we have some building restrictions with no increased...um...

JIM SMITH: Of the foot print.

JACKIE BENARD: Of the foot print right.

JIM SMITH: Do I have a second?

ANNETTE STOLLER: Second.

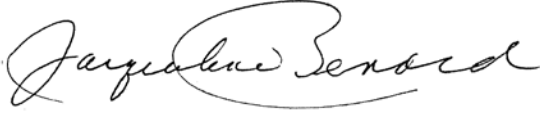
JIM SMITH: All those in favor?

ALL: Aye.

RESULT: THE MOTION TO GRANT CASE NO. 9/17/2014-2 WITH RESTRICTIONS WAS APPROVED, 4-0-0.

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RESPECTFULLY SUBMITTED,



JACKIE BENARD, ACTING CLERK

TYPED AND TRANSCRIBED BY NICOLE DOOLAN, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT SECRETARY.

**APPROVED APRIL 15, 2015** WITH A MOTION MADE BY NEIL DUNN, SECONDED BY JACKIE BENARD AND APPROVED 5-0-0.