

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

DATE: MARCH 17, 2010

CASE NO.: 3/17/2010-1

APPLICANT: GAGNON-GRIFFIN ASSOCIATES, INC.
6 SMITH LANE
LONDONDERRY, NH 03053

LOCATION: 5 ENTERPRISE DRIVE, 15-62-2, C-II.

BOARD MEMBERS PRESENT: VICKI KEENAN, CHAIR
MATTHEW NEUMAN, VOTING MEMBER
JIM SMITH, VOTING MEMBER
MICHAEL GALLAGHER, VOTING ALTERNATE
JOE GREEN, NON-VOTING ALTERNATE
LARRY O'SULLIVAN, CLERK

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

REQUEST: VARIANCE TO ALLOW A STRUCTURE SIDELINE SETBACK OF 15 FEET WHERE 30 FEET IS REQUIRED BY SECTION 2.4.2.1 AND A VARIANCE TO ALLOW A REDUCTION OF THE 50 FOOT LANDSCAPE BUFFER REQUIRED BY SECTION 2.4.2.9.2 TO 15 FEET.

PRESENTATION: Case No. 3/17/2010-1 was read into the record with no previous cases listed.

Clerk O'Sullivan read Exhibit "A" into the record, a letter from the Londonderry Conservation Commission.

VICKI KEENAN: Would you start by introducing yourself and then...?

ROBERT BALQUIST: Certainly, yes. My name is Robert Balquist, I'm an engineering technician with Meisner Brem Corporation, representing Griffin-Gagnon [sic] Associates and Brian Bauchman of Bauchman Towing who is here with me tonight. And, as you said, we're here to request two (2) variances, asking for relief of your building setback to a side lot line and the buffer setback as well to the same side lot line. I'd like to, if I can, I'd like to pass out some photos of some trucks that Mr. Bauchman uses in his business [see Exhibits "B" and "C"].

VICKI KEENAN: Thank you.

ROBERT BALQUIST: That's all I have, if you could just pass them around. Should I be using this mic to...

LARRY O'SULLIVAN: Either one.

ROBERT BALQUIST: ...to walk to the easel or...?

VICKI KEENAN: Yes, please. Thank you.

ROBERT BALQUIST: To begin, as a brief overview, the parcel of land is located at 5 Enterprise Drive, which is located in an industrial park just off of Route 28, near exit 5. It's a six (6) acre parcel which does have wetlands on it to the south and a conservation or recreational trail to the north and some residential uses to the west. There is also a vacant commercial/industrial lot across the street and to the south. And beyond the trail, there is again, another vacant industrial/commercial parcel and also Donovan Spring beyond that. So, it's in a park where only one (1) lot of four (4) or five (5) others has been developed. Bauchman Towing, they do heavy duty towing and trucking and their vehicles are...you know, the combination of their trailers...of their tractors and their trailers, are approximately in the length of around seventy five (75) feet and require a lot of area for maneuvering and turning and then when you...sometimes then the length of these vehicles becomes even longer when you add, say, a thirty (30) or forty (40) foot long vehicle is being towed. So you can see that the nature of the business requires a lot of area for maneuvering of trucks, trailers and tow trucks. So, that's why you see here, adjacent to the proposed building, a large parking...I'll call it 'parking lot.' We have, from the building, to parking spaces, ninety five (95) feet, so that's why such a large parking lot is required, because of the length of the trucks and vehicles being towed. And the area which we're asking for relief is along this northerly boundary, this side lot line right here, where we're asking for the fifteen (15) foot relief, fifteen (15) foot building setback where thirty (30) feet's required and then again, you know, obviously, we would ask for the fifteen (15) foot buffer where fifty (50) feet is normally required. So, the reason that we have proposing [sic] this layout of development is because we have wetlands to the south here [see Meisner Brem Corp "Z.B.A. PLAN" on file, submitted with application], which is forcing development of the lot away from those wetlands and toward the north and this lot line here. So that is just the overview to just give you an idea of what...how we were going to address parking and circulation on the lot and explains a little bit why we're asking for the relief to this side lot line here. So, I can go through the five (5) criteria now. On the first request for relief for the building setback, item number (1), the variance will not be contrary to public interest. We would not be altering the essential character of the locality. Granting the variance would not threaten public health, safety or welfare and it would allow construction of a commercial building on a vacant parcel, thereby increasing tax revenue to the Town without a great burden on Town services. Criteria number (2), we feel that the spirit of the ordinance is observed because the proposed use is an allowed use for this district, that is, towing and storage of vehicles with some repair service. And I would like to refer to a letter from...it's in your...there it is...a letter from Mr. Canuel, dated November 30th, in which he says, or agrees that the use is an allowed use for this district, so...if the variance is granted, the applicant will be required to get site plan approval

from the Planning Board where, I'm sure, it will be greatly scrutinized. Criteria number (3), substantial justice will be done. The use being requested is consistent with other uses on the street, for example, as I mentioned, Donovan Spring down the street, and would allow the applicant to use his property in a similar manner, and that is commercially. Criteria number (4), the values of the surrounding properties are not diminished because the applicant will be constructing a commercial business in a commercial district. The building will be aesthetically pleasing and will add to the property. The structure will be of equal or greater value than the surrounding properties. And then item number (5), the hardship criteria, (5.A.i), we feel that, as I said before, because of the proximity of the wetlands and the drainage easement to the south, it creates a hardship of the land, requiring the building and development to be located closer than allowed to the northerly property line. If you look at your proposed plot plan and the plan of record, you will see that there is a good portion of the lot to the south is wetlands and has even been...has a dedicated wetland or drainage easement on it and I would think or would hope that the Conservation Commission would be happy or pleased that we're trying to preserve those wetlands and not encroach them or in any way harm them or degrogate [sic] their quality. So we're trying to preserve the wetlands to the south and because of the large area necessary for circulation and movement of large tow vehicles, it would require locating the building closer than the minimum setback to the northerly side lot line. We feel that the proposed use is a reasonable one. The location of the building meets or exceeds all other setbacks to the front, rear, wetlands, so we're not asking for any...well, the only one other setback to the buffer, but as far as any other area variance, we're not asking for relief from any other area variance...or any other area requirement besides the buffer. And then on hardship criteria (B), the intent of the ordinance is to protect and conserve the value of the wetlands. The granting of the variance will permit the applicant to develop the site without encroaching on the fifty (50) foot buffer, thereby protecting and preserving the wetlands, as I explained before. That's my presentation for the first request on the building setback. Would you like me to continue with the vegetated buffer or...?

VICKI KEENAN: I think we should do them all together.

ROBERT BALQUIST: Would you like to hear that?

VICKI KEENAN: Yeah, I think that's important.

ROBERT BALQUIST: Okay, sure. Yup. As I said before, we're asking for relief of the fifty (50) foot vegetated buffer requirement and we're asking for the same fifteen (15) feet as the building setback where fifty (50) feet is required. So, they go hand in hand, obviously. The building setback request goes hand in hand with the buffer setback. Essentially, my response to criteria (1), (2), (3), and (4) are the same on the buffer as they are on the building setback. On the hardship criteria, (5.A.i), the intent of the ordinance is to diminish the deleterious effect of commercial activity from a residential zone. In this case, the residential zone is used as a recreational trail and not for residential occupation. The trail is essentially non-buildable and a lack of a minimum buffer, I don't feel, will have an adverse impact on the trail. This is not to say that the applicant is not willing to plant a buffer. We're just asking for relief. I mean, even though there's only gonna be fifteen (15) feet of space between the building and the lot line, he still proposes and plans on planting a vegetated buffer, so it's not like, you know, he's not going to plant anything there at all. He will provide one. It's just that we're

asking for relief from fifty (50) feet to fifteen (15) feet. And the trail is essentially non-buildable. It's ninety (90) feet wide and miles long and its intent is not for any residential construction or occupation. It's used recreational. People walk their dogs down there, they ride, well, it's a dirt trail, people may ride their bicycles there, I don't know. But it's a dirt trail and it's already...there's a steep embankment there. It's treed and already has natural vegetation within its ninety (90) feet of its own. On hardship criteria (5.A.ii), the proposed use is a reasonable one. It would allow the applicant to develop the property in a manner that would benefit him without any adverse impact on the abutting property to the north. The applicant will exceed minimum buffer zone for residential properties to the west by leaving the existing natural vegetated screen in that area intact. And I'm referring to...the residential uses are to the west over here. This area is wetlands. It's a treed wetland. It's vegetated. We're not gonna touch this area at all. So these existing residential uses over here will be well screened by the existing vegetation that's there now. So, there'd be no effect to the existing residential uses to the west. And also, you know, other areas of the lot will be landscaped in accordance with the ordinance and site plan regulations. We're proposing, you know, planting in the front, on the sides, and so, I mean, we're not going to completely ignore the requirement. You know, it will be debated and required as part of the site plan review process. And then, finally, hardship criteria (5.B), the residential zone to the north is a former railroad, now being used as a recreational trail which bisects a commercial/industrial district. So, again, like I said, here's the trail and if you look at the tax map, there's the site here, over here you have Donovan Spring and then again, vacant lot, vacant lot, vacant lot, all...this is your commercial district here, industrial district here and it's bisected by the old railroad grade which is now owned by the New Hampshire DOT and it's used as a recreational trail. So, I don't think that there is a chance, or a very slim chance of that trail actually having a residential use or actual residential occupation on it. I don't think that the State of New Hampshire DOT has any plans for any kind of use like that. I am sure that they would like to keep that as an open trail. It's part of their whole plan for the state, so I don't...There is no requirement for buffering between commercial and industrial districts. The applicant will plant and maintain a vegetated buffer in the fifteen (15) foot of strip...fifteen (15) foot strip of land between his building and the recreational trail. So, you know, we're not asking for no buffering, we're just asking for a reduction in the requirement. So that's my presentation. I'd be happy to answer any of your questions and if I can't answer them, Mr. Bauchman is here and he could answer them if you have anything specific to ask him about his business.

VICKI KEENAN: Okay, I'll start with the first question. When you were planning this site, did you look at the possibility of turning the building so that the back of the building faced west on the site, sort of central, up against the buffer?

ROBERT BALQUIST: Yeah, we did. It wouldn't leave us enough area between there...you know, we could...you know, if we turn the building ninety degrees...

VICKI KEENAN: Yeah.

ROBERT BALQUIST: ...as you said, and have the back of it face west, that wouldn't leave us enough area in the front of the lot to accommodate the maneuvering of large tow trucks and tractor trailers.

That would be far less than the ninety five (95) feet that we're proposing here. And then some for parking.

VICKI KEENAN: What's the total width of the lot?

ROBERT BALQUIST: Four hundred (400) feet.

VICKI KEENAN: From east to west, right?

ROBERT BALQUIST: From north to south. Four hundred (400) feet from here to here.

LARRY O'SULLIVAN: And it's about five hundred (500) feet in the opposite direction? I'm sorry, in the reverse direction or right to left?

ROBERT BALQUIST: That's right. Mm-hmm.

VICKI KEENAN: Five hundred (500) feet?

LARRY O'SULLIVAN: And you're headed towards the building size, too?

VICKI KEENAN: I am. That was my next question. What are the dimensions of the building?

MICHAEL GALLAGHER: One thirty (130) by eighty five (85).

VICKI KEENAN: Oh, one thirty (130)...thanks, guys.

ROBERT BALQUIST: Sixty (65) by one thirty (130).

LARRY O'SULLIVAN: May I?

VICKI KEENAN: Yeah, please.

LARRY O'SULLIVAN: So, as opposed to reducing the turning radius available for the trucks, would it be possible to reduce the size of the building? What's required in the building?

ROBERT BALQUIST: Then at least...at least forty (40) feet of deck? Yeah.

BRIAN BAUCHMAN: Hi, I'm Brian Bauchman, I own the company. We already reduced the size of the building already because it was a hundred and fifty (150) and we didn't want to get into any of the wetlands or anything, so we decided to shrink it down twenty (20) feet already, just so we didn't have to get into the west side with the wetlands. As far as the depth of the garage being sixty five (65) feet long, the average trailer that you put on the back of a semi is fifty three (53) feet long, so now you've got the sixty five (65) feet minus, you're figuring two (2) feet on the foundation, front and rear, you know, I'm barely gonna get a fifty (50), you know, getting a fifty three (53) foot trailer in there

with tool boxes in the back wall and stuff, sixty five (65) is almost a minimum I could go to to even get that full sized trailer into the building, as far as the depth goes. And, like I said, we already took away from the length already. 'Cause we didn't want to get into the wetlands and stuff. And the biggest problem is the way you see where we come in here, if I'm towing something in here, I'd like to be able to take a decent swing so I could back it in here without ripping up my hot top and turning real sharp with that kind of length on it and we did try a couple of different ways with the building and that's why, even over here, we ended up shrinking it down. So I went as far as sixty five (65) feet being the depth as almost a minimum I could go to to be able to get a trailer in there and close the doors.

JOE GREEN: I have a follow up question, Chair.

VICKI KEENAN: Mm-hmm.

JOE GREEN: I know we already talked about positioning the building to the west, but how about to the south? Is that because of the softness of the ground or...? You said you didn't want to get it too close to the wetlands but if you just reverse the building completely and have the opening at the top and the building at the bottom? You'd still have the same turn radius.

BRIAN BAUCHMAN: I know all over there we have draining culvert they put in here, which, the setbacks on there, you can see how bad they are right there and just the guard railing and stuff, there is a guard railing that runs down through almost where the opening is. I mean, we have tried different ways and this seems to be...as far as just the aesthetics of the place, too, coming down that road, you're not looking at the back of a building, you're looking at something dressed up, too, coming with the building this way.

JOE GREEN: But you know what I'm talking about? The building...

BRIAN BAUCHMAN: Yeah, you basically want to turn it, have the doors coming this way and so when you're coming in, you'd be looking at the back of the building.

MICHAEL GALLAGHER: I think he's saying...

JIM SMITH: Relocate the building to the bottom...?

MICHAEL GALLAGHER: Shift it right where right hand is.

BRIAN BAUCHMAN: Right, that's what I'm saying. Put it down here...

JOE GREEN: And the turn in to be at the top instead.

BRIAN BAUCHMAN: ...it'd have to be turned around.

JOE GREEN: Yup.

JIM SMITH: Yup.

BRIAN BAUCHMAN: Yeah.

JOE GREEN: So you'd have exactly the same dimensions that you're looking for right now without impeding on...?

BRIAN BAUCHMAN: Right. And the only...I mean, that could possibly be done that way. I'm thinking as you're coming in, looking...anybody that drives into that development, they're gonna be looking at the back of a building.

JOE GREEN: Yeah, we don't know what's gonna be built, like, on the other lots anyway, right?

BRIAN BAUCHMAN: Well, nothing can be built on here.

JOE GREEN: Over there?

BRIAN BAUCHMAN: There's a culvert, there's a catch basin, then there's a stream on the other property over here. And what I was planning on doing is over here, just putting a couple of picnic tables, if I have people waiting, they'd have a little pond here, and I mean, it just dresses it up more.

JOE GREEN: Part of this is trying to figure out if there'd be another way of doing it so that we wouldn't have to, you know, deal with this whole thing, so...

BRIAN BAUCHMAN: Yeah. Yup.

JOE GREEN: That was why my question was posed, so...

JIM SMITH: I think the problem with what you're suggesting, if they relocated the building, they're still looking for that same width of pavement in front of it, so they would still be encroaching into that setback to get the ninety five (95) feet and so forth.

MICHAEL GALLAGHER: Yup.

JIM SMITH: So it wouldn't really change anything.

BRIAN BAUCHMAN: [indistinct]

LARRY O'SULLIVAN: But would you have the building right on the property line as opposed to the building in the middle of the property?

JIM SMITH: Yeah, well...

JOE GREEN: [Indistinct]

LARRY O'SULLIVAN: So, you know, the purpose of the rec trail is for the viewshed as well.

VICKI KEENAN: Mmm.

LARRY O'SULLIVAN: So the intent isn't to see fifteen (15) feet of a thirty (30) foot tall building fifteen (15) feet away from the lot line. That's what the Conservation Commission's issue is, of course, but is there...the wetlands, Richard, I'm not quite sure if that small a wetland is protected. Is it?

RICHARD CANUEL: Oh, yes it is, yeah. There is a...

ROBERT BALQUIST: There's a dedicated easement...

LARRY O'SULLIVAN: 'Cause that looks pretty small.

RICHARD CANUEL: There is a fifty (50) foot buffer there designated around that wetlands, plus the fact that there...it's not really shown on that plan that you have there but there is actually a drainage easement on that southern side of that lot, too, that impacts...

LARRY O'SULLIVAN: On the southern side of the pond or...?

RICHARD CANUEL: Yup.

ROBERT BALQUIST: This area...

RICHARD CANUEL: That southerly...yup. That's actually...

LARRY O'SULLIVAN: That pond doesn't look bigger than twenty (20) foot.

RICHARD CANUEL: Yeah, but that's actually a drainage easement that's right there on the property.

LARRY O'SULLIVAN: Oh, okay.

RICHARD CANUEL: It's more than just a pond, so...

LARRY O'SULLIVAN: So it's like a puddle.

RICHARD CANUEL: Yeah, so it's very restrictive on what they can do on that actual usable space of that lot.

JOE GREEN: But in your opinion, if we...it's just your opinion, if we put the building on the bottom, is that doable still?

RICHARD CANUEL: That could work. As a matter of fact, I called Mr. Meisner when I first saw this plan to talk to him about the options of maybe either moving the building back to at least meet the setbacks and eliminate a couple of the parking spaces because they are two (2) spaces over what's required and possibly moving the building to the easterly...or actually, the westerly side of the lot and try to make that work and also move that building to the southern part of that lot as well. And he said, you know, they did look at all of those options to try to make it work. There would still be the issue of the buffer from the parking area that would still have to apply because the parking is still gonna have to be the same width and be adjacent to that property line.

JOE GREEN: Right, but you don't see a giant building [indistinct].

RICHARD CANUEL: The only...that's probably the least of the impacts, by putting the building on that southerly section of that lot. The only concern, as, you know, Mr. Bauchman just stated, is if, once you drive in on Enterprise Drive there, you're looking at the back at the building instead of the lot itself, so...There is the possibility that that could work but there would still be the requirement for the variance for the buffer because of the parking, so...

VICKI KEENAN: Can you explain, just go through the math for me, in terms of, you know, left to right on your map, from the corner of the parking lot to the Enterprise Drive setback, what that width is?

ROBERT BALQUIST: I'm sorry, I don't understand the question.

VICKI KEENAN: From the left side of the parking lot...

ROBERT BALQUIST: Here?

VICKI KEENAN: No, left side. At the bottom.

ROBERT BALQUIST: Oh, you mean, here?

VICKI KEENAN: Yup. To the front setback.

ROBERT BALQUIST: To here?

VICKI KEENAN: Yeah, what's that width?

ROBERT BALQUIST: That would...

VICKI KEENAN: Is that...do I get one sixty (160)? 'Cause the building's what...?

JOE GREEN: One thirty (130).

MICHAEL GALLAGHER: One thirty (130).

MATT NEUMAN: Well, it's gonna be...

ROBERT BALQUIST: Probably a hundred...well, from here...?

MATT NEUMAN: ...one ninety (190).

ROBERT BALQUIST: From here?

VICKI KEENAN: Yeah.

ROBERT BALQUIST: From this point here to here, probably a hundred and eighty (180) feet. You got twenty (20) feet here...

VICKI KEENAN: Yup.

ROBERT BALQUIST: And you got a hundred and thirty (130) feet of building here. So that's one fifty (150) and then the building setback is another thirty (30) feet, so it's like...it's a hundred (180) feet from the...

JIM SMITH: No, it's...

ROBERT BALQUIST: ...the edge of this parking to the front of the lot at the driveway.

JIM SMITH: You got sixty (60) feet to the building.

VICKI KEENAN: That's the setback.

ROBERT BALQUIST: One hundred...the building's...

VICKI KEENAN: That's the required front setback.

ROBERT BALQUIST: The length of the building is a hundred and thirty (130) feet.

JIM SMITH: Yeah, but I mean, from the side of the building to the front property line is sixty (60) feet.

ROBERT BALQUIST: It's sixty? Okay, it was one ninety (190)...two ten (210).

JIM SMITH: Yeah.

ROBERT BALQUIST: Two hundred and ten (210) feet.

VICKI KEENAN: So, if you need sixty five (65) feet for the building and what, ninety five (95) feet for the turning radius? How come the building couldn't be positioned that way? And maybe I'm just not...

LARRY O'SULLIVAN: Missing something? Yeah, the other way?

VICKI KEENAN: Yeah. Do you know what I mean? If you've got plenty of square footage, why couldn't you turn the building ninety (90) degrees and put it up against the west...or if you've got plenty of room, on the right hand side, up to the Enterprise road, to do your turning radius of ninety five (95) feet?

ROBERT BALQUIST: Well, ninety five (95) feet plus another twenty (20), forty (40), sixty (60), another hundred and fifty five (155) feet.

LARRY O'SULLIVAN: If you configure the parking like...

ROBERT BALQUIST: I don't see how...

VICKI KEENAN: You could change the...

ROBERT BALQUIST: ...you can turn that...I don't see how that's gonna fit in that envelope.

VICKI KEENAN: But you could reconfigure the parking lot, right? It doesn't have to be...does it have to be the way it's configured today?

ROBERT BALQUIST: Again, we still...

VICKI KEENAN: Could you...?

ROBERT BALQUIST: We looked at that and I don't think it was...it worked very well.

MATT NEUMAN: How many parking spaces total are there?

ROBERT BALQUIST: I know we have two (2) over the minimum.

BRIAN BAUCHMAN: Fifty five (55).

MATT NEUMAN: Is there any way to eliminate that middle row of...that's kind of in the middle of the lot?

ROBERT BALQUIST: No.

VICKI KEENAN: They need...

MATT NEUMAN: You need that many?

ROBERT BALQUIST: There's no where that you could...

VICKI KEENAN: Twelve (12) of them.

ROBERT BALQUIST: It couldn't be squeezed around the perimeter at all.

BRIAN BAUCHMAN: 'Cause it required fifty three (53) and we got fifty five (55).

VICKI KEENAN: Could you not split the parking on each side of the building so you'd have some of it on the...if you turned the building as I'm suggesting, ninety (90) degrees on the west side, have parking on the bottom of the lot and the top of the lot?

BRIAN BAUCHMAN: I think what happens is the whole reason of having the two (2) rows is we couldn't fit, even with the building turned, I'm gonna lose all the parking spaces on the west side, so those west side parking spaces end up on your north side and I'm still gonna be short and that's why you got that...I'd rather not even have that second row in the middle there but it's the only place they could make it fit as far as for the requirements. The only two (2) parking spaces we could get rid of are the ones right on the round corner closest to Enterprise Drive, which...

[pause]

BRIAN BAUCHMAN: 'Cause I...

VICKI KEENAN: Could you not line the parking spaces up on the north side of the property? And then have them on the south and north?

ROBERT BALQUIST: Well, we could, but then we'd still be asking for relief from...on the buffer.

VICKI KEENAN: Okay. I'm just thinking about what's worse. Okay.

BRIAN BAUCHMAN: Also on... I mean, just so...'cause I know you were mentioning about having the building being so present right on the recreational trail. If you look where the gates are, see the two (2) little dots that are north of the building? There's two (2) little dots? That's the width of that recreational trail.

MICHAEL GALLAGHER: I saw that trail.

BRIAN BAUCHMAN: And the rest of it is all trees.

MICHAEL GALLAGHER: That was gonna be my question.

BRIAN BAUCHMAN: Yeah, the trail...

MICHAEL GALLAGHER: That trail, you had mentioned ninety (90) feet.

BRIAN BAUCHMAN: The trail's only like, twenty (20) feet wide.

MICHAEL GALLAGHER: Yeah. I did see that.

BRIAN BAUCHMAN: Not even twenty (20) feet wide.

ROBERT BALQUIST: It's a dirt trail. It's the old railroad bed. They tore up the tracks, just left the gravel. It's maybe ten (10) feet wide and then trees all along it.

MICHAEL GALLAGHER: Yeah.

BRIAN BAUCHMAN: 'Cause if you see from that bottom dot...

MICHAEL GALLAGHER: I saw it.

BRIAN BAUCHMAN: ...right to the property line, that is all wooded.

MICHAEL GALLAGHER: So those two (2) dots represent those...

BRIAN BAUCHMAN: That's the gate.

[overlapping comments]

BRIAN BAUCHMAN: Yeah, that's the orange gate.

ROBERT BALQUIST: If you look on the plan on where it says "gate" across Enterprise Drive, that's a mistake.

BRIAN BAUCHMAN: It ends up with like, you probably have thirty (30) feet of natural buffer between my property line and that trail. There is thirty (30) feet of buffer.

MICHAEL GALLAGHER: Yeah.

LARRY O'SULLIVAN: But we're not talking about impacting somebody else's property. We're talking about impacting...I'm sorry, the impact that this building would create on the property and its partner, its neighbor. So, you can't always depend on your neighbor to keep their trees there and not put in a railroad track or something like that. Once you put the building in, it's there.

BRIAN BAUCHMAN: Yeah.

MICHAEL GALLAGHER: What neighbor are you referring to, Larry?

LARRY O'SULLIVAN: The rec trail.

MICHAEL GALLAGHER: Pardon me?

LARRY O'SULLIVAN: The rec trail.

JIM SMITH: In other words, if they resurrect it as a train...I have a question. In your arguments, you talk about the use in number (2) and (3). We're not really talking about the use as being the variance. We're talking about a buffer and the reduction of the setback. And the way you present it, in my mind, you didn't really address those two issues.

LARRY O'SULLIVAN: And that's in (2) and (3), that isn't in (5.A) or (5.ii).

JIM SMITH: No, I'm talking about two (2) and three (3).

JOE GREEN: Yeah, they're both the same, anyway.

JIM SMITH: Yeah. "Proposed use is an allowed use." We're not arguing that. So I don't think you addressed those two points at all in regards to what you're asking.

ROBERT BALQUIST: The request for relief of both setbacks don't, in my opinion, have a negative effect on the trail to the north. There's already a vegetated buffer there. Mr. Bauchman is gonna plant his own in addition to what exists on the trail. It would enable him to use the lot, which he otherwise couldn't, without the granting of the variance, in a way that will be good for his business and good for the town of Londonderry.

VICKI KEENAN: Are there any other questions of the Board?

BRIAN BAUCHMAN: We're basically...just so...the main thing about setting this up, too, this way, is, like I said, aesthetics. I mean, I want it to look good. I don't want it to be a commercial building plopped in the middle of the lot. I really don't. And I mean, going the route we went, and we went over five (5) different plans and I'm sure you've driven in Enterprise Drive and when you come down around that corner, as soon as you hit that corner, it'll open up and... 'cause there's no trees to the west side. There's nothing. Not the west side, the south side. So it isn't like you're gonna have trees blocking the building. I just wanted it to look more officey than garage, you know? And setting it back and giving me a little bit more space to work with just made it a little easier to make it look better than a garage.

LARRY O'SULLIVAN: I understand.

MATT NEUMAN: Can...

VICKI KEENAN: Sorry.

MATT NEUMAN: No, go ahead.

VICKI KEENAN: Okay. I just have two questions.

ROBERT BALQUIST: Yup.

VICKI KEENAN: What is the proposed height of the building or what are you thinking?

BRIAN BAUCHMAN: I just sat down with the engineer of the building, too. The garage doors up front are fourteen (14) feet high and then we needed a...I think it was six (6) feet above that, so that's fourteen (14)...fifteen (15)...twenty (20)...it might have been nineteen (19). I think the eave was eighteen (18) and then we went with a certain pitch. I'm trying to...I know it's under like...it's somewhere around twenty six (26) feet. That's to the top of the peak.

JOE GREEN: Is that where the two (2) story office? What about that part?

BRIAN BAUCHMAN: That's gonna be...we're figuring it in all to that. It's gonna be above that. We have eight (8) foot or seven (7) and...eight (8) foot ceiling and then an eight (8) foot ceiling and then there's gonna be blank pitch space above it. But I think the total height to the top pitch was like twenty six (26) feet. 'Cause we just went through the building stuff like two weeks ago with the guy.

VICKI KEENAN: And then I...one more question.

BRIAN BAUCHMAN: Yup.

VICKI KEENAN: To the left of the building you have an eighteen hundred (1,800) square foot vehicle storage area. Is that an enclosed area or is that open?

BRIAN BAUCHMAN: That'll be a...no, that'll be a fenced in area.

VICKI KEENAN: Fenced?

BRIAN BAUCHMAN: Yeah, that has to be fenced. It'll be fenced in and it will have privacy slats or it'll...it won't be visible. It'll be privacy slats and enclosed.

VICKI KEENAN: Okay.

MATT NEUMAN: That was my question.

JIM SMITH: Is that a paved area?

BRIAN BAUCHMAN: That, we have to...that's kind of gonna be up to the Planning Board because they're gonna have a concern about...it's kind of like the storage of any vehicle. If there's a dropping out of a wrecked vehicle. So, it's a matter of whether they're gonna want me to put a blanket under it, like they do at some of the junk yards or if they're just gonna let me hot top it. I mean, containment-wise, I'd rather see them leave it crushed gravel and put a blanket under it. But that's gonna be a shot they're gonna have to really make.

JIM SMITH: What's the percentage of landscape area, or green area, for the entire lot?

BRIAN BAUCHMAN: It's a lot. It's all wetlands.

ROBERT BALQUIST: I haven't calculated that. I haven't calculated that.

MATT NEUMAN: It's got to be the majority of the lot.

BRIAN BAUCHMAN: Yeah, if you wanted me to guess, I'm looking at this being even a maximum, almost three (3) acres and that leaves another three (3) acres...

ROBERT BALQUIST: Yeah, we're...yeah.

VICKI KEENAN: Mm-hmm.

BRIAN BAUCHMAN: ...that's gonna be green.

JIM SMITH: It would have been impressive to know that because the minimum is thirty three (33) percent but if you...

ROBERT BALQUIST: Well, we way...we far exceed that.

JIM SMITH: I know you far exceed it but if you say you're at seventy five (75), eighty (80) percent, it would sound much more impressive when you're talking about reducing the buffer on one side.

BRIAN BAUCHMAN: Mmm.

LARRY O'SULLIVAN: And reducing it significantly.

MATT NEUMAN: Exactly.

VICKI KEENAN: Yeah.

BRIAN BAUCHMAN: Yeah, 'cause that's the problem. We lose so much of this land because it's just non-usable.

MATT NEUMAN: Mmm.

BRIAN BAUCHMAN: And I don't want to get into the environmental stuff as far as getting into, you know, whatever you'd have to do. I don't even want to do it.

VICKI KEENAN: Can we go back to what I was talking about in the beginning? I just wanna...because I'm not completely convinced. Are you absolutely certain you cannot turn the building ninety (90) degrees to the west line and get the parking that you need spread out on the lot on both sides and accomplish exactly what you're accomplishing here, except for the parking isn't side by side, it's on opposite ends of the lot?

ROBERT BALQUIST: Again, it doesn't leave enough room between the building and the street for maneuvering or turning of large...

BRIAN BAUCHMAN: We're still gonna have to come back for a variance either way.

VICKI KEENAN: But it would be a setback on Enterprise Drive instead of on the...

LARRY O'SULLIVAN: Rec trail, right.

VICKI KEENAN: ...on the trail, right?

LARRY O'SULLIVAN: This Board seems to be more interested in the...

BRIAN BAUCHMAN: No, it'd still have to go north, too, to gain the amount of spaces to fit in there. You're talking about...

VICKI KEENAN: For the parking. For the parking.

BRIAN BAUCHMAN: ...for the parking, to meet up with our parking.

VICKI KEENAN: Okay. But if you got, let's just say, hypothetically, you got that. It could work, the layout could work?

BRIAN BAUCHMAN: I...as far as me, from the engineering standpoint, I don't know how you could fit the parking spaces...

MATT NEUMAN: You said before you had done five (5) different plans? I mean...

BRIAN BAUCHMAN: We did at least...

MATT NEUMAN: Did one of those plans cover that scenario?

BRIAN BAUCHMAN: We had it turned to the back, so we did have a west side plan.

VICKI KEENAN: Yeah.

BRIAN BAUCHMAN: I know we did. We had a west side plan, we had this plan. We had this plan moved up. And we couldn't fit the parking and then the only thing I didn't think we did was I never turned it to the south like you suggested, but that was...

JOE GREEN: And you said earlier that that was more of a preference, so that was what I kind of...

VICKI KEENAN: Yeah.

BRIAN BAUCHMAN: Yeah, and then it had to do with the culvert, of drainage and everything's down there. Everything's at the south side of that property. And then right over the property line's a stream.

VICKI KEENAN: Right.

MATT NEUMAN: Mmm.

VICKI KEENAN: Okay. Any other questions of the Board? Okay.

LARRY O'SULLIVAN: Not from me.

VICKI KEENAN: Anyone else? Okay, why don't we open it up to the public? I know that there are some people in the audience. Is anyone here to speak in favor of the application? Anyone here to speak in opposition of the application? Okay, can you come up to the microphone and make sure you state your name and address, please, for the record?

LARRY O'SULLIVAN: Or questions?

VICKI KEENAN: And questions. Or questions. Thank you, Larry, for keeping me on task tonight.

MICHAEL EATON: Hi, my name's Michael Eaton. I live at 16 Clark Road. I'm immediately to the west of this property that's in question. I have a couple of questions. Could I ask a few questions first?

VICKI KEENAN: Please, yeah.

MICHAEL EATON: Do you actually own the property now?

BRIAN BAUCHMAN: We're closing the 23rd.

VICKI KEENAN: Will you...when you answer, can you come up to the...? Can you sit there and speak into the mic so we can get it on the record? Thank you.

BRIAN BAUCHMAN: As it stands right now, we have a closing date of the 23rd.

MICHAEL EATON: Okay. My wife and I have lived at the property for thirty (30) years and, you know, of course, when we first moved in, it was a very quiet area. The land in question, I believe, was zoned AR-II [sic] at that time. And it was in the early 1980's that most of the available land in the north end was rezoned for industrial and commercial and it was intended that the north end of the community handle business growth. You know, with the proximity to exit 5 and what have you. I believe that Mr. Gagnon bought this property between 1983 and 1985, something like that. He wasn't the original owner when we moved in there. And when he came before the Planning Board to propose his industrial development, I came to that meeting and voiced some opposition to it, concerned about how that would affect the residential property that borders on Clark Road. So, my concern... I have three concerns and one concern is that this property was developed within the existing regulations that are currently active today. And the property had been designed, the road was put in and all the lots were intended to accommodate various sized businesses. And at that meeting, I was very concerned about the effect of sound and light pollution on our residential area and I was told that a fifty (50) foot landscape buffer, along with what I have at the back of my property, would be more than adequate to, you know, keep the noise level down and bright lights from shining in the house at night. Well, I really gotta tell you that fifty (50) feet is a minimum at best. And, you know, I realize that there's only one (1) property that's been developed there. It's Donovan Spring. And they're a great company. They have, you know, they treat their employees well. I know several of them. And, you know, they're great for the community. But they leave their lights on all night long and it's very bright out there. And I have the feeling that by reducing the buffer zone from fifty (50) to fifteen (15) feet, we're gonna see more light pollution there. We're also going to hear the sound pollution of trucks backing up at various hours of the evening. I'm sure that you're going to be hauling things in and out. The Donovan guys do and we can hear all their trucks as well. I'm not... you know, I don't wanna propose that no development happen. That's not my issue here. We're willing to live with the way things are but the fact is, I just don't see why we need to approve a variance application like this when the property was developed within those regulations back then. It just... I don't understand that. One of my other concerns is this drainage right of way. Now, the stream goes through my property as well and I wish it would remain a stream because I'm sure if you were out there in the last storm, you'd see that the three (3) acre of wetland you have turned into probably close to four (4) acres of a pond. In our backyard, we have a child's swing set and the measurement gauge that we use for the flow of the stream is that swing set. And the water level in this past storm was at the top of the slide of that. During the Patriot's Day storm we had a few years ago, I stand six (6), two (2) and I can stand underneath this swing set and the water level was at the cross bar. The water backs up very rapidly on this area. The culverts that pass under this rail line were designed in the nineteenth century to handle agricultural runoff and drainage. The development that we have upstream from this area now, we have the Coke plant, the bus station, Park and Ride lots, several other properties that Mr. Gagnon has developed along Route 28, all these properties contribute to more asphalt surface and roof line and rapid drainage. I understand that there are detention ponds to presumably hold back the water flow, but nevertheless, I can tell you as someone who's lived there for thirty (30) years, there's been a big change on what goes on in this little no-name brook. It flows all year long, whether we go through a period of drought or high water level like we do now. This stream never stops flowing. The concern I have is right now, on this

property, there's a mountain of fill. It's pushed right up to the tree line right now and there are rocks and soil pushed into the trees, right along the edge. And so I feel that what's going to happen is, if this variance is granted and that landscape zone is then changed from fifty (50) feet to fifteen (15) feet, that fill is going to be pushed into there. And what this all has, the effect that this has, is as if you take your kitchen sink out and replace it with a smaller one, but you continue to put the same volume of water in and yet you're gonna do it faster. When we used to get these rains back in the first few years that we lived in this property, the backup would be maybe two (2) feet, maybe three (3) feet maximum. And it would drain out pretty rapidly. Well, now it seems to be, you know, five (5) feet or more and it comes in quicker and yet it goes out slower. This last storm, the water level was so high, two lots down from me, downstream from me, the water was running over Clark Road. It overwhelms the street culvert on Clark Road and I just feel as though, you know, changing these setbacks are going to set a precedent for this area and encroaching on this waterway and I feel that it really needs to be addressed. It's a big concern. You know, I really think that you folks need to look at that. The third issue I have is with encroaching on the rail trail. I know that the trail seems to be just kind of a, you know, a little green zone that people may or may not take as serious as they should. You know, the town is losing a lot of green space and here's one that's available to the town for use, it doesn't cost the town anything. I understand that there's a possibility of improvements to the trail, so that it's not as wet and it may be that at that time, they wanna widen that trail. So the fact that the trail is narrow today doesn't mean that it's gonna remain that. You know, I know that down on Cape Cod, where they've put these trails and they have bike trails there, they've widened them, they've paved them. People have walking trails as well as bypass lanes for bicycles. It becomes an enjoyable place. And I think the proximity of...well, I'll tell ya. On days that I'm home, there are people that work in the businesses on Symmes Drive and in the area that I've seen jogging on the trail. I've seen people in the wintertime skiing on the trails. There's a lot of people that use it. The use of four-wheel drive vehicles is banned from that trail. And so I really have a concern that, you know, there's not enough taken into account for this trail system and the potential that it has and in this area, from the school, all the way up to the bus station, there are no businesses that are within this encroachment. You know, they're all set back. And I think that this would perhaps, you know, establish something that we really shouldn't. So, thanks for listening to me. I don't mean to be too long winded, but thank you.

VICKI KEENAN: Is there anyone else in the audience that would like to speak or have questions?

CINDY EATON: Cindy Eaton, 16 Clark Road. I'm the wife. I just wanted to make a statement about the trails, too. Because I'm now a retired teacher, I have the opportunity to walk on that trail anytime of the day and as my husband said, a lot of people use it. Unfortunately, I didn't think about it soon enough to get some of those people to come and talk about it. I did run into a couple of people and asked them, you know, what they thought about a building so close to the trail, you know, that being twenty six (26) feet tall, you would definitely see it from the trail. And they, you know, they were not in favor of it. They like the trail the way it is. They like the trees on this side. It gives them a nice buffer from everything else that's going on and so do I. We also talked...my husband talked about the wetlands. I took some pictures today and he's taken pictures over the past several days and years of the wetland and of the trees that border that trail. Unfortunately, our printer decided not to work today, so I couldn't print them out for you. But there's a stone wall that's down on the lower part of

the trail that, he's right, there's an embankment that's pretty high where the trail actually is. The trail drops down and then there's the other land and there's a stone wall on that land. And with the wetlands being so close to that parcel of land, there's a little trickle of a stream that actually runs along the stone wall. It does dry up. This little trickle doesn't remain there all year long but it does remain there during rainy seasons and melting, when the snow is melting, that little trickle is there. My concern is that little trickle is going to wanna go somewhere and if we take more of the trees away, it's not gonna hold the dirt down. There's going to be some erosion happening there. And we've already experienced a lot of erosion from the buildings along 28 that affect that little stream and the wetlands and the actual road, the Enterprise road, when that went in. What happens is silt comes down the little stream and this silt builds up and blocks, sometimes blocks the culverts that are there. So with this building being so close to the trail and close to the buffer of the wetland, I have some concern about where that fill's going to be and what's going to happen to it. Is it gonna silt more into the wetland, into that stream, what's gonna happen? That water has to go somewhere. Like my husband said, right now, it goes up into our backyard and over this past rain storm, and it was a lot of rain, but it's not the first time that the water has risen over Clark Road. So I just have a concern, where's that water gonna go if there's more flat top, not enough drainage, no trees to hold the dirt down. So, you know, it's an environmental and aesthetic issue that I have about affecting the trail and the wetland area. And the stream.

VICKI KEENAN: Thank you. Okay, we will close the public portion and we will bring it back to the Board for deliberation. Okay.

JIM SMITH: Okay, I'd just like to make one point before we go any further.

VICKI KEENAN: Yeah.

JIM SMITH: Some of the concerns that you just raised really are Planning Board issues.

LARRY O'SULLIVAN: Mm-hmm.

JIM SMITH: In other words, drainage, how they calculate the flows and so forth. Those are really the purview of the Planning Board and it's not really anything that we really get directly into. And also the only fifty (50) foot buffer zone we're talking about is the one that abuts the trail side. It's not affecting any other fifty (50) foot buffer.

LARRY O'SULLIVAN: So your property is not to be affected, or the distance between the...

MICHAEL EATON: There will be no additional trees cut along the back, my back property line or...?

LARRY O'SULLIVAN: Well, when somebody owns a piece of property, they can do with it as they wish, but...

MICHAEL EATON: No, I appreciate that. Yes. But the landscape requirement setback is not going to be affected?

JIM SMITH: No, not along...just along the railway.

MICHAEL GALLAGHER: Yup.

JIM SMITH: That's the only thing we're talking about.

RICHARD CANUEL: There's not much they can do on that westerly side of their property. It's all wetlands, right from the northern to the southern part. There's not much that can be done there whatsoever.

VICKI KEENAN: Right.

DELIBERATIONS:

LARRY O'SULLIVAN: This isn't the same lot that we had a couple of months ago or maybe a year ago when we had somebody who had a building that they wanted to put on a...I think the acreage was a lot smaller than...

VICKI KEENAN: Oh, yeah, it was a lot smaller.

LARRY O'SULLIVAN: But the building...

MICHAEL GALLAGHER: Yeah.

LARRY O'SULLIVAN: ...everyone. Everyone is going to want to put the largest possible size what-have-you on a smaller lot than is required whenever they have to fit something huge into the device. Into the land available. So, the way I'm looking at this is...now, again, just on the points...

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: ...we have a very strict procedure or...a process, that is...

VICKI KEENAN: Right.

LARRY O'SULLIVAN: ...for placing, building, because we have these differences throughout town where we have residential use areas that are abutting C-II zones.

JOE GREEN: Are we now out of the public, or...?

VICKI KEENAN: We're in deliberation. Board deliberation.

LARRY O'SULLIVAN: We're in deliberations.

JOE GREEN: Right.

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: That's why I was figuring I can...

VICKI KEENAN: Yeah.

LARRY O'SULLIVAN: ...give you a little spiel here on my opinion on it. But what the issue is is what makes this a lot different than all the other lots in town or all the other lots that are up in that same street. We see that there's lots of wet around there. I was kind of thinking that a good portion of this lot wouldn't be protected. However, I'm quite surprised that so much of it is, so hardship criteria for the use...I'm sorry, for the way that the lot intrudes into that...or the proposed building intrudes into our setbacks...I mean, he...I think he has a strong case for it being a unique scenario.

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: However, the lot has nothing on it right now and it isn't the only use for the lot. It is a proposed use for the lot, so...

JOE GREEN: Well, not only that, but I think if you...I still think that if you flipped the building to the other side, that...

LARRY O'SULLIVAN: That there's a potential for another fit?

JOE GREEN: But that's potential, and that's what we gotta look for. Is there any other way that we can...that they could have, you know, placed this building that could solve the issue and that, you know, that actually is true.

LARRY O'SULLIVAN: I know I for...I'm sorry.

VICKI KEENAN: But I guess it begs the question, what's worse? Looking at a car grills from the trail or looking at the backside of a building?

LARRY O'SULLIVAN: A lighted building.

VICKI KEENAN: Because I got the impression that if you put it to the west or you put it south, you still needed the same amount of pavement...

MICHAEL GALLAGHER: Yes.

VICKI KEENAN: ...in order for the turning radius to work and to get all the parking spaces in.

LARRY O'SULLIVAN: Right.

JOE GREEN: But there's not a building encroaching so much into that trail.

VICKI KEENAN: It will be parking instead.

JOE GREEN: Yeah.

MICHAEL GALLAGHER: Right.

LARRY O'SULLIVAN: And would we prefer parking...?

JOE GREEN: Aesthetically, it would be, I think...

VICKI KEENAN: I don't know.

LARRY O'SULLIVAN: More acceptable?

JOE GREEN: Yeah.

VICKI KEENAN: You think so? I don't know. I'm not convinced.

JOE GREEN: Well, 'cause wouldn't there be more trees and stuff along that, too, or...?

LARRY O'SULLIVAN: Not necessarily.

JOE GREEN: Well, they could take them down if they wanted to, right?

JIM SMITH: Richard? The old railroad bed, is that a raised bed at that point?

LARRY O'SULLIVAN: Yes, the whole thing is raised, isn't it?

RICHARD CANUEL: Not if you actually go out there and take a look at the site. I mean, it's not really raised that much in comparison to the elevation of the site.

MICHAEL GALLAGHER: Yeah.

JIM SMITH: Okay.

RICHARD CANUEL: I guess when they took the tracks out, you know, it's pretty level, by comparison, to the rest of the property. That's why they had those issues with backup with the wetlands and the water on that trail as well. If the trail was raised, they wouldn't have that issue but, yeah, it's relatively...

MICHAEL GALLAGHER: Yeah, I went by...I'm sorry, Richard.

RICHARD CANUEL: ...relatively on the same elevation.

JIM SMITH: Okay. One further question. The conservation overlay, which incorporated the fifty (50) foot setback to the wetlands, was that added to the zoning before or after this subdivision? Or do you remember? I don't remember.

RICHARD CANUEL: Oh, goodness, I wouldn't know that off the top of my head. Geez, I don't know when this subdivision was done.

JIM SMITH: I think it was done before the...

RICHARD CANUEL: Before the Conservation Overlay District provisions were in the ordinance. But that's beside the point.

JIM SMITH: Well, I'm just saying, that...

RICHARD CANUEL: Because that conservation overlay would still apply to...yeah...

JIM SMITH: ...effectively reduced the usable area of the lot.

RICHARD CANUEL: That's for sure, yeah.

JIM SMITH: Yeah.

RICHARD CANUEL: Yes. Yup.

VICKI KEENAN: Richard, are there any other sites in this subdivision that you can think of that have that similar wetland restrictions?

RICHARD CANUEL: I'm glad you asked that.

VICKI KEENAN: Yeah? Okay.

RICHARD CANUEL: Because one of the primary criteria of applying the unnecessary hardship is that there has to be special conditions owing to the property that make it different from other properties in the neighborhood.

VICKI KEENAN: Yeah.

RICHARD CANUEL: In this particular instance, you can look by the plan how restrictive the usable area is on this lot.

JOE GREEN: Mm-hmm.

VICKI KEENAN: Mm-hmm.

RICHARD CANUEL: None of those other properties experience those same restrictions.

VICKI KEENAN: Same wetland restriction.

RICHARD CANUEL: There's a lot just to the north of it, they have a considerable amount of wetlands. However, the lot is considerably larger. So there's more usable property there. The lot is above that same lot to the north of it. Only a small portion of that lot is restricted by the buffer to that AR-I zone. Donovan Springs, which has already been developed anyway, is not applicable, but, again, they don't have the same restrictions that this particular lot has. The other two larger lots on the opposite side of Enterprise Drive are not impacted by the setbacks to the wetlands and the buffer, so, in this particular area, that is really the only property that is the most restrictive, simply because of the wetlands buffer and that buffer to that recreational trail.

VICKI KEENAN: Can I ask another question? Are there any properties out there that encroach the recreational trail today?

RICHARD CANUEL: Well, another good question.

VICKI KEENAN: The buffer.

RICHARD CANUEL: The Donovan Spring property, which was developed some years ago and that, I believe that was developed at the time when we had the specific provisions for setbacks to our residential zones. Being an industrial lot, the requirement for that building is any building less than a hundred (100) feet to a residential property has to be provided with that fifty (50) foot vegetated buffer. That didn't happen with Enterprise. I'm sure you can probably see the picture there on your GIS system. If you look at that overlay, you can see that that building and the parking area is very close to that AR-I zone that represents the trail.

VICKI KEENAN: Mm-hmm.

RICHARD CANUEL: And there was no requirement there for a buffer. So the same restriction would have applied there but I don't know if that was an oversight or what, but that site was developed that way as well.

LARRY O'SULLIVAN: Do we have another building that's fifteen (15) feet from that? From that rec trail?

RICHARD CANUEL: No. Not in that area there isn't. Not as far as commercial development is concerned.

LARRY O'SULLIVAN: Any area up there?

RICHARD CANUEL: Excuse me?

LARRY O'SULLIVAN: Are there other areas that are nearby this? If you expanded your radius out? If I don't get to see this on the GIS.

VICKI KEENAN: Pan east. Pan east and it looks like there are some.

RICHARD CANUEL: Well, you know, I just looked specifically at this, you know, particular neighborhood, because that's how you would apply the ordinance anyway, would be the other properties in that particular neighborhood that are equally impacted along with this property. That's not the case here. This property is impacted independently of those other properties simply because of the wetlands impact, the drainage easement and that buffer requirement from the AR-I zone, so...

VICKI KEENAN: Okay.

RICHARD CANUEL: I mean you can clearly see that on the site plan, how there isn't much usable space there. It's pretty much well occupied by the building and the parking area as proposed, so...

VICKI KEENAN: Mike, did you have a question earlier when I rudely interrupted you?

MICHAEL GALLAGHER: I was just commenting. It was quite wet when I was there, too, the trail.

VICKI KEENAN: Yeah.

MICHAEL GALLAGHER: You know, I drove by there. I had no idea that's where it was because...

LARRY O'SULLIVAN: Nothing's back there. Right.

MICHAEL GALLAGHER: ...the only thing out there is the spring place, but...

VICKI KEENAN: Right. Would it be helpful if we walked through the points of law?

LARRY O'SULLIVAN: Mm-hmm.

VICKI KEENAN: And discussed each one? Okay.

JOE GREEN: Could I just follow up one of the things I...?

VICKI KEENAN: Yeah, sure.

JOE GREEN: So, from your perspective, we're not going to be establishing a precedence of encroachment because this particular scenario's not gonna actually be available anywhere else?

RICHARD CANUEL: Well, the Board never establishes a precedence. Every property is a case by case basis.

JOE GREEN: [indistinct]...somebody said, 'well you did it for this one, you did it for that one,' you know what I mean? So...

RICHARD CANUEL: Yeah, you're applying the criteria equally to all properties that would come in and request a variance similar to this one.

JOE GREEN: But you said it hasn't been done yet, right?

RICHARD CANUEL: Excuse me?

JOE GREEN: We haven't done this yet with a fifty (50), because there was not an opportunity to...

RICHARD CANUEL: Not in this particular area, no. But see, the same restrictions would have to apply to adjacent lots as they're applying to this particular lot and that's not the case in this neighborhood.

JOE GREEN: Okay.

RICHARD CANUEL: That's what makes this lot unique.

JOE GREEN: Yup. I'm done...

VICKI KEENAN: That was helpful, Richard.

JOE GREEN: Thank you.

RICHARD CANUEL: Yup.

VICKI KEENAN: Why don't we start with the first variance, to allow a structure sideline setback of fifteen (15) feet where thirty (30) feet is required? So number (1), granting the variance would or would not be contrary to the public interest?

LARRY O'SULLIVAN: I think we've...because we've read the letter from the Conservation Commission and their opinion, we already have the public interest and...

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: ...what the issue really is going to be is how much are we impacting public interest?

VICKI KEENAN: Mmm.

LARRY O'SULLIVAN: Because we're definitely impacting the public interest. I think we should...

MATT NEUMAN: Mm-hmm.

VICKI KEENAN: Mm-hmm. Any other comment on that? But in order for us to pass, it cannot impact the public interest, right? To pass that prong? Or not be contrary to the public interest, I guess is what I'm trying to say.

MICHAEL GALLAGHER: Could we not argue...?

VICKI KEENAN: It can't just a little bit, right?

JOE GREEN: Well, it's not just one person, it's a group of people, including some residents that are right there.

VICKI KEENAN: Yeah.

LARRY O'SULLIVAN: Right.

JOE GREEN: So, you can't say...

VICKI KEENAN: Okay. The spirit...

LARRY O'SULLIVAN: What, Joe?

VICKI KEENAN: What's that?

LARRY O'SULLIVAN: I meant to ask Joe...

VICKI KEENAN: Yeah.

LARRY O'SULLIVAN: I didn't understand what you meant there.

JOE GREEN: Well, it is not...it's contrary to public interest because we have a group and we have residents here that say it's...they don't think it's a positive thing, so...

VICKI KEENAN: Okay, number (2), the spirit of the ordinance would or not be observed?

LARRY O'SULLIVAN: The spirit of the ordinance is so that we would have space between residential and commercial, C-II...this is C-II, correct?

RICHARD CANUEL: Yes.

LARRY O'SULLIVAN: So, it isn't industrial as across the street is.

RICHARD CANUEL: It's industrial on the other side.

LARRY O'SULLIVAN: While it might be in the same area, it's zoned differently.

RICHARD CANUEL: That's right.

LARRY O'SULLIVAN: And it also abuts residential on more than one border, which is also different. Which also requires special protections. We're not forgiving one of the special protections, we're forgiving on one side of the property, we're forgiving two on another side, right? By two variances. So normally we would have a fifty (50) foot buffer...

JOE GREEN: Mm-hmm.

LARRY O'SULLIVAN: Right? And we would have, what's the other one?

RICHARD CANUEL: The required thirty (30) foot setback.

LARRY O'SULLIVAN: Thirty (30) foot setback. Right. So, instead, we're fifteen (15) feet for both. So all of a sudden, you have the fifteen (15) foot distance and a twenty six (26) foot tall, probably lighted, building, as opposed to from fifty (50) feet away where you have vegetation for thirty five (35) other feet. I think that's a huge impact.

VICKI KEENAN: The one comment I just wanna say, and I'm...that I like the building on this side of the lot. I was sort of hopeful that maybe you could turn it and not have to deal with any setbacks, which wasn't the case, but I think the back of a building, if done right, and maybe we make some recommendations to the Planning Board, I think is much more aesthetic than...and it will screen cars, trucks, parking lot lighting...

LARRY O'SULLIVAN: Mm-hmm.

VICKI KEENAN: ...on that side...

LARRY O'SULLIVAN: Better. Right.

VICKI KEENAN: ...of the walking trail. So it's just something to think about as we're...

LARRY O'SULLIVAN: To keep it on the commercial side as opposed to the residential.

VICKI KEENAN: ...we're going through this.

JIM SMITH: The other thing that I kind of have a little bit of difficulty...while the trail is, in fact,

zoned AR-I, it's not the traditional residential use that you would associate normally with that particular zone. So, I don't think it has quite the impact that we would normally attribute to reducing this. It is a recreational type use. It's only the length of the building that we're talking about. We're not talking the entire border of that property.

LARRY O'SULLIVAN: The five hundred (500) or so feet.

JIM SMITH: Right.

MATT NEUMAN: Mm-hmm.

JIM SMITH: So, I...while I understand what the Conservation Commission is trying to say, I still think it's not the impact that we'd normally associate with a residential zone.

MICHAEL GALLAGHER: That's a good point. I kind of agree with...

LARRY O'SULLIVAN: Yeah, but...

MATT NEUMAN: That's the uniqueness of the lot.

MICHAEL GALLAGHER: Yeah.

LARRY O'SULLIVAN: That's one of the...

VICKI KEENAN: That's unique about it, too.

MICHAEL GALLAGHER: Right.

LARRY O'SULLIVAN: That's one of the issues I think that they would have as well, is that, you know, despite the fact that it's fifteen (15) feet from what's the, literally, the edge of the recreation trail, or potential recreation trail, we will have a building. And it is rare that we have that in any industrial or commercial arena throughout town.

MICHAEL GALLAGHER: Rare that we have...

JIM SMITH: I would like to ask a question about the building design. Is there gonna be any windows on the rear of the building?

BRIAN BAUCHMAN: No.

JIM SMITH: Okay.

BRIAN BAUCHMAN: I wasn't gonna put nothing on the back of it except for vegetation and then...I was gonna go with green and light brown colors on it, too.

JIM SMITH: Okay. So, again, the building is gonna have minimal effect compared to other buildings. It's not gonna have a bunch of windows. Whatever noise is generated is gonna be contained to a certain degree.

BRIAN BAUCHMAN: And I wasn't gonna put any lighting on the back of it, either, unless they require me to, but I...

MATT NEUMAN: What kind of lighting are you gonna have throughout the lot? Throughout the paved area?

BRIAN BAUCHMAN: I don't wanna go putting street lights in the parking lot and stuff. They'll probably just make me put down lighting near the bays in the front, so that would be away from the trail. I mean, I don't know if the Planning Board will say, 'yeah, you need one street light in your parking lot,' or not, I don't know. I'd rather just go with decorative lighting around the bays and out in front where the office door would be.

JOE GREEN: Are you concerned about the security, I mean the security lighting?

BRIAN BAUCHMAN: As far as the back goes?

JOE GREEN: Yeah, well, as far as where your trucks are gonna be located, et cetera. I mean, I potentially would like to have cameras there and stuff. I mean, as far as the lighting goes, I'm pretty secure with it. I mean, I would be...anybody's gonna be worried about security but...I mean, I don't wanna go in there and make it look like a football stadium. I don't want that. I'd like to have minimum lighting. It's less electricity.

LARRY O'SULLIVAN: You don't want it to look like Dunkin' Donuts.

BRIAN BAUCHMAN: Yeah, exactly.

VICKI KEENAN: Not that there's anything wrong with Dunkin' Donuts.

LARRY O'SULLIVAN: I meant Nutfield Country Store.

[laughter]

VICKI KEENAN: Larry, do you have the letter from Conservation? I just want...can we read that just one more time? I'm just thinking about...

LARRY O'SULLIVAN: Would you like it or would you like me to read it?

VICKI KEENAN: Will you just read it one more time? You can just...okay.

Clerk O'Sullivan read Exhibit "A" again into the record.

VICKI KEENAN: Has anybody here ever walked on this trail?

MICHAEL GALLAGHER: No.

VICKI KEENAN: If you go into the GIS and you pan east, there are two lots that look like they're either well within the buffer or cross over the property line. Take a look at that. I'm just...I know...

JOE GREEN: Which one? There's three (3) of them. The first, second or third one?

VICKI KEENAN: If you pan east, it's 015-061-6 and 015-056-0.

JOE GREEN: I'm sorry, the first picture or the second or the third picture? I'm sorry.

VICKI KEENAN: It's in the...

JOE GREEN: Oh, you're counting the first picture, then. Okay.

VICKI KEENAN: No, it's in the Londonderry Map Tools.

JOE GREEN: Okay.

VICKI KEENAN: Do you have that open?

JOE GREEN: No, I had something else. I don't see it then.

VICKI KEENAN: [indistinct]

JIM SMITH: I can see it.

VICKI KEENAN: Okay.

JIM SMITH: I have a pretty good idea [indistinct].

MICHAEL GALLAGHER: It's this one right here, right?

JOE GREEN: Yeah.

VICKI KEENAN: This one here. And then Waste Management.

MICHAEL GALLAGHER: Oh, I just can't pan here. That's right.

JOE GREEN: Just use your hand tool. So you're looking at 015-062, you said? [Indistinct] one?

VICKI KEENAN: 015-061 and 015-056.

JOE GREEN: Okay.

LARRY O'SULLIVAN: This thing's taking forever to load.

VICKI KEENAN: The only reason why I say that is I think as you're walking along the trail, by the looks of it here, you're seeing parking lot within the fifty (50) foot buffer. You're seeing...it looks like maybe storage trailers within the fifty (50) foot buffer. I'm not sure that...you know, when you couple that with the...

LARRY O'SULLIVAN: With the effect...

VICKI KEENAN: ...with the issues that the site has, that when you go by the back of a building and you see additional landscaping, which the applicant has said they are going to put in, that it's any worse than what you've already seen a few hundred yards down the trail.

MICHAEL GALLAGHER: Right, I mean...

VICKI KEENAN: So, I just...

MICHAEL GALLAGHER: ...you're gonna cross that road. I mean, you actually have to cross that road. Now you cross the road, you're in a commercial/industrial area.

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: Commercial zone. Mm-hmm.

MICHAEL GALLAGHER: I mean, you gotta watch out...

VICKI KEENAN: If it's developed. Mm-hmm.

MICHAEL GALLAGHER: ...once it gets developed, for...you know...

VICKI KEENAN: I just wanted to point that out. Think about...

MICHAEL GALLAGHER: You know, Richard shed some light on the lot itself, for me.

VICKI KEENAN: Me too.

MICHAEL GALLAGHER: You know...and...

LARRY O'SULLIVAN: You mean in its uniqueness?

MICHAEL GALLAGHER: In its uniqueness and the fact that, you know, I understand this recreation trail is unique in the fact of where it is, in a sense. And to add to that, right now, that trail, I saw it fifteen (15), twenty (20) feet wide and if those dots are right, I mean, it's centered on that ninety (90) feet. It doesn't take away the fact that the trail lot lines are ninety (90) feet. However, it's not abutting any other property.

VICKI KEENAN: Mm-hmm. Should we finish...I diverted us from the points of law. I apologize.

MICHAEL GALLAGHER: Sorry.

VICKI KEENAN: No, I did it. Alright, so number (5), owing to the special conditions of the property that distinguish it from other properties in the area, (A.i), there is or is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property. So, remember, we're talking about variance one (1) right now, which is the lot line setback. Any comments? I thought this was pretty clear for me.

LARRY O'SULLIVAN: What, you're comfortable with it?

VICKI KEENAN: I am.

LARRY O'SULLIVAN: Because of the uniqueness of the lot?

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: I do have a problem with that. Needless to say, when you're trying to put a business that requires a hundred (100) foot landing area or running area or whatever, turning radius, in a lot this thin and then have the requirements, because of the wetlands, you know, is the wetlands gonna be the excuse that we use to put something in there that would fit on another lot very easily?

VICKI KEENAN: The reason I say 'yes' is because of what Richard said, that this lot is so unique to anything around it.

LARRY O'SULLIVAN: So it couldn't stand another, let's see, sixty (60) feet less or thirty (35) feet less of parking lot or have a parking lot designed so that it's in the front of the building?

VICKI KEENAN: But then they can't use it for an approved use.

LARRY O'SULLIVAN: This approved use.

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: Yeah, that's...I agree.

VICKI KEENAN: Any other comments on that? Jim?

JIM SMITH: You know, part of what you're faced with, this is an appropriate use for this particular lot. You've got a lot which has a tremendous amount of wetlands involved, so it restricts the amount of usable property to a very small percentage of the overall lot. To try to say that another proposed use might fit, I mean, you could say that forever, you know?

VICKI KEENAN: Industrial zone.

JIM SMITH: It's a commercial lot. They're trying to put in a commercial use.

VICKI KEENAN: Mm-hmm.

JIM SMITH: It's a reasonable use for the property, it kind of fits the neighborhood because it is a trucking type of orientation. You already got that kind of established with Donovan Springs up there. It's in the north end of town. It fits the zone. However, because of the unusual situation of having the old railroad bed, which just happens to be zoned residential, we've got this additional hardship...or not to say hardship, but restriction on the property as far as the setback...not the setback, but the buffer zone in particular, you would normally not have in this situation. If that railroad track wasn't there...

VICKI KEENAN: Mm-hmm.

JIM SMITH: ...you would then be abutting commercial to industrial.

VICKI KEENAN: It would be...

MATT NEUMAN: Mm-hmm.

LARRY O'SULLIVAN: Mm-hmm.

VICKI KEENAN: Mm-hmm.

JIM SMITH: But you just happen to have this railroad track which is now evolved into a potential railway, which is, I think, a shame in my mind why they ever let that...

LARRY O'SULLIVAN: Rail trail go...

JIM SMITH: ...railway right of way go. I mean, we've made a lot of mistakes over the years, and I think that's one of them. If you go up and down from here through Salem and stuff, you can see evidence of where that used to be and now we're into a situation we're having trouble with transportation and everything else, and if that still was an effective right of way, it would help solve our problems on that issue. I don't think that's gonna happen, though. However, I have to believe

that this is a reasonable use of this property and granting this variance makes it a reasonable accommodation on that one side. Still the recreational use, I think, is still pretty much intact, and like Vicki was saying, some of the other lots around it already present a similar type of...how would you say...

VICKI KEENAN: Aesthetic.

JIM SMITH: ...impediment to the overall effect of the whole thing. But it's still...I would think if somebody's out there snowshoeing or walking and stuff like that, having the back of a building, which is completely solid, and I think it might be elevated, you know, the road is elevated a little bit, so you're not seeing the whole thing, plus you've got a ninety (90) foot wide right of way, most of it's treed. The only part that you're really gonna use is the center part where the track was.

VICKI KEENAN: Mm-hmm.

JIM SMITH: So I think it effectively, is doing what we want.

VICKI KEENAN: I think so too.

JIM SMITH: So I think it's an effective, appropriate type of variance.

VICKI KEENAN: I agree. Alright, we all agree there's a hardship related to the wetlands, right?

MATT NEUMAN: Absolutely.

VICKI KEENAN: Okay, so let's move on to the second variance then, which is the reduction of the fifty (50) foot landscape buffer. Okay? Granting the variance would or would not be contrary to the public interest?

MATT NEUMAN: No.

VICKI KEENAN: Would not. Okay. The spirit of the ordinance would or would not be observed? For me, it would.

MATT NEUMAN: I think in this case.

VICKI KEENAN: Yeah. Okay. Granting the variance would or would not do substantial justice? Again, it would.

LARRY O'SULLIVAN: Even I think that it would.

VICKI KEENAN: Yeah.

MATT NEUMAN: [indistinct] Larry [indistinct].

VICKI KEENAN: Alright.

JIM SMITH: I've got a procedural question.

VICKI KEENAN: Yeah.

JIM SMITH: Do we have one case or two cases?

LARRY O'SULLIVAN: One case.

JIM SMITH: Okay.

LARRY O'SULLIVAN: There's two variances.

VICKI KEENAN: But we have to feel positive on both, right?

RICHARD CANUEL: Yeah, the...

VICKI KEENAN: Do we vote on one variance and then vote on the other or vote to approve both variances all at one time?

RICHARD CANUEL: You can vote to do both at the same time. Unless you have differing concerns for each. That's the reason for the two different applications.

LARRY O'SULLIVAN: Or if there would be different restrictions that we would put...

RICHARD CANUEL: You can grant one and deny the other but denying either one of them...

MICHAEL GALLAGHER: Is gonna kill...

RICHARD CANUEL: ...would deny the use anyway, so...

VICKI KEENAN: Right.

MICHAEL GALLAGHER: Right, so...

VICKI KEENAN: So we should be comfortable with both variances.

MATT NEUMAN: Right.

RICHARD CANUEL: Yes.

JIM SMITH: But we're voting once.

VICKI KEENAN: We're voting one time.

MATT NEUMAN: Mm-hmm.

JIM SMITH: Okay. That's what I was trying to get at.

VICKI KEENAN: Okay.

LARRY O'SULLIVAN: If you have any restrictions, though...

JIM SMITH: But we need one and two voting slips.

LARRY O'SULLIVAN: ...you should say why, right? So...

VICKI KEENAN: Right, and we should have all the restrictions and recommendations for the Planning Board with it.

LARRY O'SULLIVAN: Mm-hmm.

MATT NEUMAN: Mmm.

VICKI KEENAN: Okay. For the following reasons, the values of the surrounding properties would or would not be diminished.

MATT NEUMAN: No.

VICKI KEENAN: I think we're all in agreement on that. (A.i), there is or is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of the provision to the property? Is everybody comfortable with that?

JIM SMITH: Yeah.

VICKI KEENAN: Jim, you did a good job explaining that.

MATT NEUMAN: Yeah, absolutely.

VICKI KEENAN: The proposed use is or is not a reasonable one? Is. Okay.

MATT NEUMAN: I think it is.

VICKI KEENAN: And then, again, the hardship. Any other discussion on this?

MICHAEL GALLAGHER: Yeah.

JIM SMITH: Well, wait a minute. Wait a second. We're agreeable on (2.A), right?

VICKI KEENAN: Yes.

MICHAEL GALLAGHER: Yes.

JIM SMITH: Then we don't have to go to (2.B), then.

MICHAEL GALLAGHER: Right. No.

VICKI KEENAN: Right, Richard?

RICHARD CANUEL: I'm sorry. Please repeat your question. I'm sorry.

JIM SMITH: If we agree on (2.A), we don't have to discuss (2.B).

MATT NEUMAN: It would be (5.A).

RICHARD CANUEL: That's right. That's right.

VICKI KEENAN: (5.A.ii), yeah.

MATT NEUMAN: (5.A).

RICHARD CANUEL: Yup. Basically, (5.B) is sort of a default criteria.

VICKI KEENAN: Yeah.

JIM SMITH: Right.

VICKI KEENAN: Yeah.

RICHARD CANUEL: If (5.A) is not found to comply, then you go to (5.B).

MATT NEUMAN: We got to...yeah.

VICKI KEENAN: Okay.

JIM SMITH: Okay.

VICKI KEENAN: Alright. Sorry, it's our first time with the new...

MICHAEL GALLAGHER: New forms.

VICKI KEENAN: ...new variance.

MICHAEL GALLAGHER: I have a question.

VICKI KEENAN: Yeah.

MICHAEL GALLAGHER: Whose purview does it fall under regarding that fifteen (15) feet as to, you know, how they may approach it and...

JIM SMITH: That'd be the Planning Board.

MICHAEL GALLAGHER: Yeah, would it? We wouldn't recommend...? Okay.

VICKI KEENAN: Yeah, I think if somebody makes a motion to approve this, we should make some recommendations about maybe lighting on the back of the building, landscaping, that that's necessary. What else?

LARRY O'SULLIVAN: In the fifteen (15) feet, you mean?

VICKI KEENAN: Yeah.

LARRY O'SULLIVAN: You're gonna require landscaping in the fifteen (15) feet?

VICKI KEENAN: No? You wouldn't want to?

LARRY O'SULLIVAN: I don't know.

VICKI KEENAN: Make sure that they maintain and...?

MICHAEL GALLAGHER: I'm wondering if...

LARRY O'SULLIVAN: Well, you're gonna have a fence and that fence is going to preclude putting something there that's gonna block the building for...he's gonna want to see his security camera, you know, that you put up and there's gonna be lights back there because it's gonna be dark.

VICKI KEENAN: I don't think he's gonna have a fence.

LARRY O'SULLIVAN: I bet you he will.

VICKI KEENAN: Just on the vehicle storage is what he said.

LARRY O'SULLIVAN: Well, just because of his insurance, he's gonna have to.

JIM SMITH: In line one, or...I think we need to make a grammatical change...

LARRY O'SULLIVAN: Line one?

JIM SMITH: The way it reads right now, "Granting the variance would," then it..."Granting the variance," then in parentheses, "(would – would not)," then, "not be contrary." We've got two "not's" there.

LARRY O'SULLIVAN: Yeah, okay.

MATT NEUMAN: Double negative.

LARRY O'SULLIVAN: You don't want it in the normal sentence, you want it to be chosen, right?

JIM SMITH: It would be to eliminate the 'not' that's not within the parentheses, I would say.

VICKI KEENAN: I'm ready for a motion.

JIM SMITH: You see what I'm saying?

VICKI KEENAN: Yeah, I do see what you're saying.

JOE GREEN: The worksheet? Yeah.

VICKI KEENAN: Do you think...Jim, are you ready?

JIM SMITH: Not really.

RICHARD CANUEL: If I can make a recommendation before you actually make a motion?

VICKI KEENAN: Yes, please.

RICHARD CANUEL: It may be beneficial if you attach a condition to the variance approval, if that's the way you're going, requiring the applicant obtain site plan approval.

VICKI KEENAN: Yup.

RICHARD CANUEL: Otherwise, if the site plan approval is not obtained, the variance would lapse.

VICKI KEENAN: Okay.

RICHARD CANUEL: So that anyone else coming in at a later date would have to apply for a separate variance all over again.

VICKI KEENAN: Okay.

MATT NEUMAN: Yup.

JIM SMITH: I would like to make a motion to grant the variance for case number 3/17/2010-1 with the restrictions that a lighting...no lighting on the rear of the building, substantial landscaping be installed along that back of the building and anything else, anybody else...?

VICKI KEENAN: The Planning Board site plan...

MICHAEL GALLAGHER: And obtain a...

JIM SMITH: And obtain Planning Board approval. Site plan approval.

VICKI KEENAN: Is there a second to that motion?

JOE GREEN: I'll second it.

VICKI KEENAN: Okay. There's a motion to...

MATT NEUMAN: Nope, he can't second it.

MICHAEL GALLAGHER: I'll second it.

JOE GREEN: Oh, that's right. [indistinct].

VICKI KEENAN: Oh, I'm sorry. I thought Mike said it. I didn't distinguish your voices.

JOE GREEN: Right.

MICHAEL GALLAGHER: I'll second.

VICKI KEENAN: Okay, there's a motion to approve and a second with conditions. Any discussion regarding the motion?

MATT NEUMAN: Nope.

LARRY O'SULLIVAN: All I...I wouldn't think anybody would be surprised if I didn't think that it didn't meet a couple, so, you go right ahead.

VICKI KEENAN: We missed you, Larry, while you were gone.

[laughter]

VICKI KEENAN: Alright, all those in favor, signify by saying 'aye.'

MICHAEL GALLAGHER: Aye.

MATT NEUMAN: Aye.

VICKI KEENAN: Aye.

JIM SMITH: Aye.

VICKI KEENAN: Opposed?

LARRY O'SULLIVAN: Opposed.

VICKI KEENAN: Abstentions? Okay, please fill out your sheets.

RESULT: THE MOTION TO GRANT THE VARIANCE WITH RESTRICTIONS WAS APPROVED, 4-1-0.

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK
TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED APRIL 21, 2010 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY JOE GREEN AND APPROVED 4-0-1 WITH NEIL DUNN ABSTAINING AS HE HAD NOT ATTENDED THE MEETING.