

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

DATE: JULY 16, 2008

CASE NO.: 7/16/2008-2

APPLICANT: MARK AND BRENDA PUCCIARELLI  
2 PRISCILLA LANE  
LONDONDERRY, NH 03053

LOCATION: 2 PRISCILLA LANE, 2-27-25, AR-I

BOARD MEMBERS PRESENT: YVES STEGER, ACTING CHAIR  
NEIL DUNN, VOTING MEMBER  
BARBARA DILORENZO, VOTING MEMBER  
VICKI KEENAN, VOTING ALTERNATE  
LARRY O'SULLIVAN, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING OFFICIAL AND  
ZONING ADMINISTRATOR

REQUEST: SPECIAL EXCEPTION TO ALLOW A REDUCED SETBACK TO A SIDE  
PROPERTY LINE FOR A RESIDENTIAL GARAGE WHERE A MINIMUM  
SETBACK DISTANCE OF 15 FEET IS REQUIRED PER SECTION 2.3.1.3.3.

PRESENTATION: CASE NO. 7/16/2008-2 WAS READ INTO THE RECORD WITH NO  
PREVIOUS CASES LISTED.

LARRY O'SULLIVAN: Who will be presenting?

MARK PUCCIARELLI: Hello, my name is Mark Pucciarelli, 2 Priscilla Lane. I did bring along some  
additional photos or graphical representations, should I pass those out?

LARRY O'SULLIVAN: Yes, please.

VICKI KEENAN: Thank you.

YVES STEGER: Okay, if you could describe your application and then how you meet the point (A) to  
(G) of 4.1.6.

MARK PUCCIARELLI: Is it alright to give a little background on how we came to this?

YVES STEGER: Go ahead, sir. Go ahead.

MARK PUCCIARELLI: Okay. We've lived in Londonderry for over twenty (20) years and just came to the point of needing to expand a little bit and what our original thought was to build a two (2) car garage with a family room over. And originally, when our house was built, the builder made a series of mistakes when they built the house. It was reversed, the foundation was put in the wrong place and so was the driveway. And what we found out, just within this year when we decided to put on the garage and the family room over was that our boundary line was right at the edge of our driveway and didn't permit the ability to build the size garage and family room that we wanted to. So we started to pursue the idea of finding out how much additional room we would need, how many feet to the boundary line and had the land surveyed and I think I submitted that but I'm not sure. I did? A recent survey by Promised Land? And what they found out is that the...where the existing foundation is, there's two (2) different points at the front of the house, it's only...I think it's twenty five (25) feet, three (3) inches to the edge of the driveway, which is the boundary line, which we were surprised by. We thought we had at least another fifteen (15) feet and so did our neighbors as we had conversations. For the last twenty (20) years, we've been cutting the grass and planting bushes there and everything else and never knew where the boundary line was. And as I said, the foundation at the front is twenty five (25) feet, three (3) inches and at the back, twenty six (26), six (6). And basically found out that we couldn't put in the size garage and family room that we wanted to, so we started to investigate what we needed to do and I came down here a couple of times to see what I could do and see if it was worth it to pursue a variance, to see if I could get a lot line adjustment to increase our property by the necessary footage with the setback and the needed footage there. So, I spoke to my neighbor. My neighbor was open to the idea of possibly doing some sort of lot line adjustment to where he'd give me the amount of property that I needed next to the foundation and I'd give him some of the property at the back of our lot. And just through the process of working through the surveyor and some of the other people we spoke to, we just found out that it was gonna cost us more to go through a lot line adjustment than it would be, as we had just, actually, found out about this exception, that this was a much easier way to go but you couldn't put the family room above it. You just had to do a twenty four (24) by twenty four (24) garage. What the surveyor said, that it would cost us like ten (10) to fifteen thousand (15,000) dollars to do a lot line adjustment because of all the State regulations and the Town's ordinances and all the rest, he said just, you know, go with the twenty four (24) foot garage. So, basically, that's why we're pursuing this special exemption. We really don't have a lot of choices where we're located because of where the builder put the house. We can't put it any farther back because you put it much farther back and we're getting too close to the leachfield. We investigated looking at the other side of the house and putting the two (2) car garage over there but it just, it raises the price another ten (10) to fifteen thousand (15,000) dollars to put a two (2) car garage under, plus we're too close to our well and we're on a steep slope on that side as well. So, this is where we are right now, is basically requesting the ability to put in a twenty four (24) by twenty four (24) garage in that location next to the house where, you know, it doesn't obviously leave a lot of area between the proposed garage and the boundary line.

YVES STEGER: Could you address the point (A) through (G) from article 4.1.6?

MARK PUCCIARELLI: Yes. The first one noted there, the lot must have been created by a subdivision that occurred after January 1, 200...must not have been created by a subdivision that occurred after January 1, 2004. The house was built in 1986. A finding by the Zoning Board of Adjustment that there is some existing pattern in the area of garage setbacks smaller than those

required. I actually talked to most of my neighbors. There is one (1) example and it's interesting because they're not gonna pursue doing what we're doing until they found out if we have been able to do it. But they have a similar situation. I'm not sure, I heard you mention aerial views or if you have any...

LARRY O'SULLIVAN: Mm-hmm. We have them in front of us.

MARK PUCCIARELLI: Okay. Do you show the whole, the like, all the neighborhood or just our house?

LARRY O'SULLIVAN: We have several views.

MARK PUCCIARELLI: Okay.

LARRY O'SULLIVAN: We usually see the, what is it, the property four (4) or five (5) lots to your...every direction.

MARK PUCCIARELLI: Okay, number...

BRENDA PUCCIARELLI: Six (6) Michelle.

MARK PUCCIARELLI: Number 6 Michelle Lane has a similar problem.

LARRY O'SULLIVAN: Do you know the lot number?

JAYE TROTTIER: I can find it.

YVES STEGER: Two-twenty seven-twenty five (2-27-25).

LARRY O'SULLIVAN: Right there.

MARK PUCCIARELLI: It's Paul and Cindy Bencal.

JAYE TROTTIER: Two-twenty seven-seventeen (2-27-17).

LARRY O'SULLIVAN: Seventeen (17)?

JAYE TROTTIER: Mmm.

VICKI KEENAN: Yeah.

NEIL DUNN: That's in one of the slides, that's why I'm just seeing...What you do is zoom in.

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: I can't do it from these. These are pdf's.

NEIL DUNN: No, you have to go through the IG...

JAYE TROTTIER: Yeah, you can go online and do it.

VICKI KEENAN: It's right here.

JAYE TROTTIER: Through the website.

LARRY O'SULLIVAN: Is somebody doing that, going online to check to see how his...across the street, five (5) houses down?

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: Fourth house down.

NEIL DUNN: What was the address of that one again? I'm sorry.

MARK PUCCIARELLI: It's 6 Michelle Lane.

JAYE TROTTIER: Mm-hmm.

VICKI KEENAN: The third house on the right on Michelle.

LARRY O'SULLIVAN: It's six (6)...it's not seventeen (17), then, it must be twenty two (22).

JAYE TROTTIER: No, it's right here, 2-27-17 is 6 Michelle.

LARRY O'SULLIVAN: It's the opposite side of the street.

JAYE TROTTIER: Yeah?

LARRY O'SULLIVAN: They're number 2 Priscilla and this is, I'm sorry, so it's around the corner and up the street. 'Cause you're on a corner lot.

MARK PUCCIARELLI: Right.

LARRY O'SULLIVAN: Gotcha, okay. That works.

VICKI KEENAN: I think you're on eight-two (8-2).

MARK PUCCIARELLI: That's kind of confusing when people come off our street, they don't know if they take a right to Priscilla or if Priscilla goes left or right, so I'm sure if that's what you're looking at. They haven't pursued anything formally but we had a conversation about it.

YVES STEGER: So...

NEIL DUNN: I guess in that case, it doesn't exist. Although their driveway is quite close but there's no garage there, so it wouldn't be an example.

VICKI KEENAN: This one here is the same thing.

YVES STEGER: Mm-hmm. That's a very similar...yup.

VICKI KEENAN: A lot of...yeah...a lot of them are set up the same way.

YVES STEGER: Yup.

LARRY O'SULLIVAN: I'm sorry, what did you say, Vicki?

VICKI KEENAN: I was just saying a lot of the properties, for instance, if you look at 6 Michelle Lane and then the one below it, it's got a similar driveway set up right next to the property line with the garage, you know, garage.

YVES STEGER: Yeah.

VICKI KEENAN: A lot of them are set up that way.

LARRY O'SULLIVAN: I don't believe there's any issue with the driveway, though...

VICKI KEENAN: Mn-uh. No, I just think the layout's similar.

LARRY O'SULLIVAN: ...being close to the property line. The issue is always gonna be a structure.

VICKI KEENAN: Mm-hmm.

YVES STEGER: Yeah, but they look...there are a number of houses which do not have a garage...

LARRY O'SULLIVAN: Right.

YVES STEGER: ...with a driveway which is on the side of the house, very close to a...

LARRY O'SULLIVAN: Property line.

YVES STEGER: ...property line. Yeah. So, that...

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: So the example that I...what we're looking for here is a garage that is close to the property line. It is not the driveway that's close to the property line.

MARK PUCCIARELLI: Yeah, the conversations I've had, especially with the Bencals, was that they didn't think they could do a garage there. They had never heard of the special exception, so they never pursued it but they've always wanted to put one in.

NEIL DUNN: Did you want him to continue or...?

YVES STEGER: Okay, any more questions? Oh, yeah, keep going. You've done (B).

MARK PUCCIARELLI: Okay. Okay, then (C), it has locating the garage in conformance with the side and/or rear yard requirements would significantly impact existing vegetation, use from the residence, use of the yard or site circulation or impractical due to the lot dimensions or any other constraints. I don't see that affecting my property or, I guess, my neighbor's property, if that's what...if that's the question.

YVES STEGER: What the question means is that you have to show that if you were to put the garage within the fifteen (15) yards of the normal setback...

LARRY O'SULLIVAN: Fifteen (15) feet.

YVES STEGER: ...fifteen (15) feet, that would not be possible, it would impact your existing vegetation, it would impact the views or there would be other impracticality.

MARK PUCCIARELLI: Alright. So, what would you need to see?

LARRY O'SULLIVAN: Had you considered alternatives to getting closer to the driveway...closer to the property line? See, we don't really care about the driveway. We know that it exists, we know that it's there. The issue is how close to the property line could you build if you built it fifteen (15) feet, detached from the house. Or thirty (30) feet or a hundred (100) feet detached from the house?

MARK PUCCIARELLI: Yeah, I mean, we can't build a detached 'cause we don't have enough space. There's only twenty six (26) or twenty five (25) feet next to our foundation. If we push it back, it starts to get too close to the septic system.

LARRY O'SULLIVAN: There we go. Now we're...

MARK PUCCIARELLI: Well, I thought I'd mention...

LARRY O'SULLIVAN: Now you're talking the language that we need to make exceptions.

MARK PUCCIARELLI: Okay.

LARRY O'SULLIVAN: Do we have a drawing of the lot here? Did you submit a drawing of your lot?

NEIL DUNN: It looks like page seven (7) has the septic on it...

LARRY O'SULLIVAN: Page seven (7)?

NEIL DUNN: ...if you're looking at it.

LARRY O'SULLIVAN: Yeah, I'm trying to find it. There's a lot of pages.

JAYE TROTTIER: Yeah, if you go...

NEIL DUNN: There you go. I mean, it's...

JAYE TROTTIER: That's one (1) of them. That shows the leachfield.

NEIL DUNN: Although we're not sure that that's accurate because the driveway's...

LARRY O'SULLIVAN: On the re...no, this is a reverse image, right?

VICKI KEENAN: Is that 1 Priscilla?

NEIL DUNN: Yeah...

JAYE TROTTIER: Nope.

YVES STEGER: But still, it's not detailed enough to judge.

LARRY O'SULLIVAN: The driveway's on the opposite side of the house?

NEIL DUNN: I mean, it's showing a septic on this side...

JAYE TROTTIER: That's what he was saying...

NEIL DUNN: I'm just saying, is that accurate?

BARBARA DILORENZO: That's the house that's across...

[inaudible overlapping comments]

JAYE TROTTIER: ...the way it was presented.

VICKI KEENAN: Yeah, look it...

LARRY O'SULLIVAN: Oh, so this is what the record is for the Town?

JAYE TROTTIER: As far as the septic plan, but he...if could go further up, he's got a...

BARBARA DILORENZO: But where...how far away...?

VICKI KEENAN: It's right [inaudible]...

JAYE TROTTIER: ...Promise Land Survey to...keep going...

BARBARA DILORENZO: It must have been built the same time they built the house.

VICKI KEENAN: But look at this...

JAYE TROTTIER: There you go. That's what was just recently done for a plot plan.

LARRY O'SULLIVAN: There we go. Okay.

VICKI KEENAN: ...that distance, you know what I mean?

BARBARA DILORENZO: [inaudible]

VICKI KEENAN: It doesn't look dissimilar. Should we say something?

BARBARA DILORENZO: Yes.

YVES STEGER: Okay.

LARRY O'SULLIVAN: Are you gonna pass it around, Yves?

YVES STEGER: Yes.

LARRY O'SULLIVAN: Thanks.

VICKI KEENAN: Ummm...I'll wait...

YVES STEGER: Go ahead.

VICKI KEENAN: I was just looking at 1 Priscilla Lane, which is...has a two (2) car attached garage and I can't tell by looking on this the distance from the garage to the lot line but it looks very similar and it's right across the street, 002-027-14. See that?

YVES STEGER: Yeah.

VICKI KEENAN: Take a look at it. This is the garage here.

YVES STEGER: Yup.

NEIL DUNN: What's the address? I'm sorry.

VICKI KEENAN: It's 1 Priscilla.

YVES STEGER: So right on the other side.



VICKI KEENAN: It's right across the street.

BARBARA DILORENZO: It looks like there's quite a distance, though, between the lot line and...

VICKI KEENAN: Yeah, you can't tell.

YVES STEGER: Yeah, that's...

VICKI KEENAN: It's close.

LARRY O'SULLIVAN: I'm still trying to get over the septic. Do you have it marked on that map, where the septic is? I have the words, "approximate septic"...

BARBARA DILORENZO: Yes.

YVES STEGER: Yeah.

BARBARA DILORENZO: Yeah.

YVES STEGER: Look and pass it to Larry. We actually may want to keep it for the record.

LARRY O'SULLIVAN: Yeah, we're gonna put it in the record for sure.

YVES STEGER: Yeah, okay.

BARBARA DILORENZO: Big difference.

VICKI KEENAN: Mmm. Ten (10) feet.

BARBARA DILORENZO: At least if not more.

MARK PUCCIARELLI: I have another, actually, I have a septic...septic design if you want to see that. So...

LARRY O'SULLIVAN: Is that the one from Promised Land? 'Cause we have that.

MARK PUCCIARELLI: It's actually from the original builder and it actually shows the driveway was supposed to be on the other side.

LARRY O'SULLIVAN: Yeah, we have that, too.

MARK PUCCIARELLI: You have that?

LARRY O'SULLIVAN: Yup.

VICKI KEENAN: Yeah, it's about...

BARBARA DILORENZO: Oh, his driveway was...

VICKI KEENAN: Six (6) or seven (7) feet.

BARBARA DILORENZO: ...driveway was supposed to be on the other side?

YVES STEGER: It's about twenty (20) feet.

LARRY O'SULLIVAN: If the driveway is wrong, I don't think we would accept that as accurate.

YVES STEGER: ...twelve (12) feet I would guess.

VICKI KEENAN: Yeah, it's about that.

YVES STEGER: Mm-hmm. But it is...

LARRY O'SULLIVAN: We'll take yours from...

YVES STEGER: Okay.

LARRY O'SULLIVAN: ...Promised Land.

MARK PUCCIARELLI: Okay.

YVES STEGER: So without being scientific, because we have to work with what we have, is it appears that the property on the other side has an attached garage that may be closer to the lot line than the normal fifteen (15) feet. Our guess at this time is about ten (10) feet or something like that.

LARRY O'SULLIVAN: What do you think, Mr. Pucciarelli?

MARK PUCCIARELLI: I don't know where their boundary line is. I know it's close.

LARRY O'SULLIVAN: Yeah, but ten (10) feet isn't one (1) foot.

MARK PUCCIARELLI: Right.

LARRY O'SULLIVAN: Okay, I'm sorry, I didn't mean to...

BARBARA DILORENZO: What's it say...?

NEIL DUNN: Yeah, it's hard to tell there. That's guessing.

YVES STEGER: Mm-hmm.

VICKI KEENAN: I just can't tell.

BARBARA DILORENZO: What's it say, twenty six (26)...?

VICKI KEENAN: I cannot see. I need to zoom in.

YVES STEGER: You know, actually, I measured, it's twenty (20).

VICKI KEENAN: It's twenty four (24) feet?

YVES STEGER: Yeah. You find the same thing?

VICKI KEENAN: I was getting about seventeen (17) I think. I just can't tell on it.

LARRY O'SULLIVAN: Well, I think we're in a case where we're trying to prove the applicant's position, so...

NEIL DUNN: Yeah.

YVES STEGER: Yeah.

VICKI KEENAN: I know. I'm just trying to put...

LARRY O'SULLIVAN: You know, it's...

YVES STEGER: Twenty (20) feet, so, you know, another case. Alright. What about point (B)? Point (D), sorry.

MARK PUCCIARELLI: If a new driveway serves the garage, it would have to be approved by a driveway permit issued by the Department of Public Works and Engineering prior to the public hearing. The driveway would remain the same.

YVES STEGER: Okay. And go ahead. Continue with (E).

MARK PUCCIARELLI: Okay. The proposed garage must be set back at least ten (10) feet from any existing building located on adjacent lot. That's correct. It's not near any...it's not ten (10) feet near any neighboring structures.

LARRY O'SULLIVAN: But Mr. Pucciarelli, if your neighbor decided to do the same thing you did, would it be closer? If your neighbor put a garage, put a shed, put a pool, put a...whatever you can do, on your property, since it's his property, one (1) foot from the property line, that's what we have to watch out for.

MARK PUCCIARELLI: I see.

LARRY O'SULLIVAN: 'Cause he could.

MARK PUCCIARELLI: I see.

LARRY O'SULLIVAN: We can't restrict a zillion things, so...

MARK PUCCIARELLI: And I understand that. And I didn't know that until here, if I should have brought something from my neighbor because originally, when I proposed us doing any kind of lot line adjustments, he said whatever you need to do, go right ahead and do it. And I would have brought...I would have brought him or I'd have brought a letter or whatever you would have needed if that was the case, to kind of talk about those things. I wasn't aware of that.

LARRY O'SULLIVAN: Okay.

MARK PUCCIARELLI: Okay, next one. The proposed garage must be designed to blend with the architectural character of the neighborhood siding, roof pitch, et cetera. Elevation drawings must be submitted to the approve ZBA and that's the representations I provided there. And based on...we're actually working with three (3) different builders. The representation is based on what the criteria is or what the requirements are, the twenty four (24) by twenty four (24) with a ten (10) foot ceiling.

YVES STEGER: Okay.

LARRY O'SULLIVAN: So this is a good representation, I think from Crossroads...

MARK PUCCIARELLI: Correct.

LARRY O'SULLIVAN: And that's...

MARK PUCCIARELLI: Yeah, and there's dimensions underneath there...

LARRY O'SULLIVAN: Yeah.

MARK PUCCIARELLI: ...which is a little bit, actually, less than twenty four (24).

LARRY O'SULLIVAN: Mm-hmm.

YVES STEGER: Okay.

MARK PUCCIARELLI: And then the next statement here, the garage does not exceed twenty four (24) feet in length or width and...I didn't see the rest of that sentence, is that cut off?

YVES STEGER: No.

NEIL DUNN: It just says "length or width."

MARK PUCCIARELLI: I'm sorry?

NEIL DUNN: It just says "the garage does not exceed twenty four (24) feet in length or width," I believe.

MARK PUCCIARELLI: Oh, on my copy it says "and."

LARRY O'SULLIVAN: And then...yeah, it includes then the next thing in the...

MARK PUCCIARELLI: Oh, okay. Okay.

LARRY O'SULLIVAN: ...on the list.

MARK PUCCIARELLI: So, it's basically yes, it'll be twenty four (24) by twenty four (24). The garage walls do not exceed ten (10) feet in height and the roof would...the roof may exceed this ten (10) foot limit, so I'm basing the...all the dimensions on the requirements here.

YVES STEGER: Thank you. Any more questions from the Board at this time? I'd like it open to the audience. Anybody speaking in favor of the application? Anybody speaking against the application or having questions? Seeing none, I'll bring it back to the Board for any additional questions.

BARBARA DILORENZO: You did say that to move the garage to the opposite side would be a hardship for you, is that what you said?

MARK PUCCIARELLI: Definitely. When they first reversed the house, you know, the kitchen was supposed to be on the right side. The garage was supposed to be on the right side, so basically now, the kitchen's on the left side next to the driveway where you come in. If you put a two (2) car garage on the other side, the well is not too far from where that is. I'd have to move my driveway, an additional cost, you know, additional foundation work, all those excavation that has to be done. There's a lot of things that would have to be done there as well as the entryway would probably either have to come in through the basement or through the living room, which doesn't, you know, work.

BARBARA DILORENZO: So this was what the builder had done. You didn't make any changes to...

MARK PUCCIARELLI: Oh, correct. Right.

BARBARA DILORENZO: ...previous to that?

MARK PUCCIARELLI: You know, there was a series of things that were done wrong and, you know, from the windows were put up wrong, the location....When we first bought the lot, it was a level lot. When we came back several weeks later, it was a hill. We live on a steep hill but when we bought it, it was a level lot.

BARBARA DILORENZO: Mmm.

MARK PUCCIARELLI: I mean, there was a lot of things done to the lot that, at the time, we really didn't, you know, have control over it, especially being first time buyers, you don't know and, you

know, I'll never forget the day, asking the builder, as I stood in the driveway where it exists today, will I be able to put in a two (2) car garage here and he said, 'oh yeah, no problem.'

LARRY O'SULLIVAN: Even in '86 that was a problem.

[laughter]

MARK PUCCIARELLI: Yeah.

YVES STEGER: Okay. Any more questions? Thank you. We will deliberate now.

MARK PUCCIARELLI: Thank you.

DELIBERATIONS:

LARRY O'SULLIVAN: I can't even come up with a restriction on this one 'cause I can't see how you can possibly approve it.

BARBARA DILORENZO: And this is a case where it's...

NEIL DUNN: One foot, right?

BARBARA DILORENZO: It's too bad.

LARRY O'SULLIVAN: You can't...again, like I said earlier is, when you get so close to a property line that you can't walk around the property, the building itself, without going on your neighbor's property, that is a license that this Board doesn't have. We can't take property rights from somebody else and by giving them to somebody when they're not theirs to begin with, we don't have the authority, the right...No court in this State's going to...no court in the State would allow that, this Board, give permission for somebody to go on their neighbor's lot to take care of their building. It's not gonna happen. And the liabilities, as long as Mr. Pucciarelli has a, you know, a friendly next door neighbor, there's no issues. But as soon as one of them moves, you still got it and the next person that moves in could be from Brooklyn, New York. So, you never can tell. So...

YVES STEGER: Yeah, you can't even go with a lawnmower and there is...

LARRY O'SULLIVAN: That's right. You have to have the ability to access your own yard.

YVES STEGER: Yup.

LARRY O'SULLIVAN: You couldn't do it this way on that side of the house. So, I can't see how we could approve it. The restriction, again, if he decided to do a single car garage attached to the side, he'd still require this special exception because fourteen (14) feet.

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: That's how wide that garage has to be. And that's gonna bring them within, what, about twelve (12) feet or something?

NEIL DUNN: Fifteen point three (15.3).

YVES STEGER: Eleven (11) feet.

LARRY O'SULLIVAN: I'm sorry?

NEIL DUNN: Yup.

LARRY O'SULLIVAN: Oh, yeah. Something like that and that would be the requirement.

NEIL DUNN: Eleven (11)-three (3).

LARRY O'SULLIVAN: And there would be also the same problem as last time, we'd have to put the restriction in it if we did approve it, that it not be living area.

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: Alright? So there will be no conversion to a sunroom or to something along those lines ever.

YVES STEGER: But that's not what he's required. That's not what he's requested right now.

LARRY O'SULLIVAN: He's requesting two (2) cars. A two (2) car garage. See, I can't...I can't see how we can consider it.

YVES STEGER: Anybody disagrees?

BARBARA DILORENZO: I kind of feel the same way. I feel it's too bad because this is a case where, you know, he just fell into something that...

VICKI KEENAN: Mmm.

LARRY O'SULLIVAN: But we're not here, though, to make up for the screw ups of the builder.

BARBARA DILORENZO: But we can't...exactly.

LARRY O'SULLIVAN: We're not here for that.

YVES STEGER: Mm-hmm.

BARBARA DILORENZO: And it's a shame, really, you know?

VICKI KEENAN: I mean, if this were an area variance, there would be special conditions and, you know, reasons that are not feasible, you know, there'd be...checks...

YVES STEGER: Yeah, but even then...

BARBARA DILORENZO: It still would...

YVES STEGER: ...you know, one (1) foot...

VICKI KEENAN: Yeah. Yeah, no I agree.

YVES STEGER: ...this is really pushing the limits, you know...

VICKI KEENAN: One (1) foot is pushing it. Yeah.

BARBARA DILORENZO: We've been through that before.

LARRY O'SULLIVAN: I think that what we need to do is we have to get the word to the...to, I guess, is back to the Planning Board on this one, that...or maybe it's just the people that...when a review like this happens in your office, Richard, or I don't know where it would happen but...

RICHARD CANUEL: Yeah, in my office.

LARRY O'SULLIVAN: ...when somebody comes and says 'this is what my plan is,' that you say, 'this isn't gonna happen.' This Board is...our Master Plan won't allow something that's one (1) foot from the property line. And this Board, well, this player on this Board anyway doesn't think that ten (10) feet...now, is reasonable in certain circumstances only but that's all. You know, everybody else may have a different number in their mind but, you know, if this....there was a cliff and there was no choice of, you know, he was willing to build right along the edge of a cliff, which was the property line at the same time, different story. But there's no cliff.

RICHARD CANUEL: Well, if I could give the Board some direction, in looking at the special exception, the Board needs to address the specific criteria for that special exception. If the Board finds the applicant meets that criteria, the Board has no choice but to approve the special exception. If the Board finds that any one of the criteria is not met, then the Board has no choice but to deny the special exception, regardless of the issues that you're bringing up, which are valid points but if that applicant meets everyone of those criteria, you have to grant the special exception.

NEIL DUNN: Kind of like the Simplex thing.

VICKI KEENAN: Right.

LARRY O'SULLIVAN: Yup. No, because that's a variance.

RICHARD CANUEL: Yeah, that was a variance.



NEIL DUNN: I know, but it still, you meet the point of law, you meet the point of law.

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: In this special exception, I think the flexibility that we have is the knowledge of the area, the things that we have, the common things, and, you know, the examples that we try to get from the applicant to help build their own case and the circumstances that we have here, we don't have any examples of similar properties that have a garage that's close to the property line. We don't have the benefit of the information from all over, the side roads, the...[new tape inserted]...memory anyway or either Priscilla or Michelle, the other female named streets, for garages and I've been on the Board for eight (8) years.

VICKI KEENAN: Can I ask a sort of procedural question? If we were to deny this and they were to go back and find a pattern, maybe in their area that maybe they weren't looking for or didn't think to look for, can they come back again for a special exception or [inaudible]? I'm just curious.

LARRY O'SULLIVAN: I think that would be up to the people in your department.

VICKI KEENAN: I don't know how that works. I'm just asking.

RICHARD CANUEL: Well, once you decide on a particular case...

VICKI KEENAN: Yeah.

RICHARD CANUEL: ...unless the circumstances significantly change...

NEIL DUNN: Yup.

RICHARD CANUEL: ...basically, you're rehearing the same case and that's something we shouldn't be doing.

YVES STEGER: Right.

VICKI KEENAN: Understood. Okay.

YVES STEGER: Correct. And essentially, it is the burden to the applicant...

VICKI KEENAN: Yup.

YVES STEGER: ...to meet the requirements and provide proof that were available at this time. If he cannot do it now, he cannot come back...

LARRY O'SULLIVAN: And do it later.

YVES STEGER: ...two months later and say, 'oh, I forgot to talk to you about this.' This is the time and the only time where he can present that evidence.

LARRY O'SULLIVAN: Unless things were to change. Like the earlier case.

YVES STEGER: Yes. Correct.

VICKI KEENAN: I just feel like this is...

YVES STEGER: Correct.

LARRY O'SULLIVAN: Okay.

VICKI KEENAN: ...weird question. It's not clear.

YVES STEGER: Any more discussions? No? I'm looking for a motion.

NEIL DUNN: Mr. Chairman, I'd like to make a motion on case 7/16/2008-2 to deny it on grounds of section (B), finding of the Zoning Board that there's no existing pattern in the area for garages with setbacks smaller than those required.

YVES STEGER: Anybody wants to second?

BARBARA DILORENZO: I'll second it.

YVES STEGER: Okay, we have...Neil has a motion to deny and Barbara has seconded. Anybody...anymore discussions? No? Anybody in favor of the motion, which is a motion to deny, say 'aye.'

NEIL DUNN: Aye.

LARRY O'SULLIVAN: Aye.

YVES STEGER: Aye.

BARBARA DILORENZO: Aye.

YVES STEGER: Anybody against?

VICKI KEENAN: And I abstain.

LARRY O'SULLIVAN: We have results of Case 7/16/2008-2. It was denied, four (4), zero (0) with one (1) abstention.

RESULT: THE MOTION TO DENY THE SPECIAL EXCEPTION WAS APPROVED, 4-0-1.

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

**APPROVED AUGUST 20, 2008** WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY NEIL DUNN AND APPROVED 5-0-1 (MARK OFFICER ABSTAINED AS HE HAD NOT ATTENDED THE JULY 26, 2008 MEETING).