

AGENDA

1. Call to Order and Pledge of Allegiance (7:00 P. M.)
2. Roll Call
3. Approval of Minutes (May 9, 2007)
4. Appeals
  - a. Appeal No. 2361 – A Variance Appeal by Stephanie Williston, 135 Winnocks Neck Road, Assessor’s Map R83 Lot 30, to allow an existing shed to remain 10.3 feet from the rear line and 14 feet from the side property line in the R-2 Zone
  - b. Appeal No. 2372 – An Administrative Appeal by Daniel Dickinson, Hines Drive, against the Code Officer’s decision that requested lot frontage does not meet the requirement for a legal lot in the R-2 Zone
  - c. Appeal No. 2371 – A Practical Difficulty Appeal by Joel and Cynthia Bizon, 29 Jones Creek Drive, Assessor’s Map U22 Lot 75, to construct a foundation higher than previously approved, 4 feet from the side and 5 feet from the rear property lines in the R-4A Zone
  - d. Appeal No. 2373 – A Special Exception Appeal by James Liponis, 38 Freedom Road, Assessor’s Map R9 Lot 649, to create an accessory unit in the R-F Zone
  - e. Appeal No. 2374 – A Special Exception Appeal by Adam Bliss, 5 Dirigo Drive, Assessor’s Map R7 Lot 4E, to construct an accessory unit in the R-F Zone
  - f. Appeal No. 2375 – A Special Exception Appeal by Nathan Clark and Sandra Sargent, 4 Blueberry Lane, Assessor’s Map R4 Lot 11, to operate a pet grooming business in the R-F Zone
  - g. Appeal No. 2376 – A Special Exception Appeal by Tristin Krause, 156 Pleasant Hill Road, Assessor’s Map R78 Lot 47, to operate a day care center in the Industrial Zone
  - h. Appeal No. 2377 – A Miscellaneous Appeal by Michael Trueworthy, 8 Byrd Avenue, Assessor’s Map U39 Lots 11 and 12, to construct a residential storage shed in the B-2 Zone
  - i. Appeal No. 2378 – A Special Exception Appeal by Kevin and Stacie Flynn, 16 Merrill Brook Drive, Assessor’s Map R7 Lot 413, to create an accessory unit in the R-F Zone
  - j. Appeal No. 2379 – A Variance Appeal by Fred and Kathleen Bayley, 76 Jones Creek Drive, Assessor’s Map U22 Lot 33, to construct a utility room 6.5 feet from the side property line in the B-1 Zone
  - k. Appeal No. 2380 – A Limited Reduction of Yard Size Appeal by Arthur DiMauro, 337 Pleasant Hill Road, Assessor’s Map R99 Lot 37, to construct an addition 40 feet from the front property line in the R-F Zone
  - l. Appeal No. 2381 – A Variance Appeal by Richard Greenleaf, 37 Clay Pits Road, Assessor’s Map U13 Lot 15, to rebuild a nonconforming cottage 7 feet from the front property line, 21 feet 6 inches from the rear/Shoreland Zone, and 13 feet 6 inches from the side property line in the R-2 Zone
5. Zoning Board Comments
6. Adjournment

NO NEW APPEALS SHALL BE TAKEN UP AFTER 10:30 P. M.

MINUTES

Members Present

Staff

Mr. Blaise  
Mr. Craft  
Mr. Loisel  
Mr. Maroon  
Mr. Massengill  
Mr. Temm

Mr. Grysk, Code Enforcement Officer  
Mrs. Logan, Recording Secretary  
Mr. Vaniotis, Town Attorney

1. Call to Order and Pledge of Allegiance

Mr. Dryzga called the meeting to order at 7:00 P. M.; the Pledge of Allegiance was recited.

2. Roll Call

The Recording Secretary called the roll; Messrs. Dryzga, Loisel and Temm were absent.

3. Approval of Minutes (May 9, 2007)

Mr. Blaise moved to approve the minutes of May 9, 2007 as written; Mr. Craft seconded.

Voted 4-0

Mr. Maroon stated that Appeal 2375 had been tabled at the request of the appellant. He stated that Appeal b. would be heard first to take advantage of the presence of the Town Attorney.

Mr. Maroon noted that there were only four Board members present and a tie vote would mean denial of the appeal; he stated that an appellant could table his appeal if he did not want to take that chance.

4. Appeals

b. Appeal No. 2372 – An Administrative Appeal by Daniel Dickinson, Hines Drive, against the Code Officer’s decision that requested lot frontage does not meet the requirement for a legal lot in the R-2 Zone

Attorney Gary Vogel stated that their issue was whether or not the private way plan submitted to the Code Enforcement Officer met the requirements for the frontage of a lot. He stated that the frontage was intended to be met on Hines Drive by virtue of the fingers along Hines Drive and he did not think there was an issue. He stated that the issue was whether the lots would be able to meet the front yard requirement and where it was and whether it had to be along the entire frontage. Mr. Vogel stated that they believed that a lot had to be able to have a setback that created a front yard 40 feet in width.

Mr. Vogel stated that he would like to focus on the language of the ordinance dealing with the front yard requirements. He read a section of Mr. Grysk’s letter as follows, “Reading the Scarborough Zoning Ordinance as a whole, it is my conclusion that the required street frontage must be met on the front lot line and that the front lot line is the sideline of the street abutting the front yard. The front yard must meet the minimum setback requirement of the zoning district for the full width of the lot.” Mr. Vogel stated that Mr. Grysk interpreted that the requirement was the front yard must be met along the entire frontage. Mr. Vogel stated that there is no place in the Ordinance that says the front yard requirement must be met along the frontage of the lot but that is the way Mr. Grysk interpreted it. Mr. Vogel stated that they believed the requirement that Mr. Grysk interprets creates inconsistent and illogical results since there were many subdivisions in town with approved lots that could not meet Mr. Grysk’s interpretation.

Mr. Vogel distributed several examples of existing lots where the front yard requirement could not be met based on Mr. Grysk's interpretation because the 40 foot front setback could not be met at the exact frontage. He stated that the purpose of the front yard requirement was not necessarily to locate houses exactly on the street and that lots could not be on hammerheads or culs de sac if that were the purpose. He stated that they were not working with an exact rectangle of land and did the best they could to split the lot and set the home to meet the setback requirements. Mr. Vogel stated that they showed two possible configurations of how the front yard could be set and they were not inconsistent with the examples shown. Mr. Vogel read the definition of Yard Front – "An open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot." He stated that both of their configurations met that requirement; he stated that it made sense to be able to create an interpretation of the front yard that meets a setback. Mr. Vogel stated that this was infill development on vacant land which promotes development within the developed areas of town and discouraged sprawl. He stated that as long as the front yard requirements could be met there was nothing that said the frontage had to be along the width of the lot. He stated that there is no definition in the ordinance that required that and they thought it was inconsistent and illogical.

Mr. Maroon disclosed that he had spoken with Mr. Dickinson and Mr. LaVopa, an abutter, regarding this appeal; no one had an issue.

Mr. Grysk stated that the appellant had requested a private way to serve a lot with frontage along a street but the house did not have to be right at the street, did not have to front the street and could be at the rear of the lot. He stated that he saw this as a flag lot with 1.4 feet at the street and 8 or 9 feet at the other end, which did not meet the intent of the ordinance. He stated that thin lines had been done along a right of way so that an abutter was not left with nonconforming setbacks but, in no instance, has anyone done this configuration for frontage but had gone back far enough with the private way to gain frontage. Mr. Grysk stated that he also had the issue that this proposal was creating a subdivision and had to be approved by the Planning Board, but that was not a question for the Zoning Board.

Mr. Vaniotis noted that there were two requirements involved with this request; one being Front Yard which was defined in the ordinance, and the other Street Frontage which was not defined. He stated that he had found the meaning of the term "frontage" in the dictionary and the intent was that the two come together or are located in the same place the frontage is on the front. Mr. Vaniotis stated that Mr. Grysk's interpretation was that wherever there was street frontage along the side lines to Hines Drive it would have to be 40 feet deep and have their front yard not on the frontage. He stated that the Board had to determine whether or not they agreed with Mr. Grysk that street frontage and front yard had to be one in the same location so it had to be 40 feet deep.

Mr. Vaniotis stated that he was not sure any of the sample parcels shown would be a problem for Mr. Grysk because a house could be 40 feet back from the street so the front yard and the street did correspond and the lots did have depth. He stated that the front yard had to have a setback the entire width of the lot; he stated that he and Mr. Grysk reached this interpretation but it was up to the Board to decide.

Mr. Maroon opened the public hearing. Mr. Scott Heffernan, of 47 Maple Avenue, stated that his property was adjacent to these lots and his concern was the fact of having the driveway going down from Maple Avenue and its proximity to his property line. He stated that if there were more room it for two houses in the back there would be no open area to Maple Avenue. Mr. Maroon closed the public hearing.

Mr. Craft asked whether there would be enough size to do what he wanted if the two legs were not there and Hines Drive were pushed back; Mr. Grysk replied that there would not be enough square footage to create two lots if the road were moved back but one lot could be created. To a question from Mr. Maroon, Mr. Vogel replied that Mr. Vaniotis' point was that in each of the examples, a house could be 40 feet back from the street and the house could be configured behind the street frontage but the interpretation is whether one could meet a 40 foot setback along the entire frontage. Mr. Vogel stated that Thurston Lane and Williamsburg Lane, as shown in the examples, came to a point so one could not meet the 40 foot setback along the entire frontage. Mr. Vogel stated that if this lot were approved, they would address the

subdivision issue and would not create an illegal subdivision. Regarding Mr. Vaniotis' dictionary definition for frontage, Mr. Vogel stated that the dictionary's most common definition used was first, which read, "a piece of land that lies adjacent to a street," which was most consistent with this site.

To a question from Mr. Blaise, Mr. Vogel replied that the site consisted of Lots 1 and 2 and was adjacent to Elmwood Avenue and the area of Hines Drive; he stated that there were two lots at this time. Mr. Vogel stated that the land from the abutters was sold in 2006 and was configured in this way for the purpose of creating this right of way. To a question from Mr. Maroon, Mr. Dan Dickinson replied that he sold land to Mr. Keller in 2006 and saved out the right of way land. Mr. Maroon noted that this sounded like a subdivision because of the three lots to be created. Mr. Vaniotis reiterated that the Board could vote only on the Administrative Appeal and Mr. Grysk would further consider the subdivision issue.

To a question from Mr. Craft, Mr. Grysk replied that there had to be frontage on a street, in this case Hines Drive, and there were three types of street: a private way, a public way and a right of way in a subdivision approved by the Planning Board. Mr. Grysk stated that he had to look at the Private Way Ordinance and this did not meet the definition of street frontage. Mr. Maroon asked why Hines Drive had no hammerhead; Mr. Vogel replied that there would not be enough land for two lots if there were a hammerhead. To a question from Mr. Maroon, Mr. Grysk replied that the Fire Department would expect to be able to turn around. Mr. Grysk noted that a private way now had to meet street standards and if the street were not acceptable to the Fire Department, this issue would be moot; he stated that any street 150 feet in length had to have a turnaround, but this street was only 108 feet so the Fire Department could back out. He stated that a hammerhead could be an easement.

Mr. Maroon stated that this seemed like a creative way to solve the problem. Mr. Vaniotis stated that he saw the examples differently and for the lot on Thurston Lane a 40 foot parallel line could be drawn to the cul de sac to a house. He stated that the street was curved and a home could be back 40 feet into the lot between the two side lines. Mr. Vaniotis stated that there needed to be a depth from the street; he stated that to get the private drive would have to extend in the length of the requirement of 100 feet and then there could be two lots on either side of the private way if the lot were large enough.

Mr. Vogel stated that you could not meet the 40 foot setback on Thurston Lane because of the narrowing of the point; he stated that it did not extend the entire width of the lot even if Hines Drive went 100 feet back, it would not meet the width of the lot as interpreted by Mr. Grysk. Mr. Vogel asked where the frontage would be if the road were extended. Mr. Vaniotis stated that if there were no problem with the lot area one would not have the lot legs and if Hines Drive were extended one would measure the width of the lot between the side lines and the width would follow along the street.

Mr. Maroon asked whether there was any information that showed that the town had done lots inconsistent to Mr. Grysk's interpretation; Mr. Vogel replied that the Laughton Circle example came to a point to create two lots. Mr. Maroon stated that if a straight line were drawn from Laughton Circle a structure would be directly on the front and 40 feet back. Mr. Vogel stated that Mr. Grysk was saying you had to meet the yard requirement along the entire frontage but if you go to the point you cannot go back 40 feet. Mr. Vaniotis stated that Mr. Vogel was saying that one had to measure at a right angle but that is not what Mr. Grysk was saying and you could draw a line 40 feet back with 15 feet on the side and meet the 40 feet.

Mr. Massengill stated that his opinion was that the length was the long lot line and the width was the shorter side and that C2 would be the plan more applicable for width. He asked how the appellant would explain that the entire lots met 100 feet of frontage; Mr. Vogel replied that the frontage was along Hines Drive. Mr. Massengill stated that he did not buy that because you can not consider the tiny sliver of land as frontage. Mr. Vogel agreed that this was an extreme example. Mr. Massengill stated that there was the length but there was no specific guide line on the width. Mr. Vogel stated that there was no relationship in the Ordinance as to the front yard to the street frontage. Mr. Vaniotis stated that he and Mr. Grysk interpreted the intent of the ordinance for frontage and front lot line are in the same location on the lot.

Mr. Vaniotis stated that the difference on the examples presented was that one could draw a line parallel to the frontage and the lot was still wide enough for the 40 foot setback; he stated that the slivers were not 40 feet deep along the line of the frontage. To a question from Mr. Craft, Mr. Grysk replied that frontage for a lot could not be at the dead end of a street. To a question from Mr. Vogel, Mr. Grysk replied that a hammerhead is a widening of a street not the end of a street. Mr. Vogel quoted from his letter and stated that the difficulty was that there was nothing in the ordinance that defined where frontage could be or what portion of the lot becomes the lot.

Mr. Blaise moved to approve the appeal; Mr. Massengill seconded. Mr. Maroon noted that a yes vote would agree with the appellant and a no vote would agree with Mr. Grysk.

Voted 0-4 – The vote was in Mr. Grysk’s favor.

Mr. Vaniotis suggested that the Board make findings of fact. Mr. Maroon stated that the fatal flaw was the consistency of the lot line challenge and he was not convinced that the logic of where the lines drawn was consistent. He stated that his other issue was the question regarding whether a hammerhead made it more impossible to meet the definition. Mr. Maroon stated that he did not believe that coming off the driveway is a skirt around the road. He stated that once you get past the flagpole would have forced a hammerhead; he stated that he did not think this proposal was consistent.

Mr. Massengill stated that he agreed with Mr. Maroon and felt that Plan C2 was the only viable option for length and width and the frontage width did not coincide with making a 40 foot setback and frontage had to be contiguous. Mr. Craft stated that the 40 foot setback along the frontage was the intent of the ordinance. Mr. Blaise stated that this was just playing games.

Mr. Vaniotis asked whether the Board agreed that the lot frontage and the front yard had to be adjacent to the front yard; the Board agreed that that was consistent and agreed with Mr. Grysk’s interpretation.

Mr. Massengill moved to incorporate the above discussion as findings of fact; Mr. Blaise seconded.

Voted 4-0

a. Appeal No. 2361 – A Variance Appeal by Stephanie Williston, 135 Winnocks Neck Road, Assessor’s Map R83 Lot 30, to allow an existing shed to remain 10.3 feet from the rear line and 14 feet from the side property line in the R-2 Zone

Mr. Grysk noted that the issue at the previous meeting had been resolved and this was a new appeal for the shed only. He stated that there were three layers of regulations in this location which had been resolved by himself and the Planning Board and the only issue was that the previous shed had been demolished and the appellant had rebuilt it in its old location but needed an after-the-fact approval for a nonconforming structure.

Mr. James Fisher, of Northeast Civil Solutions, stated that the original shed had been built in the early 1900s and the property had been in this family since the 1940s; he stated that this was the last house on the street before the property owned by the State. Mr. Fisher stated that Ms. Williston asked their contractor to make the shed more stable but the contractor determined that it would be easier to let the shed fall down when the supporting posts were taken down and rebuild it. He stated that the contractor was from New Hampshire and did not realize a permit was required to rebuild the shed and a stop order was put on the work by the Code Enforcement Office. Mr. Fisher stated that the appellant was asking only to allow the shed to remain in the location it had been for many years; he stated that they were willing to adhere to the penalties imposed by the town for the violation. He stated that this was simply a big misunderstanding. He noted that there was a retaining wall that supported the land and the area where the shed is located is about the only place it could go. Mr. Fisher stated that the house was only 520 square feet so there was no storage space other than the shed.

Ms. Williston stated that the structures were built in 1924 and that a garage and deck had been taken down; she noted that the original shed was her playhouse and she did not want to lose it but wanted to fortify the structure because she knew it could never be changed or rebuilt. She stated that her heart sank when she discovered that the building had been taken down. She stated that her concern was that she had a very small closet and no basement and, therefore, no storage space; she stated that she did not want to store gasoline for the lawnmower anywhere near the house.

Mr. Grysk noted that this was also a layered regulation; he stated that it was in the Shoreland Zone where the DEP required a 75 foot setback. Mr. Maroon read a letter from the DEP requesting that a variance not be granted for the shed because the ordinance stated that if a nonconforming structure was removed by or for its owner it must be reconstructed in conformance with the minimum shoreline setback; the letter also stated that the request did not meet the criteria for a reasonable return. Mr. Maroon also read two letters in favor of the appeal from Jo Ellen Snook Fay, owner of 131 Winnocks Neck Road, and from Paul Banks, of 122 Winnocks Neck Road.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

To a question from Mr. Craft, Ms. Williston replied that her agreement with her contractor was only verbal but it was always her intent that the original shed should remain and be repaired. To a question from Mr. Blaise, Mr. Grysk replied that if this appeal were denied, the appellant would have to meet the town's zoning and the Shoreland Zone setback of 75 feet. To a question from Mr. Blaise, Ms. Williston replied that the 75 foot setback would be a hardship because the entire lot was within the 75 feet. Mr. Maroon stated that the reasonable return criteria could not be met unless there was very little use of the property without the variance.

Mr. Fisher reiterated that this house had no storage so a reasonable return could not be met because there is no place for a lawnmower or other equipment and with no storage there was substantial lessening of the value. Mr. Fisher stated that, regarding Criteria b., the small lot was unique for its size, was created nearly 100 years ago and the present zoning would allow nothing to be built. He stated that this was the last house on the road and the shed could not be seen. Mr. Fisher stated that if the reconstruction to shore up the shed had been done as intended they would only have needed a simple building permit but a lack of communication between the appellant and the contractor occurred. He stated that an error occurred and the appellant was facing the substantial lack of any storage space.

Mr. Massengill asked where else the shed could be placed; he stated that if there were a garage, he would vote against this appeal. He stated that he thought this situation was wrong but he did believe it met the hardship criteria. Mr. Maroon noted that the shed also did not meet the 15 foot side setback. He stated that he did not feel too bad about the self-created issue because the shed came down and was built right back up, but the reasonable return criteria needed to be met. Mr. Massengill stated that he thought it was an undue hardship and a financial burden because no one would want to buy a house with no storage area. Mr. Blaise stated that he agreed because the shed was there before zoning and the action was an error.

Mr. Maroon stated that if the shed were brought to the 15 foot setback and a fine established by the Town Manager, he would feel more comfortable. He stated that he thought there should be a penalty because it was hard to believe this was a complete accident. Mr. Maroon suggested that the shed be moved to a more conforming area within the building envelope. Mr. Fisher stated that he was not sure how that would work with the other layers of regulation. Mr. Maroon stated that Mr. Grysk should decide that.

Mr. Maroon moved to approve the appeal with the following conditions:

1. That Mr. Grysk determine the most reasonable and appropriate location for the shed;
2. That the Town Manager determine a fine for the violation;

Mr. Massengill seconded.

c. Appeal No. 2371 – A Practical Difficulty Appeal by Joel and Cynthia Bizon, 29 Jones Creek Drive, Assessor’s Map U22 Lot 75, to construct a foundation higher than previously approved, 4 feet from the side and 5 feet from the rear property lines in the R-4A Zone

Mr. Roger Rossignol, of Salmon Falls Architecture, noted that the appellant had received a variance to construct a second floor four feet from the side property line and five feet from the rear line. He stated that the excavation could not be dug out to the high ground water so they raised the footing elevation and put in crushed stone and made a frost protection foundation which brought it up 2 feet 3 inches higher than what was originally approved by the Zoning Board. He stated that there had been no discussion regarding the height of the structure; he stated that the height was 22 feet 5 ¾ inches and it is now 24 feet 10 inches. He stated that the structure was raised 2 feet 3 inches in the same location so had not exceeded the setback but had changed how the building looked.

Mr. Grysk explained that this project was approved for a second story and should have been constructed as presented to the Board. He stated that the building was moved so the foundation could be constructed and equipment could get around it and benchmarks were made to be sure the building was put back in its exact position and height. He stated that when the building was put back there was a lot of foundation out of the ground that had not been approved so a stop work order was issued.

Mr. Maroon read letters in favor of the appeal from Geralynn Howard, of 5 Avenue One; Dorothy Hatch, of 30 Jones Creek Drive; Thomas and Teresa Keahon, of 32 Jones Creek Drive; John and Lisa Wallace, of 22 Jones Creek Drive; James Widor, of 24 Jones Creek Drive; and Milton and Patricia Wilk, of 26 Jones Creek Drive. He also read letters opposed to the appeal from Lynne Allen Cleary, of 2 Tasker Avenue; Deb Barry and Patrick Donahue, of the Jones Creek Drive Association; and a vote of the Jones Creek Drive Association as follows: In favor – Bizon; opposed – Donahue, Barry and O’Brien.

Mr. Maroon opened the public hearing. Mr. Patrick Donahue, of Unit 4, 29 Jones Creek Drive, stated that when the association met last year, the appellant had a fine design but the homes were very close together and height was the most important issue and this change in height made a big difference. He stated that there was only a 15 foot front yard and it was not enjoyable to see the foundation rising up.

Ms. Deb Barry, of 27 Jones Creek Drive, adjacent to this structure, stated that the original plan took into consideration the proximity of the structures. She stated that the first floor of this structure would be looking in her windows; she stated that her house was in the middle so there was no side yard and this would impact the enjoyment of her property. Ms. Barry stated that the entire association had agreed upon the plan in the beginning but this change did not fit.

Ms. Lynne Allen Cleary, of 2 Tasker Avenue, stated that this was extremely different from what she expected; she stated that the original plan looked nice and uniform but this foundation was huge. She noted that the people who wrote letters in favor of the appeal were not adjacent to the site. Mr. Maroon closed the public hearing.

Ms. Bizon stated that at this point they were the only owners in the association who had done any construction according to the appeal approved in December. She stated that the high water had forced them to add the elevation in April and was not of their choosing; she stated that the site did not drain on its own and they became the drain hole for the surrounding water. Ms. Bizon stated that Mr. Rossignol had drawn up new plans and they did not know they needed reapproval since they were using the same setbacks. Ms. Bizon noted that Mr. Donahue knew of the water issues and any reasonable person should understand the additional height. She stated that the previous plans were approved so they did not think there would be any issues. She stated that the writers of the letters of approval faced their structure directly from Jones Creek Drive; she stated that their structure fit into the corner and they felt that created less of a visual impact. Regarding the letter from Ms. Cleary concerning trash and the portapotty, Ms. Bizon stated that their contractor moved the trash near the fence so it would not be near the area of the stop order; she

stated that it would be expensive to move the portapotty offsite until construction began again and then move it back; she stated that it was as unobtrusive as possible. Mr. Bizon stated that they realized their building would be the only one having the second story built so they knew it would be higher than the others and they tried to match the existing fascia and diminish the front of the structure.

Mr. Maroon and Mr. Rossignol addressed the criteria; Mr. Rossignol stated that this was a unique property and the second floor had been approved adjacent to single story structures; he stated that the extra two feet of height would have no impact. Mr. Rossignol stated that the error was that they showed the change after the foundation was poured; he stated that the foundation could not go into the ground any further because of the groundwater. He stated that they needed 30 inches of space to meet the code for a crawl space.

Mr. Massengill asked whether the whole reason for this change was because of the water table; Mr. Rossignol replied that the foundation could be taken down but would not meet the 30 inch code but it would not make that big a difference in appearance and it would be very costly to remove it. Mr. Maroon stated that at the first meeting the Board determined that everyone had agreed with the plans and because of that he could not support this change. He stated that this did not meet the variance requirements and it was clear at the first meeting that everyone was in agreement with the original plan; he stated that there were a lot of neighbors and the association that were not happy with this change which did impact the character of the neighborhood. Mr. Maroon stated that he thought there were feasible alternatives.

To a question from Mr. Massengill, Mr. Grysk replied that if the appellant had come to him as soon as he knew about the high water table, the house could have been placed on a slab designed by an engineer. Mr. Grysk stated that there was no basement in the original structure. He stated that they could have waited until the water table went down; he stated that everyone had water problems during the April storm. Mr. Grysk stated that he would have sent the appellant back to the Zoning Board to go through the process again because the original appeal was for a second story only. He stated that the appellant indicated that the structure could not support a second story so he allowed a frost wall to be created and they could have used sona tubes. He stated that the intent was not to give them more space under the building but to support the building.

Mr. Craft stated that he did not think Criteria 2 and 4 were met because this would affect the character of the neighborhood and there were other alternatives to be explored. Mr. Blaise agreed that there were alternatives and stated that the other association members were not happy. Mr. Rossignol stated that there were other alternatives but the engineers; he stated that the only alternative now was to cut down the foundation to 16 inches.

At Mr. Maroon's suggestion, Ms. Bizon requested a two minute break to confer with the abutters. Mr. Maroon called a recess at 10:05; the meeting resumed at 10:10 P. M. Mr. Maroon stated that the Board would hear no new appeals after 10:35 P. M. to allow for the five minute recess.

Mr. Rossignol stated that the neighbors had agreed that the height of the foundation should be cut down two feet which would make it four inches higher than what was approved in December; he stated that the foundation would then be 30 inches.

Mr. Maroon and Mr. Rossignol addressed the criteria for the amended appeal.

Mr. Blaise moved to approve the amended appeal to allow the foundation to be four inches higher than previously approved; Mr. Craft seconded.

Voted 4-0

d. Appeal No. 2373 – A Special Exception Appeal by James Liponis, 38 Freedom Road, Assessor's Map R9 Lot 649, to create an accessory unit in the R-F Zone

Mr. Elliott Chamberlain, who represented the appellant, stated that he was building a new house for the Liponises, who would like to have an accessory unit. Mr. Grysk noted that this home would look like a single family dwelling.

Mr. Maroon and Mr. Liponis addressed the Registration of Accessory Unit Form and the Special Exception criteria.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

Mr. Blaise moved to approve the appeal as presented; Mr. Massengill seconded.

Voted 4-0

e. Appeal No. 2374 – A Special Exception Appeal by Adam Bliss, 5 Dirigo Drive, Assessor’s Map R7 Lot 4E, to construct an accessory unit in the R-F Zone

Mr. Bliss stated that he was building a new house and wanted to have an accessory unit for his disabled father; he stated that he had discussed the septic system with Mr. Grysk.

Mr. Maroon and Mr. Bliss addressed the Registration of Accessory Unit Form and the Special Exception criteria.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

Mr. Blaise moved to approve the appeal as presented; Mr. Craft seconded.

Voted 4-0

f. Appeal No. 2375 – A Special Exception Appeal by Nathan Clark and Sandra Sargent, 4 Blueberry Lane, Assessor’s Map R4 Lot 11, to operate a pet grooming business in the R-F Zone

This appeal was tabled at the request of the appellant.

g. Appeal No. 2376 – A Special Exception Appeal by Tristin Krause, 156 Pleasant Hill Road, Assessor’s Map R78 Lot 47, to operate a day care center in the Industrial Zone

Ms. Krause stated that she wanted to open a day care center for 7 to 12 children in an existing space; she stated that she had her license from the Department of Human Services and the Fire Marshall had been to the site. Mr. Grysk noted that this operation would work in conjunction with another business in the same space.

Mr. Maroon and Ms. Krause addressed the criteria as presented in writing.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

Mr. Blaise moved to approve the appeal as presented; Mr. Maroon seconded.

Voted 4-0

h. Appeal No. 2377 – A Miscellaneous Appeal by Michael Trueworthy, 8 Byrd Avenue, Assessor’s Map U39 Lots 11 and 12, to construct a residential storage shed in the B-2 Zone

Mr. Trueworthy stated that they found they needed a shed for storage of their outdoor equipment; he stated that the house was less than 2,000 square feet and had very little storage space. He stated that the shed would meet the setback requirements.

Mr. Maroon noted that he owned the business property in the front of this site but felt he had no conflict; the Board had no problem.

Mr. Maroon and Mr. Trueworthy addressed the criteria as presented in writing.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

Mr. Blaise moved to approve the appeal as presented; Mr. Craft seconded.

Voted 4-0

i. Appeal No. 2378 – A Special Exception Appeal by Kevin and Stacie Flynn, 16 Merrill Brook Drive, Assessor’s Map R7 Lot 413, to create an accessory unit in the R-F Zone

Mr. Flynn stated that they had had an accessory unit approved previously but were unable to build it at that time and would now like to have their amended plans for an accessory unit approved.

Mr. Maroon and Mr. Flynn addressed the Registration of Accessory Unit Form and the Special Exception criteria.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

Mr. Blaise moved to approve the appeal as presented; Mr. Massengill seconded.

Voted 4-0

j. Appeal No. 2379 – A Variance Appeal by Fred and Kathleen Bayley, 76 Jones Creek Drive, Assessor’s Map U22 Lot 33, to construct a utility room 6.5 feet from the side property line in the B-1 Zone

Because of the late hour the appellant had left the meeting.

k. Appeal No. 2380 – A Limited Reduction of Yard Size Appeal by Arthur DiMauro, 337 Pleasant Hill Road, Assessor’s Map R99 Lot 37, to construct an addition 40 feet from the front property line in the R-F Zone

Mr. DiMauro stated that his previously approved appeal needed to be reapproved because he was not able to start the project.

Mr. Maroon and Mr. DiMauro addressed the criteria.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

Mr. Blaise moved to approve the appeal as presented; Mr. Massengill seconded.

Voted 4-0

1. Appeal No. 2381 – A Variance Appeal by Richard Greenleaf, 37 Clay Pits Road, Assessor’s Map U13 Lot 15, to rebuild a nonconforming cottage 7 feet from the front property line, 21 feet 6 inches from the rear/Shoreland Zone, and 13 feet 6 inches from the side property line in the R-2 Zone

Mr. Michael Richman, of Custom Concepts, stated that he had been working with the DEP and received approval for a new foundation; he stated that they would slide the structure over to be more in compliance with the required 15 foot setback in accordance with the Planning Board recommendations. Mr. Grysk stated that this was a situation where a house did not meet the front setback or the Shoreland Zoning setback of 75 feet; he stated that the 15 foot side setback was now met but the problem was the 75 foot setback from the river.

Mr. Maroon and Mr. Richman addressed the criteria. Mr. Richman noted that there was no way any structure could meet the 75 foot setback on this lot.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

Mr. Craft confirmed that this was the same plan presented to the Planning Board other than the amended side setback. Mr. Maroon read the Planning Board minutes. Mr. Maroon stated that the best way to deal with a structure in a state of disrepair was to put in a foundation and rebuild it; he stated that this was an example of a good variance and it would not alter the neighborhood.

Mr. Massengill moved to approve the appeal as presented; Mr. Blaise seconded.

Voted 4-0

5. Zoning Board Comments

There were no comments.

6. Adjournment

The meeting was adjourned at 10:50 P. M.

