

**APPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
April 25, 2017**

Present: Mark Wright, Chairman, Mike DiPietro, Kevin Stuart & Jeffrey Benson, Member. Peggy Neveu, Robert Beaurivage and Stephen Carroll, Alternate Members. Minutes recorded by Denise Royce.

Absent: Jim Lagana, Vice Chairman.

Also Present: Carrie Rouleau-Cote, Building Inspector and Jeffrey Porter, Conservation Commission.

Mr. Wright called the meeting to order at 7:02 p.m. and indicated that there was a large agenda tonight with one case being withdrawn. Mr. Wright introduced the Board members to everyone present tonight and explained the procedure for tonight's hearing. Mr. Wright also pointed out that Mrs. Rouleau-Cote, Building Inspector and Jeff Porter of the Conservation Commission were also present for tonight's hearing.

At this time, Mr. Wright asked Ms. Royce to read the first case into the minutes for the record. Mr. Wright elevated Mr. Carroll for the first case.

**Case #17-02
Brian & Elizabeth Michaud
63 Pasture Road – Tax Map 8, Lot 13-9
Zoned Residential Two
TABLED from January 24, 2017**

Applicant is requesting a Variance to allow a 10 foot by 16 foot shed to remain within the 30 foot side setback in a Residential Two zone. (Article 4, Section 4.06(6))

Mr. Wright explained that this was a case that was tabled from their January 24th hearing and turned the discussion over to Mrs. Michaud. Mrs. Michaud read her application into the minutes for the record. Mrs. Michaud also added that the neighbor like the location of the shed as it gave them more privacy.

Mr. Wright asked if there were any abutters present. None were noted. Mr. Wright asked Mrs. Rouleau-Cote if she had any comments. Mrs. Rouleau-Cote explained that the shed had been put up without the benefit of a building permit and it was identified and the property owner was notified in October that it appeared to be non-compliant and that a permit was necessary. Mrs. Rouleau-Cote stated that they responded with a copy of their plot plan indicating an approximate location of the shed which appeared to be over the side setback which is why they are before the Board tonight seeking a Variance.

Mr. Wright asked Mrs. Michaud when the shed was installed. Mrs. Michaud indicated that they have lived there for two (2) years and believed it was somewhere in the second year. Discussion ensued with regard to the location of the shed within the setback as shown on the plan submitted to the Board members.

Mr. DiPietro asked what the square footage of a shed that does not require meeting the setbacks. Mrs. Rouleau-Cote commented that, any shed 120 square feet or less does not need to meet setbacks but anything larger than 120 square feet does need to meet the setback requirements.

Mr. Wright asked Mrs. Michaud if there was any other place on the property that they could put it. Mrs. Michaud stated that the lot was on a big hill and the front slopes down and explained that they tried to tuck it into the trees as far as they could before it sloped down. Mr. Wright asked what the shed was on currently. Mrs. Michaud indicated that the shed was located on blocks. Mr. Wright asked what they stored in the shed. Mrs. Michaud stated that they went from a three (3) car garage to a two (2) car garage and they put tools.

Mr. Wright asked Mr. Stuart if he had any questions. Mr. Stuart asked Mrs. Michaud if she knew how far she was from the property line to the closest part of the shed. Mrs. Michaud said she was unsure. The Board members and Mrs. Michaud estimated that it was approximately 10 feet from the property line. Mr. Wright asked Mr. Benson if he had anything to add. Mr. Benson agreed with Mr. Wright. Mr. Wright asked Mr. Beaurivage if he had any questions. Mr. Beaurivage did not have anything to add. Mr. Benson commented that Mrs. Michaud indicated that only one corner was located within the setback but on the plan it shows that three (3) corners are in the setback. Mr. Wright saw that too. A brief discussion ensued on the topography of the property.

Mr. Wright pointed out that the Board likes to see these before and suggested to Mrs. Michaud that she call the town prior to doing any further additions. Mrs. Michaud understood what the Board members were saying. Mr. Wright further informed the Board that, if the Board were to grant a variance and they said that they cannot be any closer than 10 feet from the property line based on what they are seeing tonight and asked the Board and Mrs. Rouleau-Cote if they believed that was good. The Board members all agreed and Mr. Benson wanted to add that it stays where it is.

Mr. DiPietro made a motion to vote on the application with the existing shed to remain in its current position and no closer than 10 feet from the property line for Case #17-02, 63 Pasture Road, Tax Map 8, Lot 13-9, Mr. Carroll seconded the motion.

Mr. Carroll pointed out that the application was not complete as #4 and #5 were not filled out but felt that Mrs. Michaud did meet the hardship. Mr. Wright informed Mrs. Michaud that #4 and #5 was not filled out but that they were answered within the first 3 questions and asked Mr. Stuart to read those questions and have Mrs. Michaud answer the questions. Mrs. Michaud answered #4 by saying that by getting a truck to move it

again would be a hardship as it would be expensive and difficult as it is placed up a hill and with the current rain we've been having its very muddy. Mrs. Michaud answered #5 by saying that she didn't know how to answer that one. Both Mr. Stuart and Mr. Wright believed Mrs. Michaud touched upon those two (2) in the lengthy answers in her application. Mrs. Michaud asked if they sold the property that this would not be an issue correct. Mr. Wright explained that the Variance runs with the land and believed they could move to a vote.

Mr. Carroll voted to grant, Mr. Benson voted to grant, Mr. Stuart voted to grant as the applicant has met all the factors, Mr. DiPietro voted to grant as the applicant has met all the factors, and Mr. Wright voted to grant as the applicant has met all five (5) factors. All were in favor, the motion passed unanimously.

Mr. Wright informed everyone present tonight that would be presenting their application that there was a 30 day appeal period where interested parties or those aggrieved by the Board's decision may request a rehearing. Mr. Wright pointed out that the shed is already in place and asked Mrs. Rouleau-Cote, Building Inspector for the Town of Auburn if a building permit was Mrs. Michaud's next step. Mrs. Rouleau-Cote stated yes, she will need to pull a building permit for the shed of which it was a \$25.00 fee and that she would put on the permit that the shed shall be no closer than 10 feet to the property line. Mrs. Michaud understood and thanked the Board members for their time and exited the meeting.

Case #17-03

Alden Beachemin/Keyland Enterprises

On Behalf of TRW Builders

46 Tanglewood Drive – Tax Map 4 Lot 19-6

Zoned Residential Two

TABLED from March 28, 2017

Applicant is requesting a Variance to allow for a proposed driveway and yard within 55 feet of the proposed structure in the 125 foot wetland buffer in a Residential Two zone. (Article 5, Section 5.08(1)(a))

Mr. Wright indicated that the applicant has requested that the application be withdrawn earlier today based on discussions with the Conservation Commission that they were able to rework their project to avoid getting a Variance and no further action is needed. An abutter for this case thanked the Board and exited the meeting.

Case #17-07
Martha Herrick
640 Pingree Hill Road – Tax Map 2, Lot 44-3
Zoned Rural
TABLED from February 28, 2017

Applicant is requesting a Variance to allow a 16 foot by 20 foot storage shed to remain in the location it was built onsite within the side setback in a Rural zone. (Article 4, Section 4.05(4))

Mrs. Herrick wanted to correct the size of the shed to be a 14 foot by 20 foot shed. Mr. Wright corrected the size of the shed to show a 14x20 foot shed. Mrs. Herrick stated that they were asking for the Variance to keep the shed where it is located and explained that the leachfield was close to the shed and that she wanted something close to the house so that she would have easy access to it. Mr. Wright pointed out to Mrs. Herrick that she had filled out the whole application and asked if she was looking to obtain a Variance only. Mrs. Herrick stated that she wasn't sure which one to fill out so he filled out the whole application but that she was looking to obtain a Variance only. Mr. Wright understood what she was looking to get and asked Mrs. Herrick if she had a copy of her application. Mrs. Herrick said yes. Mr. Wright asked Mrs. Rouleau-Cote if it was a Variance that Mrs. Herrick was looking to obtain. Mrs. Rouleau-Cote explained that Mrs. Herrick was looking for a Variance from the 50 foot setback. Mr. Wright asked if there was a 50 foot setback there. Mrs. Rouleau-Cote said yes as they are a corner lot.

At this time, Mr. Wright asked Mrs. Herrick to go through her application and read Section #3 that pertained to the section for a Variance. Mrs. Herrick read her application into the minutes for the record. Mrs. Herrick added that it was built onsite by Reeds Ferry and did not believe it affected anyone as it was a corner lot. Mrs. Herrick pointed out that it was on crush stone and her son-in-law stated that there was a section that they had to fill in near the septic tank. Mrs. Herrick added that she was partially handicapped and that she needed the shed to store tools and excess items from the house and somewhere that she could easily access it.

Mr. Wright asked Mrs. Herrick to explain why she placed it in the spot that it's in as opposed to somewhere else. Mrs. Herrick stated that her house was on a little hill and after the shed it does drop down and on the left side of her house was too far to put a shed there because they plan on adding on an addition to that side and therefore the shed would not be convenient to her.

Mr. Wright asked if there were any abutters present. Mr. Roger Malo of 628 Pingree Hill Road began by saying that they never obtain a permit for the shed and believed that from the center of the road to the shed was about 25 feet and from her back steps to the shed is about 40 feet. Mr. Malo believed it was an eyesore as it was too close to the road. A brief interruption occurred between Mrs. Herrick's son-in-law and Mr. Malo and at which time Mr. Wright had to explain to them that, to the extent that anyone has

questions or comments that they be directed to the Board and not directly to the applicant and if the applicant could respond to the Board so they can try to keep things moving along for those applicants that are waiting to have their case heard and try to narrow in on the issues that we should be discussing in front of the Board and not get off onto civil issues. Mr. Malo wanted to add that he's pretty good at measurements by eye. Mr. Wright understood and thanked the applicant and the abutter.

At this time, Mr. Crump wanted to direct the Board with a few photos and added that he was not a direct abutter and proceeded to show the Board members some photos where the applicant is utilizing the area by the shed as a driveway and driving over a berm. The Board review the photos that showed the vehicles parked by the shed that is being used as another driveway.

Mr. Wright asked the applicant how close the shed was to the pavement. The applicant's son-in-law answered by saying that the shed was located 13 feet to the curb. Mrs. Rouleau-Cote answered by saying that it was within the right of way and that there was a good chance that the shed was located within the right of way. Discussion ensued with regard to the shed possibly being in the right of way.

At this time, Mr. Wright asked if there were any other abutters or interested parties. Mr. Crump asked the Board if it was okay to go up and over the curb to utilize it as an access point as opposed to using the driveway. Mr. Wright did not believe the use as a driveway to the shed was relevant for this hearing but could inform the Code Enforcement Officer who would be the best person to answer that. With that in mind, Mr. Wright asked Mrs. Rouleau-Cote to comment at this time relative to this case. Mrs. Rouleau-Cote commented that the enforcement actions actually began back in December where a notice was sent to the property owners regarding the construction of a structure without a permit. In January she also observed them using an access point off of Boxwood Drive without a proper driveway permit so that has also been observed. On January 5th a second letter was sent because there was no response to the first letter. On February 7th a second notice of violation was sent since there was not response to the first notice of violation. This second notice of violation format included language regarding the potential legal action and fines. On February 16th she did receive a call from Mrs. Herrick of which she acknowledged receipt of the letter and apologized for not responding as she was taking care of a sick relative but wanted to begin the Variance application process. Mrs. Rouleau-Cote went on to say that, the Variance application was supposed to be before the Board at a previous meeting but there was a request to continue. Mrs. Rouleau-Cote indicated that some of the statements that have been made pertaining to that there are no other locations on the lot and informed the Board members that she did have the septic design and that she also had a few photos in her presentation to the Board for their review. Mrs. Rouleau-Cote did stated that she believed that there were other locations on the lot that could be utilized for the shed as it was a fairly flat lot. Mrs. Rouleau-Cote also pointed out that she was concerned that the shed is actually if not over the property line but is sitting right on the property line to Boxwood Drive. She did not have a survey but was going

off the Boxwood Subdivision plan as well as evidence that she has seen in the field when she took the pictures.

Mrs. Neveu asked Mrs. Rouleau-Cote what condition was the shed in December. Mrs. Rouleau-Cote stated that it was constructed. Mr. Wright asked what the shed was currently sitting on. Mrs. Herrick's son-in-law stated that it was on blocks. Mr. Carroll asked how it was brought in or erected onsite. It was stated that the panels were pre-assembled offsite, trucked in and then the panels were erected onsite. Discussion ensued with regard to possibly moving the shed which could be disassembled.

Mr. Wright asked what is being stored in the shed. Mrs. Herrick's son-in-law commented that they put tools, lawnmowers and snowblowers and stated that the location of the shed is the best place to put the shed that could be easily accessed by his mother-in-law.

Mr. Wright asked Mrs. Rouleau-Cote if she's seen the map. Mrs. Rouleau-Cote stated that she had a bigger one and presented it to the Board members for their review. Mr. Stuart asked the son-in-law to explain the map (A copy of which is in the file). The son-in-law explained the location of the house, porch, deck, driveway that his mother-in-law parks in and septic tank and also pointed out the location that goes down in the rear of the property. At this time, Mr. Wright asked Mrs. Rouleau-Cote to pull up the photo of the shed that showed the curb and the proximity of the shed to the edge of pavement. At this time, discussion ensued with regard to possibly moved closer to the house and the son-in-law repeatedly stated that the shed could not be moved to another location on the property. Mrs. Rouleau-Cote commented that she disagreed as she believed that there were other locations on the lot that the shed could be placed and added that it was up to the Board to decide if there was a reasonable location on the lot that the shed could be placed. The son-in-law reiterated that they plan on putting on an addition on the other side of the house with a breezeway and garage and added that it was a very wooded lot.

Mrs. Marzloff informed the Chairman that nobody could hear anything as there were too many conversations going on at once and couldn't make out what was being discussed. Mr. Wright agreed and tried to explain that the applicant was trying to describe for some of the Board members the map location and responding to questions with regard to some of the side and aerial photographs. Mr. Wright asked if there were any other abutters or interested parties that wanted to comment or ask questions. None were noted. Mr. Wright asked Mrs. Rouleau-Cote if she concluded her comments before they had a flurry of activity. Mrs. Rouleau-Cote said that she was all set unless anyone on the Board had questions. Mr. Wright wanted to point out Mrs. Rouleau-Cote's comments that based on her knowledge of this property that there are other places that would not encroach the septic or well where the shed could be placed and asked if that was accurate. Mrs. Rouleau-Cote stated that it was her opinion and that she has not been on the property but she does travel by the property and as much as the applicant states that it is wooded and slopes are involved by most standards this lot would be considered a more level lot.

Mr. Benson asked Mrs. Rouleau-Cote to reiterate because from the picture they have before them that it shows it as being 30 feet from the property line but from the very edge of the property line if not over. Mr. Benson stated that this was his concern with regard to issuing a Variance if the shed was not entirely on the property. Mrs. Neveu agreed and stated that it was her concern as well that it was not their property. Mrs. Rouleau-Cote said yes that the right of way was not their property because the right of way is approximately 13 feet in from that curb line. The right of way is typically 50 feet wide and the pavement is typically 22 to 24 feet wide. The son-in-law pointed out that the house was not much closer to the road than the shed is. At this time, Mrs. Rouleau-Cote informed the Board members that the house did not meet setbacks and from the photos that she has, the shed is much closer to the road than the house is. Mr. Wright also mentioned that from the map that it did appear that the shed is closer. The son-in-law said it was but not by much.

At this time, Mr. Wright elevated Mrs. Neveu for this case. Mr. Wright asked the Board members if there were any further questions for the applicant. Mr. DiPietro asked about the discrepancy on what is drawn on the small sheet. Mrs. Rouleau-Cote pointed out that the big sheet is the original septic design which was done back in 1979. Mr. DiPietro stated that the well was in the front and that the applicant showed the septic tank in a different spot. Discussion ensued with regard to the septic tank being directly behind the house. Mr. Carroll indicated that the Board would need to know what the measurement was from the middle of the road because if it's in the right of way, it would change the whole discussion. The Board members agreed. Mr. Carroll added that even it has to be moved by a foot. The son-in-law said that he couldn't move it because the septic tank was there. Mrs. Neveu believed that they should table the matter until they received more information with photos of where the septic location was unless they wanted the Board to vote on it now. Mr. Wright agreed with Mrs. Neveu and if they could get some photographs showing the location of the septic because it does show it in a different spot on the septic design from where it is hand sketched on a copy. Mr. Carroll believed it would be a quick measurement to be consistent. Mr. Wright believed that maybe it was just outside of the setback. Mrs. Rouleau-Cote explained that it was a 50 foot setback because it was a corner lot and also in the rural zone. Mr. Wright indicated that the house was grandfathered but that anything moving forward would need to comply with zoning. Mrs. Rouleau-Cote wanted the Board members to know that the house actually received a Variance to be within the setback. Mr. Stuart, Mr. DiPietro and the rest of the Board all agreed that they should table this matter until they receive further information requested above or that the applicant could have the Board vote on it tonight.

At this time, Mr. Wright stated that it was the consensus of the Board that even though they did not go into deliberation that his sense is that even though they discussed this openly that he did not believe there was much more that the Board could discuss. Even if they proceeded tonight they do not have enough information to make an informed decision and did not want to prejudge this case but it would likely result in the Board not able to approve something because the right of way is a big deal and setbacks and other things they can deal with but when you put structures within a right of way that is

there for the safety or access and you must stay out of there. The applicant commented that it was 13 feet and Mr. Wright explained that the pavement was not the right of way as it goes beyond that so its 50 feet which would be 25 feet from the center of the road. At this time it was discussed that the applicant would have to hire a surveyor to plot out the boundaries of the property.

Mr. Wright believed that the Board after discussions in order to make an informed decision would like to see specific distances with respect to the right of way and the shed and also some evidence of a certified plan that tells them where the septic is because it seems to be in a different location from the plan before them and where the applicant pointed out the septic system so they can determine whether there is any ability to move the shed even if it's a number of feet because it doesn't look like the whole structure is within the right of way. Mr. Wright explained to everyone present that, personally, without that information that he would have a difficult time granting this request tonight. Mr. Wright asked if others felt the same way and the Board members felt the same way.

At this time, Mr. Wright informed the applicant that the Board could vote on this application if they would like but that he was sensing that the Board would not want to grant this as a Board based on some question and lack of precision with respect to location relative to the right of way. Mr. Wright believed they had a bit invested in the shed already but that the Board needed to make a decision in accordance with our ordinance and what is in the best interest of the town, the abutters and the applicant. Mr. Wright stated that they understand why it's where it is and the importance for you but that has to be balanced against what it is that we are dealing with in terms of rights of way, setbacks and trying to figure out what is a fair and balanced approach to the request that the applicant is making. In order for the Board to do that, they will need to have some specific measurements which will probably require the applicant to get someone to go out there and give them a certified measurement from an independent party. Mr. Wright explained that they want to do it right the first time and the first time would have been to obtain a permit that did not happen and further explained that they were not the only ones that this has happened to but would like to move forward by doing it the right way and try and figure out what would be the best balance and approach which what appears to be a tight situation.

Mr. Wright reiterated that what they would suggest is to obtain something certified and also get some pictures to show where the septic is located but they cannot approve something that is in the right of way so we need to come up with something reasonable and this is not reasonable right now. Mrs. Herrick asked Mr. Wright if she needed to get the pictures to the Board before the next meeting. Mr. Wright stated that it would be nice along with the dimensions so that they would have some time before the next meeting and if they had any questions after they left the meeting to give Ms. Royce a call and she will describe to you what the Board is looking for. Everyone understood what had been said and the Board moved on to prepare a vote.

Mr. Crump wanted to clarify what he had stated earlier in the meeting that his concern was not concerned with the shed but with the use of the street being used as an access point back and forth across the curb which he believes will be used as a working access point. Mrs. Rouleau-Cote explained that if the shed is allowed to remain there and they would like to have a curb cut then they would have to apply for a driveway permit and meet the Town of Auburn's regulations with regards to a driveway curb cut. It does not require a variance from this Board but would require the necessary permit through her office. Mr. Wright informed the applicant that they have heard tonight what the Board was looking for and what would be required.

Mr. Wright informed everyone present that the Board moved the meeting date in May up a week to May 16th and informed the applicant that if for some reason they could not get all the information together by May 16th that they could request to be Tabled until the next meeting date in June. The applicant understood what Mr. Wright said and a motion was made.

Mr. DiPietro made a motion to TABLE the case until May 16th, 2017 for Case #17-07, 640 Pingree Hill Road, Tax Map 2, Lot 44-3, Mrs. Neveu seconded the motion. Mr. DiPietro voted to grant, Mr. Stuart voted to grant, Mr. Benson voted to grant, Mrs. Neveu voted to grant and Mr. Wright also voted to grant. All were in favor, the motion passed unanimously.

Case #17-07 has been Tabled until May 16th.

Case #17-10

John & Theresa Everett

381 Chester Turnpike – Map 11, Lot 7

Zoned Residential Two

Applicant is requesting a Variance to convert a garage to create a detached Accessory Dwelling Unit, a Variance to allow an Accessory Dwelling Unit to exceed 750 square feet, and a Special Exception to allow an Accessory Dwelling Unit in a Residential Two zone. (Article 2, Section 2.02(28)(a) and Article 4, Section 4.06(5)(i))

Mr. Everett read his application into the minutes for the record. Mr. Everett commented that it was an existing structure on the property today and that he would be able to assist his wife.

At this time, Mr. Wright had a few questions for the applicant and began by asking if he intended to convert the whole thing into an accessory dwelling unit. Mr. Everett said yes but then corrected himself to say that just the upstairs would be converted and the downstairs would remain a garage/shop. Mr. Wright asked about plumbing and electrical. Mr. Everett indicated that there was no plumbing currently but there was electricity. Mr. Everett stated that the upstairs was half finished as there were a couple of finished rooms up there. Mr. Wright asked how far the structure was from the main

house. Mr. Everett stated that it was about 200 feet. At this time, Mrs. Rouleau-Cote presented the Board members with a plot plan of the property showing the location of the two (2) structures. Mr. Stuart asked what the dimensions of the garage were. Mr. Everett did not know and Mrs. Rouleau-Cote pointed out that it states on the tax card that it is a 2 story garage and was 30 feet by 35 feet. Discussion ensued with regard to the rooms that were finished. Mr. Everett stated that it was one bedroom, living room and another room that is used as his office and he would like to have a kitchenette and a bathroom. Mr. Beaurivage believed it was just over 1,000 square feet. Mrs. Rouleau-Cote pointed out that the accessory dwelling unit would be over the 750 square foot which is the maximum size an accessory dwelling unit can be. Mr. DiPietro was concerned about the structure being detached. Mr. Carroll asked if a variance were to be granted for a detached ADU then permits would still have to be pulled for plumbing and the like correct. Mrs. Rouleau-Cote explained that he would have to have a septic design because it would become a second dwelling unit on one lot because it is so far detached from the existing home. A brief discussion ensued with regard to having its own septic design. Mr. Everett thought he could pump it from the original septic system but did not want to put in a new septic if he didn't have to.

Mr. DiPietro thought the lot could be subdivided. Mrs. Rouleau-Cote answered by saying that it did not meet the acreage requirement. He has the appropriate frontage but not the appropriate acreage.

Mr. Wright elevated Mr. Beaurivage to full voting member for this case.

Mr. Wright asked if there were any abutters or interested parties that had any questions or comments. None were noted. Mr. Wright asked Mrs. Rouleau-Cote if she wanted to make any comments on this application. Mrs. Rouleau-Cote stated that from the building file there was an inquiry back in 2008 about converting the existing garage to a second dwelling unit and another inquiry was made in 2014 and then the last call was in March 2017. Mrs. Rouleau-Cote explained that she received a call from Mr. Everett asking to convert the detached garage into a living area where he wanted to bring water to it and explained to him that the Town of Auburn's Zoning Ordinance does not permit an Accessory Dwelling Unit to be detached and requested to file a variance to see if he could do it. Mrs. Rouleau-Cote stated that the Auburn voters just re-established the ADU requirements this past March and they kept out the detached dwelling and it did reduce the square footage allowed down to 750 square feet from 950 square feet. Mrs. Rouleau-Cote pointed out that, if for some reason he is granted the detached Accessory Dwelling Unit that there would be significant planning that would have to go with the water supply, appropriate septic, appropriate life safety codes and she did advise the applicant that he should not be living in this structure at this time. During the conversation with the applicant that it sounded like he was living there and that's when a Notice of Violation was sent to the property advising him that he should not be living there until relief was granted and permits are in place and an occupancy permit was issued.

Mr. Stuart had a question for the applicant about the request for a Special Exception but that the section was not filled out. Mr. Everett didn't know that he needed a Special Exception. Mrs. Rouleau-Cote commented that he really didn't need a Special Exception because it was not an attached Accessory Dwelling Unit. Mr. Wright believed Mr. Everett was looking for a Variance for exceeding 750 square feet and for a detached Accessory Dwelling Unit. Mr. Carroll believed that was a big obstacle with it exceeding the 750 square feet and it being detached. Mr. Everett proposed to make it under 750 square feet if that would help. Mr. Carroll brought up the fact that Mr. DiPietro brought up the concern with it being detached which was more of a concern. Mr. Wright explained that in the past they have asked them to connect them by a carport of some sort to at least have them attached at some level. Mr. Everett mentioned that his neighbor had a legal apartment on the property right next door. Mrs. Rouleau-Cote noted that she would be happy to follow up on that. Mr. Wright believed there could be other facts involved there like pre-zoning because he has been on the Board for quite a while and did not recall anyone receiving special treatment.

Mr. Wright asked the Board members if there were any other questions or comments for the applicant at this time.

Mr. DiPietro made a motion to enter into deliberation, seconded by Mr. Beaurivage. A vote was taken and the Board entered into deliberations at 8:29pm.

Mr. DiPietro talked about the fact that this has been requested before and it turned out that they ended up attaching it and could not understand why it cannot be detached. Mr. DiPietro also did not recall ever approving a detached Accessory Dwelling Unit. Mr. Wright agreed on the last point and on the first point would have to say that the intent was not to create two (2) independent residential dwelling units on acreage that should be separate building lots and you could see where you could have a situation where you allowed it that there would be lots of different issues such as driveways and all sorts of things. Mr. Wright stated that he could not get past the detached part of it because the Board has never gone that far and our ordinance is pretty clear. Mr. Wright pointed out that if the structures were closer and that they could put a breezeway between the two structures connecting them then he could probably see it if it was connected in some way. Discussion ensued with regard to if the structures were connected in some way and if the square footage was reduced to coincide with our zoning ordinance that they would be more apt to approve it. Mrs. Neveu did not recall ever approving a detached accessory dwelling unit. Mr. Stuart believed they did approve one but that it was rescinded in a motion for rehearing and believed that it was not with the spirit of the ordinance. Mr. Benson pointed out that he agreed with Mr. Stuart and further added that it was a state ordinance that the town was following. Mr. Carroll was concerned about the detached portion of the structure and being that far away with no ability to do a carport to attach them is too much. Mr. Beaurivage believed it was contrary to public interest.

Mr. DiPietro made a motion to exit deliberation, seconded by Mr. Stuart. A vote was taken and the Board entered into deliberations at 8:38pm.

Mr. Wright asked if there were no further questions for the application that he would entertain a motion to vote on the application as submitted.

Mr. Stuart made a motion to vote on the application as presented for Case #17-10, 381 Chester Turnpike, Tax Map 11, Lot 7, Mr. Beaurivage seconded the motion. Mr. Beaurivage voted to deny, Mr. Benson voted to deny as it did not meet the hardship and the spirit of the zoning ordinance, Mr. Stuart voted to deny as it did not meet the public interest and the spirit of the zoning ordinance, Mr. DiPietro voted to deny as it did not meet the spirit of the ordinance, and Mr. Wright also voted to deny as it did not meet the public interest and the spirit of the ordinance. All voted to deny and therefore the request was DENIED.

Mr. Wright thanked the applicant and Mr. Everett exited the meeting.

Case #17-11

Jay Nixon

TMT Real Estate Development, LLC

792 Londonderry Turnpike, Building #C – Map 1, Lot 19C

Zoned Industrial

Applicant is requesting a Special Exception to allow a Commercial Service Establishment which is permitted by Special Exception in the Industrial zone. (Article 4, Section 4.09(3)(d))

Mr. Cal Salathe indicated that he was presenting on behalf of the applicant, Jay Nixon. Mr. Wright asked Mr. Salathe what his relationship was to Mr. Nixon. Mr. Salathe indicated that he has done some work for Mr. Nixon. Mr. Wright asked Ms. Royce if we had a letter giving Mr. Salathe permission to present on his behalf. Ms. Royce believed they had and check the file and we did not have a letter giving Mr. Salathe permission to present on Mr. Nixon's behalf. With that in mind, Mr. Wright asked Mr. Salathe to contact Mr. Nixon. Mr. Salathe did get a hold of Mr. Nixon via telephone and Mr. Nixon was placed on speaker phone where Mr. Wright asked Mr. Nixon if he gave Mr. Salathe permission to act on his behalf. Mr. Nixon said yes.

At this time, Mr. Salathe read the application into the minutes for the record. Mr. Wright asked Mr. Salathe what the Commercial Service Establishment was going to be. Mr. Salathe answered by saying that right now they would have an opportunity to look for a potential tenant that would fit within the requirements of the definition of a Commercial Service Establishment. Mr. Wright asked Mrs. Rouleau-Cote if they would then have to go through site plan with the Planning Board because they were a business. Mrs. Rouleau-Cote said yes.

Mrs. Neveu asked if there was a map. Ms. Royce presented the Board members with a plot plan that was in the file. At this time, the Board members reviewed the plot plan. Mr. Wright asked how long the building has been unoccupied. Both Mr. Salathe and Mrs. Rouleau-Cote answered by saying that it was used as cold storage previously. Mr. Salathe also stated that they just finished a renovation by adding a 15½ by 43 foot office space onto an existing shop building. Mr. Stuart asked if it was 42 by 47 feet. M. Salathe said yes that it was closer to 43 by 47. Mr. Wright pointed out that the Commercial Service Establishment that there were a lot of uses that were allowed with that and obviously if the Board grants the use that they would then have to go before the Planning Board.

Mr. Wright asked if there were any abutters present. None were noted. Mr. Wright asked Mrs. Rouleau-Cote if she had any comments to add. Mrs. Rouleau-Cote commented that this was actually a two (2) step process and pointed out that if the Board grants them the Special Exception that they have two (2) years to find a suitable tenant and then it would be subject to site plan review through the Planning Board. Mrs. Rouleau-Cote pointed out that tonight was just for the intended use of the property. Mr. Wright indicated that if they did not act upon it within two (2) years that they would then have to come back before the Board and ask for another Special Exception and that any relief granted by the Board would be conditioned upon site plan review by the Planning Board. Mr. Wright further explained to Mr. Salathe that when they do obtain a tenant that they check with Mrs. Rouleau-Cote to see if it falls within the definition of a Commercial Service Establishment. Mr. Salathe understood what Mr. Wright was saying.

Mr. Rolfe asked if this was the same lot that was before the Planning Board with the scaffolding company. Mr. Salathe said yes. Mr. Rolfe stated that Mr. Poltak gave a bunch of orders on what they should do. Mr. Salathe explained that at that time, they were looking at using the convertible land/space and now they are looking at just utilizing the lot itself. A brief discussion ensued with regard to the use of convertible land.

Mr. Wright asked the Board if there were any questions or comments. None were noted. Mr. Wright elevated Mr. Carroll to full voting status for this case. Mr. Wright also indicated that he would entertain a motion to vote on this case. At this time, Mr. DiPietro made a motion and Mr. Wright made a friendly amendment to add "subject to site plan review."

Mr. DiPietro made a motion to vote on the application as presented tonight and subject to site plan review through the Planning Board for Case #17-11, 792 Londonderry Turnpike, Building #C, Tax Map 1, Lot 19C, Mr. Stuart seconded the motion. Mr. Carroll voted to grant as it met the criteria, Mr. Benson voted to grant, Mr. Stuart voted to grant as it met the criteria, Mr. DiPietro voted to grant and, Mr. Wright also voted to grant as it met the four (4) factors for Special Exception. All were in favor, the motion passed unanimously.

Case #17-12
Wayne E. Kenney Builders, LLC
On Behalf of the Estate of Everett J. Harriman &
Diane J. Thibeault
11 Rockingham Road – Map 31, Lot 19
Zoned Commercial Two

Applicant is requesting a Special Exception to allow an 8 unit multi-family dwelling which is permitted by Special Exception in the Commercial Two zone. (Article 4, Section 4.07(5)(i))

Mr. Steven Kosusko, who was a land surveyor working with Mr. Kenney on this project and who was also present at tonight's hearing. Mr. Kosusko stated that he had a plan that he could put up for the Board to review if they so choose. Mr. DiPietro believed the more information the better. Mr. Benson wanted to clarify the request as being a request for Special Exception for a multi-family dwelling unit correct and not for an eight (8) unit multi-dwelling. The Board all agreed that the Board was just approving the concept and not the number of units. Mrs. Rouleau-Cote explained that it was for the multi-unit dwelling and not the number of units because the Planning Board may say that they can only fit six (6) units. The Board all agreed.

Mr. Kosusko read the application into the minutes for the record. Mr. Kosusko stated that the property has been vacant since Mr. Harriman passed away. Mr. Kosusko also mentioned that the multi-family dwelling is permitted by Special Exception within the Commercial Two (2) zone. Mr. Kosusko also pointed out that this would also have to go through the Planning Board for site plan review with regard to grading drainage and landscaping and other site development issues. Mr. Wright thanked Mr. Kosusko for his presentation and asked if there were any abutters present and if so if they would state their name and address for the record. Mr. George Mercier of 30 Rockingham Road had a question and concern regarding the septic system with having eight (8) families and how far they would be from the pond that's located on that piece of property. Mr. Mercier also asked about the eight (8) units and assumed there would be one family per unit. Mr. Kosusko said that was correct. Mr. Mercier also asked what the number of bedrooms would be. Mr. Kosusko stated that they would be 2 to 3 bedrooms each and explained that there was a 125 foot wetland buffer requirement that was required and it would be flagged and would not be anywhere near the wetland buffer. Mr. Kosusko further added that they were just going for the use as they did not want to spend their entire budget on an exact plan if they were not going to be able to get the use for the property. Mr. Wright understood what Mr. Kosusko was saying and asked if there were any further abutters. Mr. Dave Mercier of 42 Rockingham Road asked about the water for wells. Mr. Kenney spoke and added that he had built a couple of homes down the road on Rockingham Road and they did well with those two (2) homes with regard to water. Mr. Wright wanted to point out that both comments were very good comments and suggested that they go to the Planning Board when this is presented because those issues that the abutters raised were appropriate topics for the Planning Board in terms of what they could approve or restrictions.

Mrs. Marzloff believed there would be harm to the town because this area was zoned commercial to make maximum use of the property and we have very very little commercial or industrial land left in Auburn and if we keep granting residential use by Special Exception then we won't have any commercial land. Mr. Rolfe agreed with Mrs. Marzloff and pointed out that the land is located right off the highway and that the town has discussed it in the Master Plan because we have very little commercial and it was an ideal spot.

At this time, Mr. Kosusko commented that Mr. Scarpetti was present tonight who is the realtor that is trying to sell the property on behalf of the estate and would like to hear what he has to say. Mr. Scarpetti commented that they have been approached by landscape companies that were interested in the property and he has talked to Mrs. Rouleau-Cote many times about the landscapers and the fact that this would not bring in any tax dollars because they would be just storing mulch. Mr. Scarpetti went on to say that, this type of housing would allow the people of Auburn who are trying to downsize their existing homes and this would be more affordable for people who would like to stay in Auburn. Mrs. Marzloff asked what the market price for each unit would be. Mr. Scarpetti stated that they would be anywhere from \$300,000 to \$325,000.

At this time, Mr. Porter commented that they were looking at this for the Master Plan and that they are looking at having areas set aside for multi-dwelling houses or multi-dwelling units and believed that the commercial zone was prime for this type of units.

Mr. Mercier explained that he purchased his property in 1972 and built his house in 1978 which at that time it was zoned residential. Mr. Mercier stated that one year it was changed to Commercial and when he asked when they did that he was told that it was posted on the bulletin board at town hall. Mr. Mercier indicated that he does not go down to town hall to look at the bulletin board. Then they reverted it back to residential which is how they purchased their property in the first place. Mr. Mercier pointed out that there are a few fairly nice homes and it would be too bad to have a commercial business next to it. Mr. Mercier added that he was not necessarily against this type of building but was glad it was not a business and that he would be in favor of this. Mrs. Marzloff wanted to comment that Alliance Landscaping was located on Rockingham Road. Mr. Scarpetti explained that, when he developed Shea's Purchase that, that area was zoned Commercial Two and that was about 20 years ago.

Mr. Wright stated that he was hearing two (2) different issues and one was that we have a limited amount of space for commercial development and then the gentleman would rather it would be non-commercial because it would be more in the character of residential that he purchased both of which he understands which is why it is permitted by Special Exception. Mr. Wright commented that is there some reasonable approach to allow the property owner to do something that might not be permitted without relief in this zone and that is the balancing test which is the spirit of the ordinance.

At this time, Mrs. Rouleau-Cote commented that as the Code Enforcement Officer and also a resident of the town wanted to add that, obviously she has seen a lot of

proposals that have come through and that she has spoken with Mr. Scarpetti on different commercial uses of the property. Mrs. Rouleau-Cote wanted to say that, sometimes it is the fear that a landscaper may come in and the Planning Board sees that they just want to use the land which is not a taxable base so this is always a question that the Planning Board has to struggle with. Mrs. Rouleau-Cote further added that there has been some discussion with regard to workforce housing and did not believe we had a lot of different options than the single family home. Where this property is located is within the Commercial Two zone which means that the use is allowed by Special Exception of which could potentially be a way to provide a different type of housing opportunity other than the single family home. Mrs. Rouleau-Cote also wanted to inform the Board that the other multi-family homes that are located within the Town of Auburn are really outdated houses that have been converted which are more for rentals so this does pose a different opportunity to for the community to meet that need for a different type of housing.

Mr. Wright believed that we were not the only community struggling with workforce housing and doing something that is a bit non-traditional to address the changing times. Mr. Wright pointed out the location of Route 101 and the limited space to do something commercial which is all valid. Mr. Wright thanked everyone for their comments and acknowledged that they were all good comments. Mr. Wright stated that they were basically looking to see if two (2) or more could be approved and then they would have to go to the Planning Board to decide everything from how they look, bedrooms, parking and everything that goes along with it.

Mr. Wright asked the Board members if they had any further questions or comments or if the Board wanted to discuss this further. The Board did not have anything to add and Mr. Carroll believed that in the spirit of the ZBA it does meet the criteria as far as further discussion and whatever happens with the land and the utilization would have to go through Planning Board. Mr. Wright thought it was a good point and believed from his perspective that it appeared that the factors have been met and the balance will be for the Planning Board to look at how extensive the development will be or what is permitted given the idea that it will now not be commercial but will be residential.

Mr. Wright elevated Mrs. Neveu to full voting status for this case. Mr. Stuart made a motion and Mr. Benson made a friendly amendment to not include a number of units and to just say “multi-family dwelling unit.”

Mr. Stuart made a motion to vote on the application to allow a Multi-Family Dwelling Unit with the normal caveat that this will go before the Planning Board and the town for all the necessary approvals and permits, for Case #17-12, 11 Rockingham Road, Tax Map 31, Lot 19, Mr. DiPietro seconded the motion. Mrs. Neveu voted to grant, Mr. Benson voted to grant as it has met all four (4) factors, Mr. Stuart voted to grant as it has met all four (4) factors, Mr. DiPietro voted to grant and, Mr. Wright also voted to grant as it met all four (4) factors for Special Exception. All were in favor, the motion passed unanimously.

Mr. Wright informed the applicant that there was a 30 day appeal period but believed that they had quite a bit to go through before they would be starting.

At this time, Mr. Wright moved on to the approval of minutes for March 28, 2017.

Other Business

Mr. Wright indicated that they had a short window of time until the next Public Hearing and asked Ms. Royce if there were any cases. Ms. Royce indicated that there was one case before the Board for May along with those cases Tabled from this hearing tonight.

Minutes

Mr. DiPietro made a motion to accept the minutes of March 28, 2017 as written, seconded by Mr. Benson. All were in favor, and the motion passed with Mr. Beaurivage abstaining.

Adjourn

Mr. DiPietro made a motion to adjourn, seconded by Mr. Benson. All were in favor, the motion passed unanimously and the meeting stood adjourned at 9:23 p.m.

The next ZBA Hearing is scheduled for May 16, 2017 at 7:00 pm and will be held at the Town Hall, 47 Chester Road.