

**APPROVED MINUTES**  
**Town of Auburn**  
**Zoning Board of Adjustment**  
**October 26, 2021**

**Present:** Mike DiPietro, Chairman. Kevin Stuart, Vice-Chairman, Patrick Bergeron, Jill Dross & Shawn Matte, Members. Shannon Daoust & Steven Kimball, Alternate Members. Minutes were taken and prepared by Denise Royce.

**Also, Present:** Carrie Rouleau-Cote, Building Inspector/Code Enforcement. William Herman, Town Administrator. Attorney Michael Tierney & Attorney Autumn Kish.

**Absent:**

Mr. DiPietro called the meeting to order at 7:00 p.m.

Mr. DiPietro introduced himself and moved on to introduce each of the Board members and Alternate members of the Board. Mr. DiPietro explained the procedure for tonight's hearing whereby the applicant would read their case into the minutes and then he would ask if there were any questions from abutters and interested parties. Mr. DiPietro pointed out that, Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer was also present this evening.

Mr. DiPietro asked Ms. Royce to read the first case into the minutes for the record.

**Case #21-23**  
**Robert & Dorothy Tanguay**  
**31 Star Circle – Map 9, Lot 16-9**  
**Zoned Residential Two**

*Applicant is requesting a Variance from Article 4, Section 4.06(6) to allow an addition of a carport attached to the right side of the house extending over driveway by 30-feet in a Residential Two zone.*

Mr. DiPietro indicated that, by looking at the plot plan that the applicant is looking to be 20 feet from the property line where 30 feet is required. Mr. DiPietro asked the applicant to read his application into the minutes for the record. At this time, Mr. Tanguay read his application into the minutes. Mr. Tanguay also indicated that this would allow him to remove a 20 foot by 10-foot shelterlogic shed.

Mr. DiPietro asked Mr. Tanguay if he'd be looking to be 20 feet from the property line. Mr. Tanguay said yes. Mr. DiPietro asked the Board members if they had any questions for the applicant. Mr. Stuart asked if the proposed size of the addition would be 30 feet by 27 feet. Mr. Tanguay said yes. A brief discussion ensued with regard to the carport. Mr. Tanguay was certain that 20 feet was the amount of relief he would be looking for.

Mrs. Carrie Rouleau-Cote wanted to ask the applicant if he has flagged out the property line. Mr. Tanguay said yes that the granite marker was located by the telephone pole by the street. Mrs. Carrie Rouleau-Cote informed the applicant that, the plan that he was using was a septic plan and that it may or may not show the actual location of the house. Mr. Stuart wanted Mr. Tanguay to make sure that it was 20 feet that he needed because if he needed more that he would have to come back. A brief discussion ensued with regard to the relief that Mr. Tanguay was seeking.

Mr. DiPietro asked if there were any further questions. None were noted. Mr. DiPietro asked if there were any questions from abutters or interested parties. None were noted. Mr. DiPietro asked Mr. Tanguay if he needed more time to be sure of the distance that the carport would be, and they could Table this until the next meeting. Mr. Tanguay stated that he would be comfortable moving forward with the Board granting that the carport be no closer than 20-feet from the property line and that he would still have it flagged out. With that said, Mr. DiPietro stated that, he would entertain a motion to vote on the application as presented to be no closer than 20 feet from the property line where 30 feet is required.

***Mr. Stuart made a motion to vote on the application as submitted that the carport be no closer than 20-feet from the side property line where 30-feet is required and based on the plans as they are for Case #21-23, 31 Star Circle, Tax Map 9, Lot 16-9. Seconded by Mr. Bergeron. Ms. Dross voted to Grant, Mr. Matte voted to Grant finding all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. Bergeron voted to Grant finding all five (5) factors have been met, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.***

Mr. DiPietro informed the applicant of the 30-day appeal period.

Mr. DiPietro asked Ms. Royce to move on to the next case. Ms. Royce read the next case into the minutes for the record.

**Case #21-24  
Scott & Kathleen Swanson  
15 Orchard Street – Map 22, Lot 10  
Zoned Residential One**

*Applicant is requesting a Variance from Article 3, Section 3.05(4)(b) to allow the construction of a 9-foot by 6-foot addition to existing non-conforming structure on a non-conforming lot; and a Variance from Article 4, Section 4.06(6) to allow the structure to encroach within the setbacks and increase lot coverage in a Residential One zone.*

Mr. Swanson read his case into the minutes for the record. Mr. Swanson added that, they just wanted to square off the back of the house. At this time, the Board reviewed the

sketch of the home and the location of the proposed addition. The addition was a 9-foot by 6-foot addition for a total of 54 square feet.

Mr. DiPietro asked the Board members if they had any questions for the applicant. Mr. DiPietro asked Mr. Swanson how far from the property line he would be. Mr. Swanson stated that, it would be 14 feet from the property line and would be in line with the rest of the house. A brief discussion ensued with regard to the small addition.

Mr. Bergeron asked Mrs. Rouleau-Cote if she had anything to add. Mrs. Rouleau-Cote informed the Board that, the applicant began construction without benefit of a permit. Mrs. Rouleau-Cote also added that, Orchard Street is a very tight neighborhood with city water. Mr. Stuart asked Mrs. Rouleau-Cote if he would be over lot coverage. Mrs. Rouleau-Cote calculated out what the overage would be for lot coverage as he was adding 54 square feet to the lot coverage. A brief discussion ensued with regard to the existing square footage of the house and the additional 54 square footage. Mrs. Rouleau-Cote informed the Board that, the calculation for lot coverage is currently at 15.2% lot coverage and it would increase to 15.66% lot coverage with the additional 54 square footage.

Mr. DiPietro believed it would be two (2) Variances that would be required. Mr. Stuart believed it would be for a side setback and to exceed lot coverage. Mr. DiPietro asked if there were any further questions. None were noted. Mr. DiPietro asked if there were any abutters present. None were noted. With that said, Mr. DiPietro indicated that he would entertain a motion to vote on this application as presented.

**Mr. Stuart made a motion to vote on the application as presented for the side setback to be no closer than 14-feet for Case #21-24, 15 Orchard Street, Tax Map 22, Lot 10. Seconded by Mr. Bergeron. Mr. Bergeron voted to grant finding all five (5) factors have been met, Ms. Dross voted to grant finding all five (5) factors have been met, Mr. Matte voted to grant finding all five (5) factors have been met, Mr. Stuart voted to grant finding all five (5) factors have been met, and Mr. DiPietro also voted to grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.**

The Board rounded the percentage to 15.7% to allow a little wiggle room for the applicant.

**Mr. Stuart made a motion to vote on the application as presented for the lot coverage to be at 15.7% for the 54 square foot addition for Case #21-24, 15 Orchard Street, Tax Map 22, Lot 10. Seconded by Mr. Bergeron. Ms. Dross voted to grant finding all five (5) factors have been met, Mr. Matte voted to grant finding all five (5) factors have been met on a non-conforming lot, Mr. Stuart voted to grant finding all five (5) factors have been met, Mr. Bergeron voted to grant finding all five (5) factors have been met, and Mr. DiPietro also voted to grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.**

Mr. DiPietro informed the applicant that he was free to continue and that he should secure a permit as well. Mr. DiPietro also informed the applicant of the 30-day appeal period and that he had 2 years to complete construction. Mr. Swanson thanked the Board for their time and exited the meeting.

Mr. DiPietro asked Ms. Royce to move on to the next case. Ms. Royce read the next case into the minutes for the record.

**Case #21-25**  
**Gary B. Michaud, Trustee**  
**145 Appletree Road – Map 17, Lot 45**  
**Zoned Residential One**

*Applicant is requesting an Appeal of Administrative Officer's Decision (Board of Selectmen) denying Application for Restoration of Involuntarily Merged Lots Pursuant to RSA 674:39-aa on August 30, 2021.*

Attorney Panciocco presented on behalf of the applicant and began by passing out a Statute regarding the Regulation of Subdivision of Land which was RSA 674:39-aa – Restoration of Involuntarily Merged Lots to guide the Board. At this time, Attorney Panciocco went through the Administrative Appeal and the alleged Undisputed Facts with the Board. (A copy of which can be found in the ZBA file dated October 26, 2021). Attorney Panciocco went through each section individually from 1961 when the original plan was recorded and when the two (2) lots were purchased by Mr. John Korsack and Mr. Michael Korsack on May 15, 1962. Attorney Panciocco stated that, the deed refers to the “lots” as plural. In 1976, the Korsacks submitted a Variance application to the Town of Auburn requesting relief to build one house on the two (2) lots. Attorney Panciocco found the Zoning Ordinance at the Registry of Deeds for the year 1967. Attorney Panciocco referenced Section 674:39-aa to allow owners to restore their lots to premerger status. Attorney Panciocco believed that the Korsacks did nothing to merge them and presented a 1969 tax map allegedly showing the two (2) lots had been merged for tax purposes. Attorney Panciocco went on to state that, the Korsacks wanted to sell the property and went before the Zoning Board of Adjustment to seek a Variance and it was granted. They applied for a building permit, and they applied for septic approval and the house was built and completed in 1977. Attorney Panciocco pointed out that, when they built the house that they built it only on Lot #56 and left #55 heavily wooded as it was in 1961.

Attorney Panciocco fast forwarded to today where she believes her client owns two (2) separate lots noted in his deed, but the tax maps show a single lot. Attorney Panciocco believed the lots were involuntarily merged by the town. Attorney Panciocco read a section of the Statute where it states, *“the municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.”* Attorney Panciocco stated that, Eric Mitchell submitted his application to restore the lots to break off Lot #55 as shown and did so on April 8, 2021. Mr. Mitchell presented the map with photos and

was heard. After receiving a memorandum from the town which Code Enforcement prepared, Attorney Panciocco stated that, she believes that's not the standard and it is presumed the town involuntarily merged the lots and unless the town can prove that the owner had it merged or abandoned the lot line by an overt action which is called merger by conduct. Attorney Panciocco states that the Statute requires the town to show there was conduct by the owner. They believe the BOS decision should be reversed and that her clients lot line should be restored to what it was on the Sun Valley plan and there is no reason it can't.

Mr. DiPietro commented that, what he is hearing is the applicant is alleging that the town involuntarily merged these lots, and he is also hearing that Code Enforcement and the Board of Selectmen believed the previous owners along the line acted to merge in the Variance and Building Permit. Mr. DiPietro asked the other Board members for comments. Mr. Stuart commented that, he would also like to hear the town's presentation.

Mrs. Rouleau-Cote stated that, she is presenting on behalf of the BOS and commented on her Zoning Determination. At this time, Mr. LeClair chimed in and wanted to comment before Mrs. Rouleau-Cote began her presentation. Mr. LeClair explained that their ruling on this was based on two (2) facts and pointed out the Variance Application and the Building Permit which listed a single lot with 1½ acres in totality and not mentioning two (2) lots which became a factor in denying the application. At this time, Mr. LeClair turned the meeting over to Mrs. Rouleau-Cote. Mrs. Rouleau-Cote began by saying that, yes part of her Zoning Determination referenced a deed that was also described by Attorney Panciocco and in that deed it does reference the two (2) lots however it does reference them as a total square footage of 54,150 square feet. It does describe it as one total parcel in square footage and it also states that the two (2) lots are conveyed together which indicates one tract of land. The subsequent owners in 1976 applied to the ZBA for a Variance to obtain a Building Permit to build one house on the site. At that point she felt as though they made an action in portraying this lot to be one lot and the septic design was also submitted to NHDES for subsurface approval for the home and that plan and approval also combines the two (2) lots together for a total of 54,150 square feet. Mrs. Rouleau-Cote also explained that there was a copy of a 1962 tax warrant that taxes the two (2) lots as one lot. Even back in 1962, the town was recognizing it as one lot. Mrs. Rouleau-Cote went on to say that the Zoning Ordinance in 1976 would have required them to have 2 acres and not one acre of land when they came before them to build the home. Mrs. Rouleau-Cote does believe there is evidence that a previous owner did take an action both through the ZBA and Building Permit as well as the Septic Design that they were treating the two (2) lots as one lot in order for them to build a home. Mrs. Rouleau-Cote pointed out that, by separating the lots that both lots will become more non-conforming, and that septic lot loading would be affected. Mr. DiPietro thanked Mrs. Rouleau-Cote and moved on to ask for abutters.

Mr. DiPietro asked if there were any abutters or interested parties who wished to speak. Mr. Steve Appleby of 128 Appletree Road began by saying that they moved in approximately 10 months ago and they moved here because they were attracted by the area which is surrounded by woods. Mr. Appleby asked how big the second lot was.

Attorney Panciocco stated that it was a half-acre lot. Mr. Appleby stated that they were approached by a developer about subdividing their lot and if they did that it would be a half-acre lot which is very small.

Mr. Kimball asked Attorney Panciocco what size the lot requirements were when these lots were created. Attorney Panciocco indicated that there was no zoning and that a Zoning Ordinance was not created until 1967. A discussion ensued regarding the size of the lots and the zoning at the time in question. Mr. Kimball asked Mrs. Rouleau-Cote what the acreage requirement was when the previous owner came to request a Building Permit. Mrs. Rouleau-Cote stated that, in 1973 the acreage requirement was 2 acres and it also required that the minimum lot size for septic systems had changed from one acre to 2 acres. Mr. Kimball understood it to be that the previous owner came before the ZBA to request a Variance to build one house because they could not have built on either lot without a Variance. Attorney Panciocco did not believe that was the case because the ordinance says that you can build on an existing lot, a single-family home, whether it was a half-acre lot, a third of an acre or a quarter of an acre and referenced in 1967, Section 3.02. Mr. Kimball noted that the ordinance had changed. Attorney Panciocco did not believe it made a difference because the 1967 Ordinance indicated that, "if you have an existing lot of record, you can build on them" and there was no need for a Variance. Discussion ensued with regard to the previous Zoning Ordinance. Attorney Panciocco believed that if you had a grandfathered lot, you could still build on it. Mr. Kimball asked if they applied for the building permit in 1967. Attorney Panciocco said no they did not, but it did not matter. Attorney Panciocco also believed that if the lot was vacant today that they could still apply for a building permit because it was a lot of record. They would have to meet some of the setbacks and some of the wetland setbacks, but it was still a lot of record. Mr. Kimball believed that the 1967 Zoning Ordinance was no longer relevant. A discussion ensued with regard to the Zoning Ordinance. Attorney Panciocco indicated that, if you can meet the setbacks that RSA 674:19 (*Applicability of Zoning Ordinance*) the State Statute protects you first and then it filters down into the ordinance, Section 3.02 with the 1967 Zoning Ordinance. RSA 31:62 in 1967 and it was recodified, so it protects the grandfathered rights. Attorney Panciocco reiterated her belief that, the burden is on the town to prove they didn't do it, but they had to have the consent of the owner to erase that lot line. Mr. Bergeron believed that, when they went for the Variance and the Building Permit wouldn't that be a voluntary action. Attorney Panciocco explained her speculation that Mr. Korsack was the first owner and he lived out of town, and he probably assumed the town could do what they did. Attorney Panciocco guessed that the Davis' who purchased the property from the Korsacks' and built the house just looked at the tax map may have believed that was what they had and filled out the building permit. Mr. Stuart reiterated that the Selectmen made their decision on the fact that they went for a Variance and a Building Permit. Attorney Panciocco believed that the Korsacks wanted to sell the property and thought it already happened because they did it prior to 1976. Mr. Kimball asked about the deed and that if it was common practice to list each tract separately in the deed. Attorney Panciocco commented that, at times yes but they are described as lots on a plan with one perimeter description. Mr. Kimball pointed out that, it clearly states that they are conveying 54,150 square feet and describes the perimeter and not the line that separates the two (2) lots and believed the lots were conveyed as a

single lot from the beginning. Mrs. Daoust stated that, if the town merged these lots, why is this the only lot that they would have merged because there were no other lots shown to be merged at all. Again, Mrs. Daoust reiterated that, this particular map does not show any other merged lots except the one that we are talking about tonight. Attorney Panciocco could not explain why but she believes the burden is on the town to show a merger by a former owner, and she does not see that.

Mr. Mitchell wanted to speak about two (2) things, and one was about the deed description and although it does describe the whole 54,150 square feet it does say in the paragraph before that “on the Easterly side of another proposed road and being shown as Lots #55 and #56 on said plan bounded and described as follows.” So, one talks about the two (2) lots and describes it as one continuous piece around it but then in the next paragraph states “Be said contents and any and all of said measurements more or less and meaning and intending to convey and hereby conveying all and singular the granted premises however otherwise the same may be measured bounded or described.” Mr. Mitchell believed it was said that these are Lots #55 and #56 and here’s the description of everything whether it is singular or whatever the measurements may be. Mr. Mitchell believed there were two (2) lots and merged in 1969 as shown on the tax map. Mr. Mitchell believed that the Variance was requested and the Building Permit showing the 1½ acres not because it was one lot but because that was what the tax map showed. Mr. Mitchell thanked the Board for their time.

Mr. DiPietro commented that, if an owner could leverage their chances at the ZBA with a Building Permit by stating they had a bigger lot that they might do that. Mr. DiPietro stated that, does that conduct rise to a merger by the owner. The conduct of using the bigger piece of land to get what you want. Mr. Mitchell believed that landowners do not know the specifics and if they receive a tax bill from the town, they believe it to be accurate based on what the tax map says. Mr. Mitchell believed the Statute was written to take care of some specific things that were inadvertently done.

Mr. DiPietro asked the Board members what they wanted to do and if they wanted to go into deliberation.

Mr. Michaud commented that there were a lot of lots within Sun Valley that were mostly half acre lots and that there were probably over 100 lots. Mr. Michaud indicated that he was going to split that lot off.

Mr. Stuart asked about the language in the deed. Attorney Panciocco stated that, the language in the deed throughout the deeds were basically repeated through the chain. Mr. Stuart thanked Attorney Panciocco for her comment.

**Mr. Bergeron made a motion to enter into deliberation. Seconded by Mr. Stuart. The Board members entered deliberation at 8:22pm.**

Discussion ensued with regard to splitting up the lots and now having a smaller lot and the fact that Variances would be needed in order to build on a small lot. Mr. DiPietro's question that he had is the conduct of the owners such as going for a Variance and Building Permit in the 1970's rises to the level of merger by conduct which is what they have to decide. Mr. Bergeron commented that nobody questioned it all that time. A brief discussion ensued with regard to previous owners knew when they purchased it that they purchased two (2) lots and they treated it as one lot because they only wanted to build one house on the total 54,150 square feet when they applied for a Variance in 1976. Mrs. Daoust also believed that that was how they put it out for sale was as a lot and not lots. Mrs. Daoust also pointed out the 1969 tax map does not appear to show whether or not it was an involuntarily merged lot as there were no other lots that were merged together. Mr. Kimball commented that, in their application for Variance that they asked to build one house so they can sell it and when they sold that land, they didn't sell Lot #56 with the house they sold the entire tract with the one house that they had asked for was additional facts supporting merger by conduct. Mr. DiPietro stated that, asking for a building permit to build a house is an action or conduct using the total of the two (2) lots. Mr. Bergeron mentioned the same thing that Mrs. Daoust commented on above that, if the town were merging all jointly owned lots that you would think that there would be others shown on the 1969 tax map and there aren't any other lots shown as being merged. A brief discussion ensued with regard to merging. Mr. Kimball believed the previous owners went along with the lots being merged together. Mr. DiPietro asked if that was conduct enough. Mr. Stuart added, is there proof evidence or written evidence of whether the owners gave their consent, and, in his mind, it was pretty strong evidence consent with the permit to build one house on this site and then it gives the total acreage. Mr. Stuart believes it was their intent to go with one piece of property at that point and build one house. Mr. Daoust said that there is evidence that the owner intended to merge those lots because they used the totality of the lot to apply for a permit. Ms. Dross added that, they were paying taxes on one lot and not two (2) lots to her seemed like it proves it was a merged lot. Mr. Matte believed that prior owners merged the lots.

**Mr. Stuart made a motion to exit out of deliberation. Seconded by Mr. Bergeron. The Board members exited out of deliberation at 8:33pm.**

Mr. DiPietro opened it up for any questions or clarification. Mrs. Rouleau-Cote wanted to comment that, as far as the ordinance goes, in the mid 1980's the Town of Auburn did take action on certain properties and did four (4) mergers of lots that were non-conforming in the same ownership and there is evidence of that upstairs and it is very clear when that happens on our tax cards that they were involuntarily merged. Mrs. Rouleau-Cote pointed out that there was no evidence where the town took an action as there are in other cases that we do come across.

Attorney Panciocco went over talking about the Statute pertaining to involuntary merger/involuntarily merged and merged by municipal action, zoning, assessing, or taxing without the consent of the owner. Attorney Panciocco pointed out Section 2(b) where it says that, "the municipality shall have the burden of proof to show that any previous owner voluntarily merged' which means the paper under 674:39-aa II it says that "*Lots or parcels*

*that were involuntarily merged prior to September 18, 2010 by a city, town, county, village district, or any other municipality, shall at the request of the owner, be restored to their premerger status.”* Attorney Panciocco indicated that she believes there is no evidence of consent from the town and the statute says “SHALL” and there is no discretion, no reading between the lines, no questioning intent or the motive of the people that may have owned these lots. Attorney Panciocco added her belief that, this putting them back the way they were supposed to be as protected by the NH Constitution and NH Law. Attorney Panciocco thanked the Board and the discussion ended.

Mr. DiPietro indicated that, he would entertain a motion to move on this Appeal and he would say that it would be a vote to uphold the Board of Selectmen’s Decision or to overturn the Board of Selectmen’s Decision.

***Mr. Matte made a motion to move on this Appeal to either uphold the Board of Selectmen’s Decision or to overturn the Board of Selectmen’s Decision for Case #21-25, 145 Appletree Road, Tax Map 17, Lot 45. Seconded by Mr. Bergeron. Ms. Dross voted to uphold the BOS Decision, Mr. Matte voted to uphold the BOS Decision, Mr. Stuart voted to uphold the BOS Decision, Mr. Bergeron voted to uphold the BOS Decision, and Mr. DiPietro also voted to uphold the BOS Decision. A vote was taken and, all were in favor to uphold the BOS Decision and therefore the APPEAL is DENIED.***

Mr. DiPietro informed the applicant that it was a unanimous decision and pointed out the appeal period. The discussion ended and the Board moved on to the next case on the agenda.

Mr. DiPietro asked Ms. Royce to move on to the next case and indicated that the following four (4) cases all pertain to 22 Nolls Farm Road appealing the Administrative Decision of the Building Inspector/Code Enforcement Officer and asked all four (4) applicants that they are four (4) separate cases, but we would like to hear them all together but that the Board would make four (4) different motions. The applicants all agreed to proceed together. Ms. Royce read the next case into the minutes for the record.

**Case #21-26  
Joseph Girard  
Re: Lynn Pelligrino  
22 Noll’s Farm Road – Map 8, Lot 8-13  
Zoned Residential One**

*Applicant is requesting an Appeal Administrative Officer’s Decision (Building Inspector/Code Enforcement Officer) for allowing horses in a Residential One zone.*

**Case #21-27**

**Patricia Franklin, Roberta & Mark Jordan & Wan Ping Ruan**

**Re: Lynn Pelligrino**

**22 Noll's Farm Road – Map 8, Lot 8-13**

**Zoned Residential One**

*Applicant is requesting an Appeal Administrative Officer's Decision (Building Inspector/Code Enforcement Officer) for incorrectly stating that the Hydric B wetland is non-jurisdictional in a Residential One zone.*

**Case #21-28**

**Brian & Kathryn Hybsch**

**Re: Lynn Pelligrino**

**22 Noll's Farm Road – Map 8, Lot 8-13**

**Zoned Residential One**

*Applicant is requesting an Appeal Administrative Officer's Decision (Building Inspector/Code Enforcement Officer) regarding the Hydric B wetlands and buffer zone in a Residential One zone.*

**Case #21-29**

**Gerald & Verna Nye**

**Re: Lynn Pelligrino**

**22 Noll's Farm Road – Map 8, Lot 8-13**

**Zoned Residential One**

*Applicant is requesting an Appeal Administrative Officer's Decision (Building Inspector/Code Enforcement Officer) regarding the Hydric B wetlands, buffer zone and there is not 1 dry acre for horses in a Residential One zone.*

At this time, Mr. DiPietro asked Ms. Royce to read all four (4) cases into the minutes for the record. Mr. DiPietro asked Ms. Franklin to begin or whoever wanted to begin the presentation regarding the Appeals before the Board tonight. Ms. Franklin began by passing out packages to the Board members to review. Ms. Franklin stated that she was here tonight with Roberta and Mark Jordan and Wan Ping Ruan. Ms. Franklin pointed out on a plan Note #12 which says, "Hydric B disturbances for the road are non-jurisdictional wetlands and do not require wetland board approval." Ms. Franklin stated that "Mr. and Mrs. Gerald Nye and I met with Mrs. Rouleau-Cote and that Mrs. Rouleau-Cote insisted that Note #12 pertained to the whole lot." Ms. Franklin stated that "she had a conversation with Ms. Cornett where she stated that she walked the entire property and there was not a dry acre, and the land was not suitable for horses." Ms. Franklin pointed out on photos that she distributed to the Board members what they were looking at (Packages were removed from the Board Members by the applicant and refused to leave a package with the Land Use Administrator which would have been placed in the file).

Ms. Franklin also indicated that “she hired a wetland scientist who did not walk the property in question without having permission from the property owner, but the wetland scientist walked full perimeter, observed the subject property and identified definite hydrology of wetlands, plant life of wet meadow, obligate plants.” Ms. Franklin stated that her belief is, the Zoning Determination prepared by Mrs. Rouleau-Cote, Building Inspector/Code Enforcement Officer’s recommendations incorrectly refers to the AZO for conditional use permits, variances, etc.... Ms. Franklin read her prepared statement before the Board Members (a copy of which can be found in the file dated October 26, 2021). Ms. Franklin states that, the property located at 22 Nolls Farms Road is all wetlands and cannot be used for Agricultural Use. According to Ms. Franklin she feels that this is a jurisdictional wetland and should be treated as such. Ms. Franklin talked about a 75-foot buffer that does not include horses. Mr. Matte asked about the buffer and if it included the one acre of dry land. Ms. Franklin indicated that, the Board has three (3) people before them that state that it is not dry land and that it was too wet for horses and is dangerous. Ms. Franklin talked about the wet meadow which is now a pile of mud piles of hay and that the fresh clean breeze is gone, and the smell of manure is terrible, and the flies are bad, and she can’t have friends over. Ms. Franklin added that, none of the neighbors involved in this appeal would have purchased property here knowing there were horses there. In conclusion, Ms. Franklin commented that, if the Board grants this that it would be a substantial injustice and would diminish the surrounding property values.

Mr. DiPietro asked if Ms. Pellegrino wanted to address any of these concerns that she just heard. Ms. Pellegrino indicated that she had her wetland scientist present tonight. Mr. Alden Beauchemin began by saying that he had not seen the letter from the wetland scientist that Ms. Franklin hired and would like to see a copy. Mr. DiPietro gave Mr. Beauchemin a copy of the letter for his review. Mr. Beauchemin began by saying that he is very familiar with this property and that he goes back to the very beginning which he was involved in the subdivision of this property and that he is a land consultant as well as a septic designer and certified as a Wetland Scientist in the State of New Hampshire. Mr. Beauchemin commented that, he is quite familiar on what is wetlands and what is jurisdictional. Mr. Beauchemin stated that, the original map that was done is very accurate and that it’s poorly drained soils. Regardless of whether the Hydric B is jurisdictional or not does not matter because at the end of the day there is over an acre of dry land and one acre does not include the buffer. Mr. Beauchemin went on to say, in reading the ordinance it does include the buffer and he did calculate the dry areas and there was a good 1.25 acres of dry land. Mr. Beauchemin commented that, the buffer area does have restrictions for building, but it does not mean she can’t use it for the horses. At the end of the day, she does have and does meet the ordinance and if she wants to keep the horses there, she will have to come up with a more detailed plan which will include proper storage of manure and fencing for the horses. Mr. Beauchemin stated that, he was very impressed when he went out there because the current owner even though she has horses in this area that she is very protective of the wetlands itself and the horses have not been pastured in the area that may be called jurisdictional. In conclusion, Mr. Beauchemin stated that, there are no violations here and asked the Board if they had any questions.

Mr. Stuart indicated that, the Board has heard testimony that the horses were in a wet area and asked Mr. Beauchemin for his comment. Mr. Beauchemin stated that, he was really blown away and again this was the first time he was seeing this report and was unaware that some other consultant had actually gone out there and supposedly made reference to the entire neighborhood being wetlands. Mr. Beauchemin stated that he would read the letter in more detail and turned it over to the abutters for comment.

Mr. DiPietro asked Mrs. Rouleau-Cote for any input. Mrs. Rouleau-Cote began by saying that, she did meet with Ms. Franklin, Mr. and Mrs. Nye and at that point it was at the beginning at the investigating stages. Mrs. Rouleau-Cote also stated that, she has never made claims that this was a jurisdictional wetland or non-jurisdictional and even in her Zoning Determination letter stated that a Certified Wetland Scientist should re-evaluate the entire property and prepare a plan to show what areas may or may not be jurisdictional. Mrs. Rouleau-Cote pointed out that, just because a soil is Hydric B doesn't necessarily make it jurisdictional. She has been on the site with Ms. Cornett, Animal Control Officer and they have met with the horse owner and went over the welfare of the horses and it was true that the horses needed shelter by November 1<sup>st</sup> and that Ms. Cornett pointed that out to the property owner so hence she has currently converted the existing garage to a shelter for the horses. With regards to her last visit, she took some photos that were distributed in an e-mail to the Board members, and they basically show where the animals are being grazed currently and what the garage shelter looks like and where the manure is being managed at this point which is in a trailer that is hauled off-site. Mrs. Rouleau-Cote also mentioned the grass vegetation that is in the hydric area and the culvert that goes under Nolls Farm Road and what the discharge is on the other side which currently had no flow. Mrs. Rouleau-Cote stated that it was more of a stormwater flow as opposed to a free-flowing stream but basically her Zoning Determination pointed out a pathway for the property owner for what she needed to do if she were to make any improvements to the property relative to the horses. Mrs. Rouleau-Cote still believes that the horses are being pastured outside of the Hydric soils and believes that there is more than an acre available to the horses. Mrs. Rouleau-Cote pointed out that, the homeowner knows that, whatever information we can get with regards to an analysis of the wetlands and the limitations of what type of wetlands they are and what type of permits may be necessary whether it's at the town level or the state level for any type of crossing of those wetland areas that she has to go through that process if there even is a requirement of them. As is pointed out on the subdivision plan on Note #12 when the culvert was installed under Nolls Farm Road it did not qualify because it was considered small enough and it was a non-jurisdictional type of wetland. So, it did not require wetlands permit from NHDES for the road crossing.

Mr. Stuart asked Mrs. Rouleau-Cote that the status of this at the moment is that the horses are there and asked if a Zoning Determination was done before the horses were there or after the horses were there. Mrs. Rouleau-Cote commented that, the property owner came in before she purchased the property and did inquire about the property and gave her a copy of the plot plan and identified the areas where she was restricted to where buildings could not be placed. We went through the Animal Husbandry as well. A

discussion ensued with regard to what needed to be done if she wanted to keep horses on the property of which was mentioned above. Mrs. Rouleau-Cote mentioned her Zoning Determination and that if this does qualify as a wetland under our ordinance that she would still consider it a Level 3 just because of the Functional Analysis that she read from 1994. Mrs. Rouleau-Cote talked about a Level One wetland which would be a highly functioning significant wetland such as Lake Massabesic or an open body of water. Mrs. Rouleau-Cote talked about the different things that would be required for the type of crossing that would be needed which could possibly be done by using drainage tiles or gravel footpath or if it would require a culvert. Discussion ensued with regard to one acre of dry and if the Hydric soils was part of the dry and it was not. Mrs. Rouleau-Cote believed after hearing testimony tonight that there was an acre and a half in one area and an acre and a quarter by the house that was dry. Mr. Stuart asked if the horses were in the wet area after hearing testimony tonight. Mrs. Rouleau-Cote informed the Board that the horses were not in the Hydric B area and were pastured outside of the Hydric B area and there are no main tributaries that this property is attached to.

Mr. Hybsch of 25 Nolls Farm Road stated that he has been there for 25 years and that the water does flow through the culvert in his yard and flows 365 days a year and there's an easement on his property and it flows through his property and that a lot of the neighbors have Hydric B soils on their properties. At this time, the Board reviewed the photos presented by Ms. Franklin and noted the location of the Hybsch property on the plan. Mr. Hybsch read the definition of a buffer zone in the Zoning Ordinance definitions. Mr. Hybsch commented that the property is wet and should not have horses on it.

Ms. Franklin commented that the horses were pastured within the Hydric B area and that she has no regard for the wetlands, and they are being dried up with the hay and trampled on by the horses.

Ms. McCallister who is the daughter of Gerald and Verna Nye read a statement on behalf of her mother and father (a copy of which can be found in the file). In conclusion, Mr. and Mrs. Nye ask that the Board re-consider the Zoning Determination for 22 Nolls Farm Road.

Mr. Jordan of 36 Nolls Farm Road had a few questions and began by asking how you can have a neighborhood such as this and turn a garage into three (3) horse stalls and asked how much room do horses need inside that garage because he understood it to be 14 feet by 20 feet for each horse. Mr. Jordan stated that, he would not have purchased his house if he knew this, and he is also worried about property values. Mr. Jordan added that, it does not meet the criteria of the neighborhood and they can talk about the Hydric B soils which mean nothing to him but is worried about the water. Mr. Jordan also wanted to ask Mrs. Rouleau-Cote if there was any type of relationship whether personal or professional between her and her family members to the property owner, Lynn Pellegrino and was not blaming them but blaming Mrs. Rouleau-Cote for allowing this to go so far. Mr. Jordan could not understand how Mrs. Rouleau-Cote could determine that, that area is dry and can't fathom what the smell is going to be like. Mr. Jordan could not understand how you could put horses in a garage attached to the house.

Mrs. Jordan believed it would impact property values and did not believe that the use was in tuned with the neighborhood.

Mr. Martin of 9 Nolls Farm Road commented that there was not runoff through the culvert 365 days of the year that it was only for rainwater and there is no current stream flowing through there. Mr. Martin also commented that there were horses throughout the area. Mr. Martin also mentioned that the field was cut down twice a year for as long as he's been there.

Ms. Franklin reiterated that it's a wet meadow and you can cut it seasonally and that the water table is very close to the surface.

Mrs. Trainer of 17 Nolls Farm Road also stated that the runoff is weather related and that this summer was the wettest summer ever. Mrs. Trainer loves seeing the horses and commented that they were beautiful and enjoys seeing them out there playing and running together. Mrs. Trainer also pointed out that we are in Auburn.

Mr. Girard of 45 Nolls Farm Road which is the cul de sac and commented that the whole area is wet year-round and stated that the field is wet.

Mr. Amsden of 51 Nolls Farm Road commented that he does real estate and explained that real estate values do go down because of the horses in the area.

Mrs. McCallister mentioned that the horses that were there were pastured on dry land. Mrs. McCallister also commented that, the wetland scientist walked the abutting properties in the area and could see what the soils were.

Mr. Ping Ruan of 167 Bunker Hill Road commented that they are concerned because their well is pretty close to the property line and their backyard is directly abutting the horses and the unbearable smell and flies and mentioned that the wetland scientist that Ms. Franklin hired who stated that it was fully jurisdictional, and the dry acre is where the house is and not where the horses are. Mr. Stuart asked how close the horses were to the property. Mr. Ping Ruan stated that their backyard is right there and that they are worried about the prices of their house because they are right next to them, and the smell and they're scared to open their windows. Mr. Stuart asked if the smell was every day or just in the summer and it was noted that it was just in the summer.

Mr. DiPietro asked Ms. Pellegrino if she was willing to work with the wetlands scientist to practice the best management practices. Ms. Pellegrino stated that she is willing to do everything, and anything needed to make things right and that she has contacted the UNH Cooperative Extension to put together a plan. Ms. Pellegrino also stated that, she did not move into the neighborhood to wreck it and if she could afford a house with a barn, she would have bought that however she picked the house without a barn and open land. Ms. Pellegrino stated that, she has had horses for over 35 years, and she uses stuff for flies and explained how she disposes of the manure. Ms. Pellegrino pointed out that she

did not want to put her horses in the garage but she had no choice because she had to get shelter for them by November 1<sup>st</sup> so that was what she did. She's just trying to figure it all out. Mrs. Daoust asked Ms. Pellegrino what size stalls she was able to create. Ms. Pellegrino stated that the stalls are 10 feet by 10 feet, and they might be a little bigger. Mrs. Daoust wanted to respond to the question asked previously and informed Mr. Jordan that a 10 foot by 10-foot stall is sufficient for a full-size horse. Mr. Stuart asked about the fencing. Ms. Pellegrino explained the distribution of weight of a horse per hoof and that she puts them in the dry area so they don't sink because they can't be on wet because they are large and would sink into the ground and did the fencing by eye. Mr. Beauchemin commented that, he was very impressed by Ms. Pellegrino's wetland delineation and added that she is staying out of the wetlands. A brief discussion about the flies and Ms. Pellegrino pointed out that by October the flies are usually gone but this year October was unseasonably warm and so they lingered a little longer. Ms. Pellegrino informed the Board that she does use a fly deterrent. Mr. Matte pointed out that, this year was a bad year for flies, so it didn't matter where you were. Mrs. Daoust asked about a plan from UNH for the acreage per horse. Ms. Pellegrino stated that, UNH does not recommend an acre per horse but is a pasture management plan. Ms. Pellegrino stated that she would be working with her engineer and wetland scientists to delineate this to determine what she can and cannot do. For now, she is doing the best she can as far as putting the manure in a dump trailer and hauling it away once a month. A brief discussion ensued with regard to the paddocks and grazing the horses. At the moment she is just doing what she is doing until she can move forward. Ms. Pellegrino pointed out that, horses eat hay and that's why it ends up in the field because they end up not eating it all so that is what they are seeing on the ground. Ms. Pellegrino has a lot of things she would like to do but is waiting to see when she can move forward. Ms. Pellegrino stated that the horses are her family, and she is just trying to live in a rural area.

Mr. Jordan talked about the buffer and that the fencing cannot be within the buffer. Mrs. Rouleau-Cote commented that, the definition that he is talking about has to do with a buffer between subdivisions which is the perimeter around a subdivision when you are trying to screen between the two (2) types of subdivisions. It's a property buffer and not a wetland buffer.

Ms. Franklin informed the Board members that she would move the paddocks around the property. Ms. Franklin talked about the smell, and she has a hard time doing her gardening and that the manure was 20 feet from her house. Ms. Franklin stated that she has wetlands all around her house. Mr. Stuart asked about the manure being 20 feet from the abutting property. Ms. Franklin believed they had a horse in the storage container as well and it was close to her property. Ms. Pellegrino corrected Ms. Franklin's response that the manure trailer was 20 feet from her house and stated that it was 150 feet from her house and was directly in front of her house. Ms. Pellegrino went on to say that the storage container contains her hay and that was her that Ms. Franklin heard in the storage container because she was getting hay to feed her horses at 4:30am before she left to go to work. So, the horses are not in the storage container and the manure is in front of her house and is about 150 feet from Ms. Franklin's house. Mr. Stuart asked if this was the closest to any house. Mrs. Rouleau-Cote said yes, other than her own which

is in the ordinance stating, *“Waste manure shall be stored or stockpiled at a minimum of 75 feet from wetlands, water bodies, and/or drainage swales, and a minimum of 150 feet from abutting houses, and in such a way as to prevent runoff from reaching such areas.”* Ms. Franklin stated that, it was a few days that she thought she heard horses in the storage trailer. Mr. DiPietro believed what we had before the Board tonight was a very tight situation and he also see’s someone who is trying her best and has hired an engineer/wetland scientist and is working with UNH Cooperative Extension and is working with the Building Inspector and Animal Control Officer and believed that everyone was going to have to be a little patient for a while.

Mr. Jordan wanted to comment that, the previous cases the Board drilled them on this and that and then all of a sudden there’s a neighbor that turns her garage into a barn and doesn’t have to pull permits or anything. Mr. Beauchemin did our whole development, and he was sure he didn’t design it with a horse barn there and cannot understand how he can represent Ms. Pellegrino when he did our whole development. Ms. Pellegrino pointed out that before she purchased the property, she had an attorney check the covenants and there was nothing stating that she could not have horses or even livestock for that matter. Mr. DiPietro pointed out that she is following zoning of the town.

Mrs. Verna Nye of 181 Bunker Hill Road talked about when it rains and the drainage which goes down to Lake Massabesic. Mrs. Nye was worried about if they go digging and would it affect the water. Mrs. Nye stated that the only enjoyment they get is going out on their deck because her husband is on oxygen and is worried about the smell when it’s hot outside that the smell will be overpowering and how every many years, we have left she would like to enjoy her deck.

Ms. Franklin indicated that there were two (2) issues that have not been resolved and didn’t believe the Board could decide because it is jurisdictional, and it was interesting that when Mr. Beauchemin spoke with her that he didn’t want to get involved because he does a lot of work for the town and Mrs. Rouleau-Cote and Ms. Pellegrino go to him and suddenly he’s doing it. Ms. Franklin believed that EPA needed to be involved because it is not a matter for the Town of Auburn to decide. Ms. Franklin reiterated that these were significant wetlands and are isolated. Ms. Franklin also believed that they should be able to also get their own wetlands scientist to evaluate the property before the Board makes any decision. Ms. Franklin stated that her wetlands scientist stated that there is enough wetland on that property not to mention soils that are not acceptable for horses. Mr. Bergeron asked Ms. Franklin if she had a soil test done. Ms. Franklin stated that she did on her property, and she has significant wetlands on her property according to her wetland scientists.

Mr. DiPietro asked the Board what they wanted to do tonight. Mr. Bergeron suggested going into deliberation.

**Mr. Bergeron made a motion to enter into deliberation. Seconded by Mr. Stuart. The Board members entered deliberation at 10:12pm.**

Mr. DiPietro explained that they were going into deliberation and if anyone had any questions when they were done to hold them until the end and to not repeat what has been said previously because the Board has heard that the abutters do not like the smell of horses.

Mr. Bergeron began by saying that there were four (4) items that they were addressing here correct. The Board discussed that there were four (4) Appeals and one was jurisdictional and three (3) listed Hydric B soils. Mr. Kimball was unsure what the error was because it certainly explained in the Zoning Determination. The Board Members all agreed. Mr. Kimball went on to say that Mrs. Rouleau-Cote listed everything that Ms. Pellegrino needed to do which was to obtain a Certified Wetland Scientist and local and state approvals to be obtained if necessary and saw nothing was wrong as written with regard to the Hydric B soils. Mrs. Daoust also pointed out in the Zoning Ordinance Article 5 which a Level 3 only requires a 25-foot setback, and that manure cannot be stockpiled within 75 feet from a wetland and as long as the horses are not in the Hydric B area which they have heard that they are not. Mrs. Daoust also pointed out that there are no covenants in place that prevents horses so there is nothing that she saw as long as you follow the Animal Husbandry, and you have one acre of dry land and did not believe that horses fall under the nuisance provision. Mrs. Daoust commented that after reviewing all of our zoning laws that she did not believe that there was an error made by Mrs. Rouleau-Cote so in actuality no violation is seen.

Mr. Bergeron commented that there's nothing the ZBA can do about the smell. The Board believed the Zoning Determination prepared by Mrs. Rouleau-Cote was properly written. Mr. Matte added that Ms. Pellegrino is doing all the right things and that she is working on putting together a plan. Mrs. Daoust commented that, everything that Ms. Pellegrino has done seems to be allowed and supported by our Zoning Ordinance. Mr. Kimball pointed out a section in the Zoning Ordinance where a Conditional Use Permit may be required and when she comes before the Board to obtain that, that would be a time for the abutters to raise concerns and believed that this was properly written. Mr. Stuart mentioned that there was some question if there was an acre of dry land and that we've heard quite a bit of evidence on that from Mrs. Rouleau-Cote and Mr. Beauchemin. Mr. Stuart reiterated what Mr. Bergeron had said that we have a property owner who is trying to do the right thing and neighbors that have very legitimate concerns about what is going on but there is a lot of comments that they have heard that are not in our jurisdiction. They've heard that she's trying to keep the bugs down but that was not before the Board today. Mr. Stuart talked about the manure storage and that the evidence that we've heard today is that it is being stored 150 feet from the other houses which is what the ordinance requires. Mr. Stuart believed the determination is accurate and appropriate and they need a Wetland Scientist if they want to do anything and to come up with a plan which is an action that is required.

**Mr. Bergeron made a motion to exit out of deliberation. Seconded by Mr. Stuart. The Board members entered deliberation at 10:22pm.**

Mr. DiPietro believed that everything has been said a few times and opened it up to anyone who had something new to add. An abutter commented, how are we taking the word of one person about one continuous dry acre of land. Mr. Beauchemin chimed in and stated that, he was a Certified Wetland Scientist and if there's a problem you can call the state and they will come out themselves and double check our delineation but he's been doing this for 32 years and stated that he knows something about wetlands and knows what he is dealing with and he took a look at what he did 25 years ago and verified that these wetlands are still accurate and they have not expanded. If anything, there is a few spots that they have actually got smaller.

**Mr. Bergeron made a motion to go to a vote. Seconded by Mr. Matte. The Board members all agreed.**

#### Case #21-26

***Mr. Bergeron made a motion to move on this Appeal to either uphold the Building Inspector/Code Enforcement Officer's Decision or to overturn the Building Inspector/Code Enforcement Officer's Decision for allowing horses for Case #21-26, 22 Nolls Farm Road, Tax Map 8, Lot 8-13. Seconded by Mr. Matte. Ms. Dross voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Matte voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Stuart voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Bergeron voted to uphold the Building Inspector/Code Enforcement Officer's Decision as horses are allowed in the zone, and Mr. DiPietro also voted to uphold the Building Inspector/Code Enforcement Officer's Decision. A vote was taken and, all were in favor to uphold the Building Inspector/Code Enforcement Officer's Decision and therefore the APPEAL is DENIED.***

#### Case #21-27

***Mr. Bergeron made a motion to move on this Appeal to either uphold the Building Inspector/Code Enforcement Officer's Decision or to overturn the Building Inspector/Code Enforcement Officer's Decision for incorrectly stating that the Hydric B wetland is non-jurisdictional for Case #21-27, 22 Nolls Farm Road, Tax Map 8, Lot 8-13. Seconded by Mr. Stuart. Ms. Dross voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Matte voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Stuart voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Bergeron voted to uphold the Building Inspector/Code Enforcement Officer's Decision, and Mr. DiPietro also voted to uphold the Building Inspector/Code Enforcement Officer's Decision. A vote was taken and, all were in favor to uphold the Building Inspector/Code Enforcement Officer's Decision and therefore the APPEAL is DENIED.***

Case #21-28

***Mr. Bergeron made a motion to move on this Appeal to either uphold the Building Inspector/Code Enforcement Officer's Decision or to overturn the Building Inspector/Code Enforcement Officer's Decision regarding the Hydric B wetlands for Case #21-28, 22 Nolls Farm Road, Tax Map 8, Lot 8-13. Seconded by Mr. Stuart. Mr. Bergeron voted to overturn the Building Inspector/Code Enforcement Officer's Decision, Ms. Dross voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Matte voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Stuart voted to uphold the Building Inspector/Code Enforcement Officer's Decision, and Mr. DiPietro also voted to uphold the Building Inspector/Code Enforcement Officer's Decision. A vote was taken and, four (4) were in favor to uphold the Building Inspector/Code Enforcement Officer's Decision and one was in favor to overturn the Building Inspector/Code Enforcement Officer's Decision and therefore the APPEAL is DENIED by a vote of 4 to 1.***

Case #21-29

***Mr. Bergeron made a motion to move on this Appeal to either uphold the Building Inspector/Code Enforcement Officer's Decision or to overturn the Building Inspector/Code Enforcement Officer's Decision regarding the Hydric B wetlands, buffer zone and there is not one dry acre for horses for Case #21-29, 22 Nolls Farm Road, Tax Map 8, Lot 8-13. Seconded by Mr. Stuart. Mr. Bergeron voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Ms. Dross voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Matte voted to uphold the Building Inspector/Code Enforcement Officer's Decision, Mr. Stuart voted to uphold the Building Inspector/Code Enforcement Officer's Decision, and Mr. DiPietro also voted to uphold the Building Inspector/Code Enforcement Officer's Decision. A vote was taken and, all were in favor to uphold the Building Inspector/Code Enforcement Officer's Decision and therefore the APPEAL is DENIED.***

Mr. DiPietro informed the applicants that they had 30-days to Appeal the Zoning Board of Adjustment's decision and thanked everyone for their patience.

Mr. DiPietro moved on to the approval of the meeting minutes for September 28, 2021.

### **Minutes**

***Mr. Bergeron made a motion to accept the minutes of September 28, 2021, as written, seconded by Mr. Stuart. All were in favor, and the motion passed.***

### **Other Business**

### **Adjourn**

***Mr. Bergeron made a motion to adjourn, seconded by Mr. Stuart. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 10:31 p.m.***

The next scheduled meeting is a week early due to the holiday schedule and is scheduled for November 16, 2021 at 7:00 pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted on the upcoming Agenda.