

UNAPPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
December 15, 2020

Present: Mark Wright, Chairman. Mike DiPietro, Vice-Chairman, Kevin Stuart & Stephen Carroll, Members of the Board. Shawn Matte, Alternate. Minutes recorded and prepared by Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer. Michael Rolfe, Board of Selectmen. Jill Dross, Nick Cochrane, Peter Giza, Anne Marie Kenyon & John Kenyon.

Absent: Dennis Vieira, Member. Dale Phillips, Alternate.

Mr. Wright called the meeting to order at 7:05 p.m.

Mr. Wright began by reading the Meeting Preamble During COVID-19 Emergency which is as follows:

MEETING PREAMBLE DURING COVID-19 EMERGENCY

Good Evening, as Chairman of the Zoning Board of Adjustment, I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that any public gathering of people may pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19 and is reinforced by Emergency Order #16 issued by the Governor on March 23rd. In concurring with their determination, I also find that this meeting is imperative to the continued operation of Town government and services.

Governor Sununu issued Emergency Order #12 on March 23rd which provides local government boards the ability to conduct business using technology to hold remote meetings and not provide a public place of meeting but provide for the public's ability to listen to the meeting. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote as required by RSA 91-A:2, III (e).

At this time, I welcome members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply.

Let us start the meeting by taking a Roll Call attendance. When each member is called please state your name, and also please state if there is anyone in the room with you during this meeting, which is required under the Right-to-Know law (RSA 91-A:2, III (c) and whether you agree to your voice being recorded.

Mr. Wright moved on to the roll call of attendees and began with the Board members as follows:

Mr. Wright moved on to call on Mr. Michael DiPietro. Mr. DiPietro indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Mr. Kevin Stuart. Mr. Stuart indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Mr. Stephen Carroll. Mr. Carroll indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Mr. Shawn Matte. Mr. Matte indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Mr. Dennis Vieira. Mr. Vieira was not available.

Mr. Wright called on Ms. Denise Royce. Ms. Royce indicated that she was at home in a room alone and consented to this meeting being recorded.

Mr. Wright called on Mrs. Carrie Rouleau-Cote. Mrs. Rouleau-Cote stated that she was at home in a room alone and consented to this meeting being recorded.

Mr. Wright moved on to the applicants and abutters.

Mr. Peter Giza indicated that he was at home in a room alone and consented to this meeting being recorded.

Anne Marie Kenyon indicated that she was in a room with her husband John R. Kenyon and they consented to this meeting being recorded. Mr. Wright asked Mr. Kenyon to state if he consented to being recorded. Mr. John R. Kenyon stated that he was in a room with his wife, Anne Marie and that he consented to being recorded.

Mr. Nicholas Cochrane of 36 Boxwood Drive and stated that he was in the kitchen with his wife Rachel and he consented to being recorded. Mr. Wright asked Mrs. Cochrane to state if she consented to being recorded. Rachel Cochrane stated that she was with her husband Nicholas and that she consented to being recorded.

Keith Rodrique of 640 Pingree Hill Road stated that he was in a room alone and he consented to being recorded.

Jill Dross of 417 Bunker Hill Road stated that she was in a room alone and she consented to being recorded.

Denise & Gilbert Lessard of 72 Dearborn Road are in a room together and they consented to being recorded. Mr. Wright asked Gilbert Lessard if he consented to being recorded. Gilbert Lessard stated that he was with his wife, Denise and that he consented to being recorded.

John Kenyon stated that he was in a room by himself and that he consented to being recorded. Mr. Kenyon stated that, he was the son of Anne Marie and John R. Kenyon of 47 Boxwood Drive.

Mr. Wright asked Ms. Royce that, if she saw anyone else call in to let him know so that they could go through the process. Ms. Royce understood what Mr. Wright was asking.

Mr. Wright went through the procedure for tonight's hearing and also asked everyone to mute their phones if they were not speaking to eliminate background noise. Mr. Wright stated that, in the absence of Mr. Vieira that he would elevate Mr. Matte to full voting status for the first case. With that said, Mr. Wright asked Ms. Royce to read the first case into the minutes.

Ms. Royce informed Mr. Wright that a C. Kenyon just joined the call. Mr. Wright asked them to please state your name and whether they were alone and if they consented to being recorded. Mr. Chris Kenyon stated that, he was with in a room with his wife, Darien Kenyon and that he consented to being recorded. Mr. Wright asked Darien Kenyon the same thing. Mrs. Darien Kenyon stated that, she was in a room with her husband Chris Kenyon and that she consented to being recorded. Mr. Wright thanked them and asked Ms. Royce to continue.

Case #20-17
Peter & Tammy Giza
58 Dearborn Road, Tax Map 8, Lot 42
Zoned Residential Two

Applicant is requesting a Variance to permit a non-permitted structure to remain within the 50-foot setback along Dearborn Road on the west side of the garage in a Residential Two zone. (Article 4, Section 4.06(6))

Mr. Giza began by explaining a little bit about the property and what he has been occurring on the property. Mr. Giza indicated that, he has sided the structure which was not attached to the garage but made to look like the garage. At this time, Mr. Giza read his application into the minutes for the record. Mr. Giza stated that, there was no other room on the property to put it.

Mr. Wright asked Mrs. Rouleau-Cote if there was anything else that she wanted to add on top of what was already submitted to the Board in their package. Mrs. Rouleau-Cote commented that, this has been a process with Mr. Giza and certainly the COVID-19 restrictions did not help with some of the access to onsite visits and they did wait for a surveyor relative to the Freedom Lane subdivision to accurately mark a property line along the right of way of Freedom Lane. The property owners actually have three (3) conex boxes onsite so prior to filing his variance application, we wanted to see if the other two (2) were in compliance with setbacks of which they were. Mrs. Rouleau-Cote did comment that, Mr. Giza did make it to match the garage but was unsure if it was attached or detached and pointed out that, the conex box was closer to Dearborn Road than the existing garage. Mr. Wright asked Mr. Giza how many feet it was encroaching into the setback. Mr. Giza indicated that it was 39 feet where 50 feet is required. Mr. Giza did mention that, the existing garage, although grandfathered, was also encroaching into the setback. Mr. Wright wanted to accurately note that, Mr. Giza is asking for a Variance for 11 feet into the 50-foot requirement. Mr. Wright wanted to know how long the conex box had been there. Mr. Giza believed it was the same year they moved in which was either late 2016 or early 2017.

At this time, Mr. Wright wanted to open it up to questions for the Board members. Mr. Wright asked Mr. DiPietro if he had any questions or comments. Mr. DiPietro wanted to mention that it may be closer than 39 feet so they should go with the plan as opposed to the number. Mr. Giza added that, all the numbers are done by steel tape, he did not depend on the scale of the map. Mrs. Rouleau-Cote wanted to ask Mr. Giza if that measurement was to edge of pavement or to the property line. Mr. Giza stated that, he measured from the corner of the building to the edge of the hard top. Mrs. Rouleau-Cote wanted to point out that, the edge of pavement is not where the setback would go as it would go from the property line. Mr. Wright believed it would be closer than 39 feet. Mr. DiPietro believed if they just reference the drawing, they would be better off than pinning it down to a specific number. Mr. Wright agreed.

Mr. Wright asked Mr. Stuart if he had any questions or comments. Mr. Stuart asked Mr. Giza if the stone wall was no longer there. Mr. Giza said no that, they allowed Sterling home to take it out to use it for crush gravel to put the shoulder in. A brief discussion ensued with regard to trees and how close they were to the garage. Mr. Giza stated that, the photos presented to the Board members were taken last week. Mr. Stuart thanked Mr. Giza for his comments.

Mr. Wright asked Mr. Carroll if he had any questions or comments. Mr. Carroll stated that, all of his questions have been answered and that he did not have any further questions or comments at this time. Mr. Wright asked Mr. Matte if he had any questions or comments. Mr. Matte asked what the square footage of the conex box as he was reading something in the Town of Auburn's Zoning Ordinance.

Mr. Wright asked if there were any questions or comments from abutters or interested parties. Mr. Wright noted that, there were no questions or comments from abutters or interested parties and that he did not see a need to go into deliberations that he would entertain a motion.

Mr. DiPietro made a motion to vote on the Variance application as presented tonight and referenced in the plan presented for 58 Dearborn Road, Tax Map 8, Lot 42, seconded by Mr. Matte.

Mr. Wright asked if there was any further discussion. None were noted. Mr. Wright moved on to do a roll call vote.

Mr. Matte voted to Grant, as he believes all five (5) factors have been met, Mr. Carroll voted to Grant as he believes all five (5) factors have been met, Mr. Stuart voted to Grant as he found all five (5) factors have been met, Mr. DiPietro voted to Grant as he found all five (5) factors have been met, and Mr. Wright also voted to Grant as all five (5) factors have been met. A vote was taken and, the application for a Variance was Granted.

Mr. Wright informed Mr. Giza that his application for a Variance was approved. Mr. Giza thanked the Board members and ended the discussion at 7:37pm.

At this time, Mr. Wright moved on to the next case and asked Ms. Royce to read the case into the minutes for the record. Mr. Matte wanted to inform the Chairman that, he just received a message from Mr. Vieira and that it did not look like he would be joining the meeting this evening. With that said, Mr. Wright stated that, he would elevate Mr. Matte to full voting status for the second case as well.

At this time, Denise and Gilbert Lessard signed off.

Case #20-18
John & Anne Marie Kenyon, Trustees
47 Boxwood Drive – Tax Map 2, Lot 44-10
Zoned Rural

Applicant is requesting a Variance to allow a use not permitted under Article 4, Section 4.05(2) to operate a Commercial Service Establishment (Landscaping Business) within a Rural zone.

Mr. Wright asked the applicant to go forward and present their case. Mrs. Kenyon began by reading the application into the minutes for the record. Mrs. Kenyon informed the Board members that, they conduct all business offsite and only meet in the mornings to pick up trucks and that they only store equipment onsite. Mrs. Kenyon also pointed out that, their sons' business is a small family business that has a shop to store their equipment on the property. Additionally, John R. Kenyon also works for their sons and maintains the lawnmowers and equipment which are stored at their home. Mrs. Kenyon commented that, there was minimal traffic coming onto the property and that their home is setback off the road.

Mr. Wright asked Mrs. Kenyon about the postings for Kenyon Lawn and asked about the LLC and who were the members of the LLC. Mrs. Kenyon answered by saying that, John P. Kenyon and asked him to explain. John P. Kenyon began by saying that, he is a manager of the LLC in the State of New Hampshire for the last 7 years and that his brother, Chris Kenyon is also a manager and in good standing. A brief discussion ensued with regard to the LLC and John P. Kenyon added that, he has 75% ownership in the company and that his brother, Chris Kenyon has 25% ownership in the company. Mr. Wright asked if there were any other ownerships in the LLC. Mr. Kenyon said no.

Mr. Wright asked Mrs. Rouleau-Cote for any comments to add before the Zoning Board members chimed in. Mrs. Rouleau-Cote began by saying that, this really does not fall within any of the definitions of home office or home shop or home business. This really is outside of the scope of any of these and is really analogous with a Commercial Service Establishment actually being operated out of a single-family residential property. Mrs. Rouleau-Cote stated that, it was her understanding that, John P. Kenyon does not live on the site and that it is his parent's home which just happens to be the location of the business. Mrs. Rouleau-Cote added that, the Zoning Board should be looking at this as basically permitting a Commercial Service Establishment which is not a permitted use in the Rural zone. On this particular property they may want to be very specific in any decisions that they make to the extent of the operation and the limits of the operation and would strongly urge site plan review with the Planning Board should they grant the decision tonight. Mr. Wright thanked Mrs. Rouleau-Cote and stated that, he knows there are a few abutters that would like to speak but that he would like to move on to Zoning Board members first.

Mr. Wright asked Mr. DiPietro if he had any questions or comments. Mr. DiPietro stated that, he really does not have any questions or comments at this time as he does not have a concern except that, the owner of the business does not own the property although it is a direct family member. Mr. Wright asked Mr. Carroll if he had any questions or comments. Mr. Carroll had the same concern as Mr. DiPietro and did not have any other questions than that. Mr. Stuart asked what other arrangements there between the property owners were. Mrs. Kenyon answered by saying that, it started about 8 years ago and when it was started it was John R. Kenyon and John P. Kenyon and Christopher was not even a part of it yet. John R. Kenyon then just became a worker and Christopher became a member. Mrs. Kenyon believed it would remain just John P. Kenyon and Christopher Kenyon and they did live here when the business just started but they've both grown and gotten married and moved on. At this time, Mrs. Kenyon turned it over to John P. Kenyon to add anything that he may want to add. John P. Kenyon reiterated what his mother had said and commented that, he and his wife reside in the Town of Epsom and that his younger brother Chris resides in the Town of Derry. They do not live too far, and they are not planning on leaving the area and the like the Town of Auburn and that they serve a lot of people within the town. Mr. Stuart asked if there was any formalized agreement. Mrs. Kenyon commented that, there is no contractual agreement that their father used to work with them and now works on repairing lawnmowers and the equipment for the kids. A brief discussion between Mr. Stuart and Mrs. Kenyon with regard to the business being run from the property over the last 8 years. Mr. Stuart asked what the number of employees they had. John P. Kenyon stated that there were 10 employees that include him, and his brother and he did not foresee that getting any bigger any time soon. Mr. Stuart asked how many employees go to the house every morning. John P. Kenyon stated that, there are approximately 6 to 7 employees that go to Boxwood Drive in the morning excluding himself and his brother. A brief discussion ensued with the number of vehicles and trucks on the property. Mr. Stuart asked about the winter months. John P. Kenyon stated that, during the winter months that they put their employees on unemployment and then they work during the snowstorms and they meet at another home base at one of their client's properties. They store their trucks at another site in Manchester which is McDevitt Trucks as they service several commercial properties in Manchester. Mr. Stuart did not have any further questions.

Mr. Wright asked Mr. Carroll if he had any further questions or comments. Mr. Carroll stated that, he did not have any other questions. Mr. Wright asked Mr. Matte. Mr. Matte did not have any other questions. Mr. Wright asked if there were any abutters that wished to speak and asked Nicholas and Rachel of Boxwood Drive. Nicholas Cochrane of Boxwood Drive had a few questions and began by saying that, he just moved here a little over 3 years ago and wanted to know about the Variance and asked if it was a permanent thing and how long did it last. Mr. Wright answered by saying that, if the Variance is granted that it would run with the land and pointed out that, it could come with conditions such as review by the Planning Board and approval of businesses such as hours of operation, limits of what can happen and lighting and signage. Mr. Wright turned the discussion over to Mr. Kenyon or Mrs. Kenyon. At this time, John P. Kenyon commented that, their plan was to purchase commercial property, however, due to the Pandemic that the whole world is dealing with right now, they are not in a financial situation to be able to

purchase said property. They are hoping to get this granted so that it will give them time to make it through this depressing time that the entire world is going through. Mr. Cochrane understood what Mr. Kenyon was saying and asked why they were applying for the Variance at this time when the business has been run for a number of years in this location already. Mr. Kenyon commented that, the Town of Auburn received a complaint and with that, Mr. Kenyon turned the discussion over to Mrs. Rouleau-Cote, Building Inspector/Code Enforcement Officer. Mrs. Rouleau-Cote began by saying that, that was correct that, she did receive a complaint regarding the amount of traffic coming out of Boxwood Drive and the types of vehicles that were cutting the corners into the shoulders. There has been an uptick of traffic in the area with the growth of the business but at a certain point it does change the character of the neighborhood. It is in a rural district and at some point, they need to move on. Mr. Cochrane commented that, he does not have a problem for it occurring for a little bit but not permanently as he has little kids.

Keith Rodrique commented that, he was the original one that made the complaint and that they run from 6am to 9pm every day. He is trying to pick up the house so that they can get some equity and sell the house and move on. Mr. Rodrique mentioned the numerous trucks coming and going and all types of equipment of which he has images of them. Mr. Rodrique had an issue with the number of vehicles and employees being unruly and disrespectful. Mr. Rodrique stated that they move material off the property as well. Basically, Mr. Rodrique had a problem with the amount of traffic all day long and believed it was time for them to move on. Mr. Rodrique commented that, the Variance goes with the land and what happens when their elderly parents move on from this house to downsize when their son is not using it for a business anymore. They're going to sell it to another landscaper, and it will be an ongoing issue. Mr. Rodrique wanted to also mention that, there are two (2) businesses being run out of that home with A.K. Quilting Services also. Mr. Kenyon believed that, there were no questions just personal attacks.

Mr. Wright asked Jill Dross if she had any questions or comments. Ms. Dross did not have any questions or comments at this time. Mr. Wright asked if there were any other questions or comments. Heidi Richmond of 35 Boxwood Drive wanted to comment, and Mr. Wright asked Ms. Richmond to please state if she was in a room with anyone and if she consented to this meeting being recorded. Ms. Richmond stated that she was in a room by herself and that she consented to being recorded. With that said, Ms. Richmond began by saying that she has never met Keith but what he has said was true that, the amount of traffic going on the road has possibly damaged the road because of the size and weight. Ms. Richmond also stated that, she has listed her property for sale, and it is under agreement with the understanding that this is a residential area and is unsure whether or not this will affect the sale if this Variance is actually approved. She is also concerned because even if she stayed there, would there be a speed limit because they actually refer to the Kenyon landscaping business as the Kenyon racing team as they drive incredibly fast. Ms. Richmond added that, they need a commercial space that is not at the end of a dead-end street.

Mr. Wright asked if there were any other abutters who wished to speak. Mr. Kenyon wanted it noted for the record that, they do not own a street sweeper or roller as that is

the Town of Auburn's. A brief discussion ensued with regard to the vehicles. Mrs. Kenyon commented that, it was rented from the Town of Auburn only one time. Michael Rolfe wanted to comment and stated that he was in a room alone and consented to being recorded. Mr. Rolfe wanted to clarify that, Mr. Kenyon rented it from them for about an hour and not on a daily basis. Mr. Kenyon wanted to know the rules to commenting in a meeting if they do not own the property. Mr. Wright explained that, it is a public meeting whereby it is posted as a public hearing and that anyone can attend and comment.

At the moment, Mr. Wright lost the connection to the meeting and had to call back in. Mr. Wright went on to say that, people are given an opportunity to comment and ask questions. Mr. Kenyon understood what the Chairman stated. Mr. Wright asked if there were any other interested parties that wanted to speak. Mrs. Kenyon did not want to address the comments made by Keith and did not believe she had to but that, she does run a quilting business out of her home, and it is a home business, and it is within the scope of a home business and it is called Annie Quilts and not A.K. Quilting Services. Mrs. Kenyon just wanted to clarify the record and also wanted to mention that, she does appreciate all the comments made by the abutters and understand that they have concerns but some of the comments that have been said are not true and that was all she wanted to say and thanked the Board.

Mr. Wright again asked if there was anyone else that would like to comment before he turned it over to the Board members. None were noted. Mr. Wright turned the discussion over to the members of the Zoning Board and asked if they wanted to enter into deliberation or make a motion or if they had any additional questions or issues that they wanted to raise in their non-deliberated session. Mr. Rodrique wanted to mention a comment about future growth and possibly putting rules in place that would allow them to continue operating and maybe they can set a rule that they cannot operate commercial and that no employees allowed to come to this location. Mr. Rodrique also mentioned that no equipment running back and forth. Mr. Kenyon stated that, he can understand the equipment, however, if they are going to be able to store their vehicles onsite, he did not believe it was possible. Mr. Kenyon again stated that, they were looking at a property and it is no longer available and understands the restrictions on the property.

Mr. Carroll asked who was on the deed for the property. Mrs. Kenyon stated that it was Anne Marie Kenyon and John R. Kenyon as Trustees. Mr. Carroll asked if they have any association with this business. Mrs. Kenyon said not at this time, they did at one time but not now but that her husband is an employee of the business. Mr. Carroll thanked Mrs. Kenyon for her comments. Mrs. Kenyon wanted to comment that, they did speak with Mrs. Rouleau-Cote and believed that she did say that there could be restrictions put upon the Variance such as it could just be with the Kenyon business. Mrs. Rouleau-Cote commented that, they did talk about that and that, in the past there have been some kind of comment for conditions like that made but that they would have to speak with legal counsel. Mrs. Rouleau-Cote added that, Mr. Wright is correct that, typically the Variance runs with the land but there may be procedures to terminate it when that business ceases to exist. Mr. Wright commented that, that was part of the land use laws and was not sure such restrictions by a Zoning Board can change the legal significance of the

Variance. Mr. Wright gave a brief explanation at this time but was unsure they could do that but would possibly need to seek input from legal counsel. Mr. Matte asked if they could grant it for three (3) years and then revisit it. Mr. Wright was unsure of an answer to that but did not think they could put a time limitation on a Variance. Mr. Wright asked Mr. DiPietro if he ever remembered a time where this happened. Mr. DiPietro said no that the Variance runs with the land. Mr. Wright moved on to say that, with input from the applicant and the abutters that it warrants some further discussion by the Zoning Board and to enter into deliberation and hoped there was some consensus to that and would entertain a motion to go into deliberation. Mr. Wright explained to everyone the procedure while the Board is in deliberation.

Mr. Carroll made a motion to enter into deliberation, seconded by Mr. Stuart. The Board entered into deliberation at 8:37pm.

Mr. Wright began by saying that, what he would start out with is, what are they doing and what is permitted in the zone. Mr. Wright mentioned home office, home business and home shop and that, all of them all requires that the person reside in the home and often times allows only one employee outside of the home. Mr. Wright went through what was permitted and then things that are allowed by Special Exception which is less of a burden on the applicant as there is no hardship to show. Mr. Wright also pointed out that, they usually do not have abutters show up and when you do have abutters come and voice their concerns it usually means that there is a heightened awareness and concern, and some were editorial, and opinion based.

Mr. Wright opened it up to discussion by the Board members and began by saying that Mr. Stuart asked a lot of good questions that probably most of us were wondering as well and asked Mr. Stuart if he had anything else to add. Mr. Stuart stated that the Variance request would run with the land and his concern was that it would diminish property values and that it was not consistent with the spirit of the ordinance for what it is zoned for. Mr. Stuart appreciates that they have grown their business, but the evidence shows that it is beyond the scope and he did not believe that they have met their burden today.

Mr. Wright moved on to Mr. Carroll. Mr. Carroll did not feel that this was a relevant case and did not believe that they have met one of the burdens because not one of the owners resides at the property and hearing the abutters concerns. Mr. Carroll did not believe the business owners had a relevant case because they do not own the property.

Mr. Wright went on to Mr. Matte. Mr. Matte stated that he was going down the same path because neither owner resides at that the home and also believed that it is time for them to move on.

Mr. Wright moved on to Mr. DiPietro. Mr. DiPietro began by saying that, he believes Mr. Stuart hit all the points that the business has outgrown the home and that the abutters are a testament to that which unfortunately does not help the business owner, but the good news is, is that the business is on its way to being successful. In conclusion, he believes that granting relief would diminish the property values in the area because the

business is so successful and has all that traffic. Mr. Wright added that, there is a business that started off with family members at home but at the end of the day, the character of the property has changed. Mr. Wright believes that, it has exceeded the scope of the property and proves to be a success story. Mr. Wright did not believe the five (5) factors have been met and did not think that you could get through the hardship factor. Mr. Wright went on to say that, he would have a problem with two (2) or three (3) of the factors would be difficult to meet and do not think I would be comfortable granting this Variance.

Mr. Wright asked if there were any other thoughts or comments. None were noted. Mr. Wright asked for a motion to come out of deliberation.

Mr. DiPietro made a motion to exit out of deliberation, seconded by Mr. Carroll. The Board members came out of deliberation at 8:55pm.

Mr. Wright stated that they were out of deliberation and that everyone has heard their discussion and concerns with the legal application of their ordinance and what they have to consider granting a Variance and did not believe there was much more to say other than to proceed to a vote. Mr. Kenyon had a quick question or comment and wanted the Board to know that, they would be putting a hardship on each of the families and commented that, the world is going through a world of hurt with this Pandemic. Basically, the Board will be turning their world upside down and if the Board were to be able to grant it for a year or two (2) years because we were planning to be out this year but because of COVID-19 they were unable to do that at this time. Mr. Rodrique reiterated what he had commented above previously. Mr. Wright interrupted Mr. Rodrique and moved on to a vote. Mr. Matte wanted to mention that too, that because of COVID-19 could they come up with something in the alternative. Mr. Wright can appreciate that and if the five (5) factors have been met and that they have heard that, an abutter is trying to sell their home and appreciate and understand what everyone is saying. Whatever decision they make is subject to rehearing or appeal to Superior Court and he wants to make sure that they have made a decision when called on in court or otherwise, that our town counsel could defend our position without getting the Town of Auburn in a position where they would be making bad decisions and spending money to defend them. Mr. Wright wanted to keep the Board on a path that they are obligated to as members of the Zoning Board.

Mr. Carroll made a motion to vote whether to Deny or Grant this Variance as it is written currently for 47 Boxwood Drive, Tax Map 2, Lot 44-10, seconded by Mr. Stuart.

Mr. Wright asked if there was any discussion. None were noted. With that said, Mr. Wright started that when he asks for a roll call vote that you indicate whether you Grant or Deny. If you Grant, obviously state that the five (5) factors have been met and if you vote to Deny, that you indicate which of the five (5) factors have not been satisfied.

Mr. Matte voted to Deny as he believed all five (5) factors have not been met, particularly the Spirit of the Ordinance, Mr. Carroll voted to Deny as he believed

that the only factor that was met was #4 and that all other factors have not been met, Mr. Stuart voted to Deny as he believed that factors #1, #2, #3 & #5 have not been met, Mr. DiPietro voted to Deny as he believed that granting it would diminish the property values in the area, and Mr. Wright also voted to Deny finding factors #1, #2, #3 & #4 have not been met. A vote was taken and, all were in favor to DENY the request for Variance.

Mr. Wright stated that, the Variance was DENIED by the Board and that the applicant has 30-day to file a request for a rehearing to the Board. Ms. Royce said, yes, they have 30-days to file a request for rehearing. Mr. Wright added that they would have present new evidence in order to file a request for rehearing.

Mr. Kenyon asked, how long they had to remove everything off the property. Mr. Wright directed the response to Mrs. Rouleau-Cote but that his request for a Variance has been Denied. Mr. Kenyon understood what Mr. Wright was saying. In conclusion, Mr. Wright wanted to commend Mr. Kenyon for the growth of the business and informed Mr. Kenyon that it was not an easy decision and understands what position this puts them in. Mr. Wright stated that, he would leave it up to Mr. Kenyon speaking with Mrs. Rouleau-Cote. At this time, Mr. Kenyon thanked the Board members and the discussion ended.

Minutes

Mr. Wright moved on to the approval of the minutes of November 17, 2020.

Mr. DiPietro made a motion to accept the minutes of November 17, 2020 with the minor corrections made by Attorney Brenda Keith, seconded by Mr. Carroll.

Mr. Wright conducted a roll call vote to approve the meeting minutes for November 17, 2020.

Mr. Matte voted to approve the minutes, Mr. Carroll voted to approve the minutes, Mr. Stuart voted to approve the minutes, Mr. DiPietro voted to approve the minutes, and Mr. Wright also voted to approve the minutes. A vote was taken and, all were in favor and the motion passed.

New Business/Other Business

Ms. Royce did not believe there were any cases pending for January and that the deadline is Monday, December 28th.

Ms. Royce asked about the election of officers for the Zoning Board of Adjustment. Mr. Wright asked if we published it for two (2) months. Ms. Royce said yes. Mr. Carroll nominated Mr. Wright as Chairman of the Zoning Board of Adjustment.

Mr. Carroll made a motion to nominate Mark Wright as Chairman of the Zoning Board of Adjustment, seconded by Mr. DiPietro.

Mr. Matte voted to nominate, Mr. Carroll voted to nominate, Mr. Stuart voted to nominate, and Mr. DiPietro also voted to nominate. A vote was taken and, all were in favor and the motion passed and Mark Wright will remain as Chairman.

Mr. Carroll made a motion to nominate Mike DiPietro as Vice-Chairman of the Zoning Board of Adjustment, seconded by Mr. Wright.

Mr. Matte voted to nominate, Mr. Carroll voted to nominate, Mr. Stuart voted to nominate, and Mr. Wright also voted to nominate. A vote was taken and, all were in favor and the motion passed and Mike DiPietro will remain as Vice-Chairman.

Adjourn

Mr. DiPietro made a motion to adjourn, seconded by Mr. Carroll.

Mr. Matte voted to adjourn, Mr. Stuart voted to adjourn, Mr. Carroll voted to adjourn, Mr. DiPietro voted to adjourn, and Mr. Wright also voted to adjourn. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 9.25 p.m.

Mr. Wright again thanked Ms. Royce and Mrs. Rouleau-Cote for putting this all together and being there to support the Board in making this process smoother. At this time, the meeting concluded.

The Zoning Board of Adjustment will not be holding a meeting during the month of July and the next scheduled meeting would be for January 26, 2021 at 7:00 pm. Due to Governor Sununu's Emergency Order #12 on March 23rd, all meetings will be held via teleconference until further notice.