

APPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
August 22, 2023

Present: Mike DiPietro, Chairman. Kevin Stuart, Vice-Chairman. Shannon Daoust, Member. Steven Kimball & Jeremy Wirths, Alternate Members. Minutes recorded and prepared by Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer.

Absent: Jill Dross, Member. Nick Pappas & Allie Broom, Alternate Members.

Mr. DiPietro called the meeting to order at 7:01 p.m. At this time, Mr. DiPietro introduced the Board members to everyone present tonight and then explained the procedure for tonight's hearing. Mr. DiPietro explained that the Board had four (4) cases before them tonight along with one request for a rehearing. Mr. DiPietro elevated both Mr. Wirths and Mr. Kimball to full voting status for tonight's hearing. Mr. DiPietro informed everyone that Mrs. Rouleau-Cote was also present tonight and pointed out that we would have everything on the big screen tonight so that everyone could follow along.

Mr. DiPietro elevated both Mr. Wirths and Mr. Kimball to full voting members for tonight's hearing. Mr. DiPietro asked Ms. Royce to read the first case into the minutes. Ms. Royce read the first case into the minutes for the record.

David Carpus

Jim Butts, Trustee

64 Tanglewood Drive, Tax Map 4, Lot 19-5

Request Appeal from ZBA Decision – Variance to allow greater than 750 Square Feet for ADU within Single Family Residence

Mr. DiPietro began by saying that he would open it up to the Board members for comment but believed that the Board did everything that the application requested. Mr. DiPietro moved on to a discussion with the Board members. Mr. Stuart had a question for Mrs. Rouleau-Cote and asked if this was a motion for reconsideration and not from the applicant. Mrs. Rouleau-Cote said that this was from an aggrieved party. This is a request for a rehearing. Mr. Stuart wanted to know if it was someone with standing because the request presented to the Board did not tell him anything. Mrs. Rouleau-Cote indicated that Mr. Carpus was an abutter.

Discussion ensued with regard to the ADU exceeding the 750 square feet and the septic and believed it was code compliance issues. Mr. Kimball also mentioned that Mrs. Rouleau-Cote was to verify that the bedroom had an egress, and that the septic could handle the added load.

At this time, Mr. Stuart read the previous minutes and stated that the minutes indicate that if this was granted then the town would have the ability to go in to do an inspection whether there was a bedroom and an egress issue and that smoke detectors were installed, and all life safety issues were addressed. Mr. Stuart believed that these were issues that they addressed at the time. Mr. Wirths commented that he was only asking for one bedroom and did not recall requiring the load on the septic.

Mr. Kimball believed that the question before the Board was, do we believe there was an error, or a material fact was mishandled by the Board, and it needs to be reheard. Mr. Stuart stated that there was a lot of discussion regarding the privacy door which leaned towards life safety issues. In conclusion, Mr. Stuart did not see any new information here that was not presented last time and did not feel that this meets the requirement for a rehearing.

Further discussion ensued with regard to previous testimony and what was being requested in the request for rehearing. Mr. DiPietro and the rest of the Board members felt the same way as Mr. Stuart, that they did not believe any errors or omissions were made in their decision. With that said, Mr. DiPietro asked for a motion to accept or deny the motion for rehearing.

Mr. Stuart made a motion to vote on the request for rehearing for Case #23-12, 64 Tanglewood Drive, Tax Map 4, Lot 19-5. Seconded by Mrs. Daoust. Mr. Kimball voted to Deny the motion for rehearing as he did not believe the Board erred in their decision, Mrs. Daoust voted to Deny the motion for rehearing, Mr. Wirths voted to Deny the motion for rehearing, Mr. Stuart voted to Deny as he did not find any new information or Board errors, and Mr. DiPietro also voted to Deny as he did find any additional information or Board errors in their decision. A vote was taken, and all voted to Deny and therefore the motion for rehearing was DENIED.

Mr. DiPietro informed everyone present that Ms. Royce would send out a notice to the applicant. Mr. DiPietro indicated that the next form of appeal would be to Superior Court.

**Case #23-13
Michael Pepin
74 Noll's Farm Road – Map 8, Lot 8-5
Zoned Residential Two**

Applicant is requesting a Special Exception from Article 4, Section 4.06(6)(5)(i) to allow an Accessory Dwelling Unit to be within the single-family home; and, a Variance from Article 2, Section 2.02(28)(a) to allow an ADU to exceed the 750 square foot requirement in a Residential Two zone.

Mr. Pepin read his case into the minutes for the record. Mr. Pepin explained that it was just him in the house and that he completed the ADU in the basement over the winter months. The basement has its own entrance and walkway along with its own parking.

Mr. Pepin pointed out that he was before the Board tonight to seek a Variance to have an ADU in the basement of approximately 1,000 square feet. Mr. Pepin pointed out that he was fully retired at this time and that this would help supplement his income to pay the taxes. Mr. Pepin indicated that the ADU had two (2) bedrooms, a bathroom and cooking facilities. Mr. Pepin stated that he intends to rent it out to traveling nurses and would only rent it to people that were respectful. Mr. Pepin did not believe that the septic would be overburdened by having a tenant in the basement.

Mr. Pepin asked if this was to be approved would this affect his taxes. Mr. Pepin also mentioned the family ordinance that if you do rent to a family member you would not have to apply for the Variance. Mr. Pepin stated that it was not a family member that would be a tenant but was just curious. Mr. DiPietro recalled the family member versus the renter was placed together years ago. With that said, Mr. Pepin stated that he would be happy to give the Board any information they would need.

Mr. DiPietro stated that, it looks like a Special Exception to have the ADU and a Variance to exceed the 750 square feet. Mr. DiPietro asked Mr. Pepin if he knew exactly how big the ADU was. Mr. Pepin stated that he did measure it and believed that it was 850 square feet and there is an area in the basement that has the oil tank and the furnace itself that is unfinished. Mr. DiPietro reviewed that plan submitted but the Board was unable to see anything because the copy was too dark. At this time, Mr. DiPietro asked Mrs. Rouleau-Cote for comment. Mrs. Rouleau-Cote stated that she had not been in the basement and that she became aware that Mr. Pepin had a rental unit in the basement and notified Mr. Pepin that he was not in compliance with the town's regulations. Mr. Pepin was then informed to apply for the Special Exception and Variance and if it was granted that he would have to obtain the necessary permits. Mrs. Rouleau-Cote stated that Mr. Pepin will have to address the septic system as the septic system is not based on how the property is used but the septic system is based on the potential of how the property is used. With that said, he will have to have a septic system plan on file so if that septic system fails that there is a plan on file. Mr. DiPietro commented that it was safe to say that if the Board approved this request that he would have to meet with you, and everything would have to be checked off.

Mr. Kimball did not know if the assessors picked up on the additional finished space but believed they would as that was what they are required to do, and taxes would go up because of the added space to the house. Mr. Pepin asked what would happen if he decided not to use it as a rental space. Discussion ensued with regard to the added space and Mr. Pepin was told that the Board could not answer tax questions or assessing questions that he would have to check with the town offices. Mr. Pepin again reiterated that the only reason he was doing this was to supplement his income to help pay the taxes and only traveling nurses to come in to rent the space. Mr. Kimball explained to Mr. Pepin that once the Variance is granted that it runs with the property forever. This Board needs to take into consideration how potential future owners would use the property.

At this time, the Board and Mr. Pepin discussed the basement at length. Mr. Pepin stated that it was no more than 900 square feet but there was added space that should not be added to the area as it was unfinished. Mr. Stuart informed Mr. Pepin that he's heard from the town that he would need to obtain the required building permits and before he proceeds that he would need to get a septic design done for more people. Mr. Pepin again reiterated that it was only him in the house and possibly one other person so the septic would not be utilized 100 percent. Mrs. Daoust explained that it didn't matter about the number of people in the house now that it's the potential to have more people in the house if the house was ever sold. Mrs. Rouleau-Cote stated that in order to obtain a building permit that he would need to update the septic to include a 3-bedroom home and a 2-bedroom accessory dwelling unit. It will end up being a septic for a 3-bedroom home and a 2-bedroom ADU which would be 5 bedrooms and 2 kitchens. This is all based on potential load.

Mr. Kimball wanted to ask Mr. Pepin what makes this a hardship for you. Mr. Pepin commented that he did not believe there was any hardship but was saying that the useable space is what is being used and that there were spaces that were not being used such as the furnace room and location of oil tank which should not be incorporated into the useable space.

Mrs. Rouleau-Cote asked Mr. Pepin if both bedrooms had an egress to the outside from the basement with doors. Mr. Pepin stated that there was a single window that was facing west of the basement which also had French doors and a single door where you could get to the outside. Mrs. Rouleau-Cote asked if each bedroom had an egress directly to the outside independently. Mr. Pepin said no. Mrs. Rouleau-Cote stated that that was a problem. Mr. Pepin stated that there were two (2) entrances where they could vacate the area.

Mr. DiPietro noted that the Board has seen this before where the basement adds up to the total space of the full basement and Mr. DiPietro stated that he heard 900 square feet. A brief discussion ensued with regard to the usable space for the ADU. Mr. Kimball believed there were two (2) items to vote on, which was the Variance to exceed the 750 square feet and a Special Exception to have an ADU.

Mr. DiPietro asked if there were any abutters or interested parties who would like to speak. None were noted. Mrs. Rouleau-Cote commented that if it's the Board's plan to set a square footage that if he exceeds what he is saying that he would have to modify his design or come back before this Board. Mr. Stuart informed Mr. Pepin that if this were to be approved with some kind of limit and then you exceed it then you would have to either modify your plan or come back before this Board. Mr. Pepin understood what Mr. Stuart was saying. Mrs. Daoust asked the Board if they wanted to enter into deliberation. Mr. Stuart said sure. Mrs. Daoust stated that she had nothing to add but believed we could make a motion.

Mrs. Daoust made a motion to vote on the Special Exception to allow an ADU for Case #23-13, 74 Noll's Farm Road, Tax Map 8, Lot 8-5. Seconded by Mr. Stuart. Mr. Wirths voted to Grant the Special Exception, Mr. Stuart voted to Grant finding all four (4) factors have been met, Mr. Kimball voted to Grant the Special Exception finding all four (4) factors have been met, Mrs. Daoust voted to Grant finding all four (4) factors have been met, and Mr. DiPietro also voted to Grant finding all four (4) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro moved on to the motion for the Variance and asked the Board if they wanted to put a number on it as 900 square feet seems to be the number we've talked about with the applicant. Mr. Pepin asked if he was off by 5 square feet would he have to come back to the Board. Mr. DiPietro said yes. Mr. Pepin stated then he'll hold to the 1,000 square feet. Mr. Stuart stated that the applicant stated that he measured it and thought maybe 950 square feet at one point because if they do 1,000 square feet it would include a bunch of space that is unfinished.

Mrs. Daoust made a motion to vote on the Variance to allow an ADU to increase the square footage to 950 square feet where 750 square feet is required and conditioned upon the applicant obtaining the appropriate building permits and addressing life safety issues for Case #23-13, 74 Noll's Farm Road, Tax Map 8, Lot 8-5. Seconded by Mr. Stuart. Mr. Wirths 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 believed subsection (a)(i) &(ii) of section 5 have been met, Mrs. Daoust voted to Grant finding all five (5) factors have been met, Mr. Kimball voted to Deny finding that the applicant stated that there was no hardship, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken, and the motion passed by a vote of 4 to GRANT and 1 to DENY, and the motion passed.

Mr. DiPietro informed Mr. Pepin that he would get a Notice of Decision from Ms. Royce and that he should get in touch with Mrs. Rouleau-Cote regarding the necessary permits and life safety issues. Mr. Pepin thanked the Board for their time. Mr. Stuart also informed Mr. Pepin that there was a 30-day appeal period where an abutter or interested party could appeal the Board's decision. Mr. DiPietro also pointed out that Mr. Pepin had 2 years to complete the project. Mr. Pepin understood and exited the meeting.

**Case #23-14
Michael & Elena Collishaw
80 Freedom Lane – Map 8, Lot 42-8
Zoned Residential Two**

Applicant is requesting a Variance from Article 4, Section 4.06(6) to allow Solar Array "A" ground mounted to be located 5-feet from the side property line where 30-feet is required and 38-feet from the front property line where 50-feet is required; a Variance from Article

5, Section 5.08(1)(a) to allow Solar Array "A" ground mounted to be located within the 125-foot wetland buffer; and a Variance from Article 5, Section 5.08(1)(a) to allow Solar Array "B" ground mounted to be located within the 125-foot wetland buffer in a Residential Two zone.

Mr. Collishaw read his application into the minutes for the record. At this time, the Board members reviewed the pictures of the property and surrounding properties which indicated the location of the proposed solar arrays. Mr. Collishaw stated that there were 3 homes at the end of the cul de sac. Mr. Collishaw indicated that he was having Granite State Solar install the solar panels. Mr. Collishaw did not believe that the solar panels would interfere with anyone as they do not move as they would be stationary. Mr. Collishaw informed the Board members that they did meet with the Conservation Commission, and they had no issues with what they were proposing to do. Mr. Collishaw indicated that they are seeking relief from the side property line to 5 feet where 30 feet is required and 38 feet from the front property line where 50 feet is required. Mr. Collishaw pointed out that they would prefer to position Array "A" where no Variance would be required but that it was not possible due to the limitations of their property, the easements associated with it, the wetland buffer, leachfield servicing and well head servicing and propane tank location. Discussion ensued with the Board regarding the location and the topography of the land. The Board reviewed the photos presented. Mr. Stuart asked how the arrays would be placed. Mr. Collishaw stated that there would be two (2) sections and be placed where you get the most sun.

Mr. DiPietro asked the Board members if they had any other questions for the applicant. Mr. Kimball asked about the lot adjacent to Mr. Collishaw's lot that he stated was unbuildable. Mr. Collishaw commented that there was a house on it, but it was further back but that the portion adjacent to his lot was wet. Mr. DiPietro asked if there were any abutters or interested parties who would like to speak. Sean Ambrosie of 102 Freedom Lane across the street from Mr. and Mrs. Collishaw. Mr. Ambrosie stated that he does support solar as he has it on the back roof of his house. Mr. Ambrosie showed pictures from his house showing the location of the solar arrays which would be seen from the six (6) front windows of his house. Mr. Ambrosie commented that they got away from the city to get away from all of this and were thinking of resale value and it was too close to the road.

Mr. Abdu of 98 Freedom Lane commented that his house is elevated, and they can see all of Mr. Collishaw's yard and this is not something that they want to see looking out our windows. Mr. Abdu also stated that he was all for solar but thought 30 feet from the road was a little too close. He's happy with the Variance provided that Mr. and Mrs. Collishaw plant some sort of trees to hide the solar arrays as they do not want to see it year-round. They want to be amenable and work with Mr. Collishaw as a neighbor, but they don't want to see these large panels so close to the road.

Mrs. Parker of 92 Freedom Lane asked what happens to the Variance down the road. Mrs. Daoust explained that they would be able to change out a damaged panel or do maintenance on it, but the Variance goes with the property. Discussion ensued with placing the solar panels down another corner. It was pointed out that the topography would not work in this specific area for the solar panels. Also, the pool location and the stone wall were a deterrent for the placement of the solar arrays. Mr. Collishaw also added that he cannot place them on the roof of the house due to the multi pitched roof, that would be inefficient. Mr. Collishaw added that the best way to go on this property is ground mounted because of the gables and due to the slope of the property that would be the left side of his property. Mr. Collishaw also pointed out that there is ground mounted solar throughout the town of Auburn and pointed out a few areas to the Board members and the abutters present tonight. A lengthy discussion ensued about placement of the Solar Arrays. During discussions it seemed the best way to do it was to move Solar Array "A" to Solar Array "C" to be out of the front setback. The abutters believed that this would be a better location. Mr. Collishaw understood his neighbor's concerns and believed there were not a lot of options to change the location and that this was the best location for the Solar Arrays to be placed in.

Mr. DiPietro asked the Board members if there were any other questions for the applicant. None were noted. Mr. DiPietro asked the abutters if there were any further questions for the applicant. None were noted.

Mr. DiPietro indicated that there are 3 Variance requests before the Board tonight which was for a front setback, a side setback and a wetland setback. Mr. DiPietro asked the Board how they wanted to proceed. Mr. Stuart believed they should move into discussion.

Mr. Stuart made a motion to enter into deliberation, seconded by Mrs. Daoust. The Board entered into deliberation at 8:31pm.

Mr. Stuart indicated that he did not hear any concerns with regard to the wetland setback and the Conservation Commission signed off on it so we could vote on that. Mrs. Daoust pointed out that it barely touches the wetland buffer. Mr. Stuart went on to say that, as far as the other setbacks that the Board has testimony that he could move it, but it would require more hardware. Solar Array "A" would become Solar Array "C" and would not require a Variance that it would only require the Variance from the wetland setback. Mr. Stuart appreciated the abutters coming tonight in good faith to come to a compromise.

Mr. Kimball talked about the five (5) criteria and believed there were some challenges with the public criteria and the Spirit of the Ordinance criteria. Mr. Kimball stated that with the Variance criteria that you have to meet all five (5) criteria. Mr. Kimball believed there was some flexibility since it says within the 125-foot wetland setback and say as presented tonight with the plan presented to the Board members.

Mr. Stuart made a motion to exit deliberation, seconded by Mrs. Daoust. The Board exited out of deliberation at 8:36pm.

Mr. DiPietro asked how the Board would like to proceed and would they like to do the wetland Variance first. Mrs. Rouleau-Cote commented that she has seen Solar Array “C” and pointed out to the Board that, just as long as they are comfortable with whatever wetlands Variance, they give that it mimics what the Conservation Commission looked at the other evening. Mr. Stuart stated that they could say no more encroachment than what is on the plan presented. Mrs. Rouleau-Cote also mentioned that he did take the time to go before the Conservation Commission and received their blessing on a known encroachment and we don’t want to move too far away from where the Conservation Commission felt comfortable. Mr. Stuart understood what Mrs. Rouleau-Cote was saying.

Mr. Stuart made a motion to vote on the Variance to allow the Solar Arrays to encroach within the 125-foot wetland setback as presented tonight and as presented to the Conservation Commission on Tuesday, August 8th, 2023 and presented on the plan shown to both the Conservation Commission and the ZBA for Case #23-14, 80 Freedom Lane, Tax Map 8, Lot 42-8. Seconded by Mrs. Daoust. Mr. Kimball voted to Grant finding all five (5) factors have been met, Mrs. Daoust voted to Grant finding all five (5) factors have been met, Mr. Wirths 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, all were in favor and the motion passed.

Mr. Stuart made a motion to vote on the Variance application for relief from the side setback as presented tonight and shown on the plan for Case #23-14, 80 Freedom Lane, Tax Map 8, Lot 42-8. Seconded by Mr. Wirths. Mr. Kimball voted to Grant finding all five (5) factors have been met, Mrs. Daoust voted to Grant finding all five (5) factors have been met, Mr. Wirths voted to Grant finding all five (5) factors have been met, Mr. Stuart voted to Deny finding factor 5 had not been met, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken, and the motion passed by a vote of 4 to GRANT and 1 to DENY, and the motion passed.

Mr. Stuart made a motion to vote on the Variance to allow the Solar Arrays to encroach within the front setback to be 38-feet where 50-feet is required as presented tonight and shown on the plan for Case #23-14, 80 Freedom Lane, Tax Map 8, Lot 42-8. Seconded by Mrs. Daoust. Mr. Kimball voted to Deny finding that it did not meet the public interest and the spirit of the ordinance and the hardship criteria, Mrs. Daoust voted to Deny finding the hardship criteria not being met, Mr. Wirths voted to Deny finding the hardship criteria and public interest has not been met, Mr. Stuart voted to Deny finding unnecessary hardship criteria has not been met, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken, and the motion was DENIED by a vote of 1 to Grant and 4 to DENY. The motion did not pass.

Mr. DiPietro informed the applicant that the front Variance was denied and that he would receive a Notice of Decision from Ms. Royce. Mr. DiPietro commented that there was a 30-day appeal period. Mr. DiPietro thanked the applicant and the discussion ended.

At this time, Mr. DiPietro asked Ms. Royce to read the next case. Ms. Royce read the case into the minutes.

Case #23-15
Tier 1 Baseball, LLC
Matthew Scott, Trustee
29 King Street – Tax Map 25, Lot 47
Zoned Industrial

Applicant is requesting a Special Exception from Article 4, Section 4.09(3)(b) to allow an Indoor Commercial Recreational Facility (Indoor batting cages) in the Industrial zone.

Mr. Landroche read his application into the minutes for the record. Mr. DiPietro asked the Board members if they had any questions for the applicant. Mrs. Daoust asked if he was aiming this towards high school students. Mr. Landroche stated that it was a really small space with one batting cage where they have 4 teams aged 10 to 12. Mr. Landroche stated that not all the players come at one time, and he does do training with older kids as well. Mr. Kimball asked about noise. Mr. Landroche stated that they use wooden bats and that they do operate at night-time where the surrounding businesses are closed. Mr. Kimball asked what time they usually train. Mr. Landroche commented that it's usually 8:00pm or 9:00pm. Mr. Stuart asked about summer hours and would they change. Mr. Landroche stated that in the summertime they are mostly outside using a field but if it's raining, they would be in there. A brief discussion ensued. Mr. Wirths asked if it would be open to the public or just for Tier 1's use. Mr. Landroche stated that they usually do it through bookings.

Mr. DiPietro asked if there were any further questions. None were noted. Mr. DiPietro commented that this use is permitted by Special Exception. At this time, Mr. DiPietro asked if there were any abutters or interested parties. None were noted.

Mrs. Daoust made a motion to vote on the Special Exception to allow an Indoor Commercial Recreational Facility (Indoor batting cages) as submitted for Case #23-15, 29 King Street, Tax Map 25, Lot 47. Seconded by Mr. Stuart. Mr. Wirths voted to Grant as he believed all four (4) factors have been met, Mr. Stuart voted to Grant as he believed all four (4) factors have been met, Mrs. Daoust voted to Grant finding all four (4) factors have been met, Mr. Kimball voted to Grant finding all four (4) factors have been met, and Mr. DiPietro also voted to Grant finding all four (4) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. Landroche thanked the Board members for their time and the discussion ended. Mr. DiPietro explained that he would receive a notice of their decision.

Mr. DiPietro asked Ms. Royce to read the next case into the minutes. Ms. Royce read the case into the minutes.

Case #23-16

Matthew & Stacey Dube

16 Parker Way – Tax Map 4, Lot 2-3

Zoned Residential Two

*Applicant is requesting a Variance from Article 2, Section 2.02(29)(b) to allow the construction of a duplex Unit with no common wall instead proposing an open roof structure to join the new garage to the existing door next to the existing garage in a Residential Two zone (**Special Exception & Variance previously granted on June 27, 2023**).*

Mr. Dube wanted to explain the diagram first before reading his application. Mr. Dube began by saying that the existing home is to the left which is what's there today and that the proposed structure is the one to the right. Mr. Dube explained that when they did the original diagram with the builder that there was a four (4) foot platform which would add five (5) stairs to get up to the platform and then five (5) stairs coming down. Mr. Dube stated that they were building a handicap accessible dwelling behind the garage structure. So, when they met with the builder, he thought that was a pretty bad idea and they agreed and that would have to have two (2) wheelchair ramps for his mother-in-law to get in and out of the house. The new design would allow wheelchair accessibility to the new structure and into the current structure. At this time, Mr. Dube read his application into the minutes for the record. Mr. Dube further explained that the reason they couldn't connect to the existing house in the back is because their master bedroom is there and their bathroom so if they connected the two units that the door would be going through the master bedroom. Mr. Dube believed that this was the best option to eliminate the staircase issues. Mrs. Daoust asked Mr. Dube which parcel was his out of the three parcels on Parker Way. Mr. Dube said he is the left one. Mrs. Daoust commented that he would not be impacting the visual site with his neighbors.

Mr. DiPietro asked if there were any abutters or interested parties. None were noted. Mr. DiPietro asked Mrs. Rouleau-Cote if she had anything that the Board should be concerned about. Mrs. Rouleau-Cote began by saying that she did not but wanted to explain that this would deviate from the duplex definition where they are supposed to have a shared common wall, and this is a roof structure with no common wall. Mrs. Rouleau-Cote mentioned that Mr. Dube's testimony was due to his family situation, but we look at it beyond because the Variance goes with the property so in essence this will be two (2) separate dwelling units with a roof structure combining the two (2).

Mr. Kimball had a question where Mr. Dube stated that this was to allow someone in a wheelchair to access the property without lifts. Mr. Kimball asked Mr. Dube if this was something he wanted to make part of the application or not. Mrs. Rouleau-Cote explained that the only concern when you go that way is when you read into the language if the relief is granted so the hardship is not shown because of that, when that situation no longer exists at that home it's supposed to conform. Mr. Kimball noted RSA 674:33(5)(b) "in granting any Variance pursuant to this paragraph, the ZBA may provide, in a finding included in the Variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises." Mrs. Rouleau-Cote pointed out that they may grant that relief as long as that situation still exists. As soon as that situation no longer exists in the home, they have to remove it or come back to the ZBA. Mrs. Rouleau-Cote read a section of the Town of Auburn' Zoning Ordinance where it states, "Any variance granted under this Section shall be in harmony with the general purpose and intent of this Zoning Ordinance; and the ZBA may provide that the variance shall survive only so long as the particular person has a continuing need to use the premises." Mr. Dube asked what would happen, if it was no longer needed, would he have to come back. Mrs. Rouleau-Cote said only if you use this clause which is RSA 674:33(5)(b). Mr. Kimball added that if Mr. Dube didn't use this clause, then he would have to meet the hardship criteria. A brief discussion ensued. In conclusion, Mrs. Rouleau-Cote believed that Mr. Dube has expressed some other reasons and has mentioned that the family member that may need the assistance at this time and believes from his architectural standpoint that he has also pointed out other reasons that the marriage of the two (2) units would not be necessitated because of his current layout of the single family dwelling and the grades that would architecturally blend very well. Mrs. Daoust did not believe that anyone would notice.

Mr. DiPietro asked if there were any further questions for the applicant. None were noted. Mr. DiPietro believed that he would entertain a motion to move on the Variance. Mrs. Rouleau-Cote explained that he is not creating a duplex as he already has that approval from this Board but to deviate from the definition of a duplex with regard to must share a common wall.

Mr. Stuart made a motion to enter into deliberation, seconded by Mr. Kimball. The Board entered into deliberation at 9:07pm.

Mr. Kimball believed as written really covers it which is construction of a duplex with no common wall with an open roof structure to join the two (2) units. Mr. Stuart asked if they wanted to add some restriction on this contingent on this going away if that hardship goes away. Mr. Kimball did not think so and mentioned what Mrs. Rouleau-Cote had commented earlier by requiring a common wall and climbing up four (4) stairs every time you're coming in and out of the dwelling unit would be a hardship. The Board members all agreed. Mr. Kimball was okay with the hardship without waiving it for disability and believed it was a structural hardship which was unique to the property.

Mr. Kimball made a motion to exit deliberation, seconded by Mr. Stuart. The Board exited out of deliberation at 9:08pm.

Mr. Kimball made a motion to vote to the Variance to allow the construction of a duplex unit with no common wall but instead having an open roof structure to join the new garage to the existing door next to the existing garage in a Residential Two zone for Case #23-16, 16 Parker Way, Tax Map 4, Lot 2-3. Seconded by Mr. Wirths. Mr. Wirths voted to Grant finding all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mrs. Daoust voted to Grant finding all five (5) factors have been met, Mr. Kimball 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, all were in favor and the motion passed.

Mr. Dube thanked the Board for their time and the discussion ended. Mr. DiPietro informed Mr. Dube that there was a 30-day appeal period and that he would receive a Notice of Decision from Ms. Royce. Mr. DiPietro also stated that he had two (2) years for substantial completion.

Minutes

Mr. DiPietro moved on to the approval of the minutes of June 27, 2023.

Mr. Stuart made a motion to approve the minutes of June 27, 2023, seconded by Mr. Wirths. A vote was taken and, the motion passed.

New Business/Other Business

Mr. DiPietro notified the Board members that the Board is in receipt of Patrick Bergeron's Resignation so if anyone knew of anyone who would like to join, please let them know. With that said, Mr. DiPietro elevated Mr. Kimball to become a member with the resignation of Mr. Bergeron. Mr. DiPietro stated that he was retired and would possibly retire from the ZBA in a few months. Mr. DiPietro believed the Board was in excellent shape.

Mr. DiPietro asked if there were any applications for next month. Ms. Royce stated that they did not have any applications yet, but the deadline was Monday, August 28th.

Mr. DiPietro thanked everyone and stated that he would entertain a motion to adjourn.

Adjourn

Mrs. Daoust made a motion to adjourn, seconded by Mr. Kimball. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 9:13 p.m.

The next scheduled meeting is scheduled for Tuesday, September 26th, 2023 at 7:00pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted on the upcoming Agenda.