



# Department of Municipal Licenses and Inspections

## Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan  
Mayor

### Meeting Minutes

August 27, 2013

**IN ATTENDANCE:** Stephen Karll, Chairman  
Michael Calder, Member  
Michael Ford, Member

**ALSO PRESENT:** Russell Forsberg, Inspector of Buildings  
Carolyn Murray, Town Solicitor  
Ilana Quirk, Kopelman & Paige

Mr. Karll called the meeting to order at 7:00pm.

#### OLD BUSINESS:

##### 1) Petition Number 13-19

**Michael Reynolds, Trustee of MBBR Realty Trust/Audrey M. Kustka**  
**RE: 90 Newton Avenue**

Present: Attorney Carl Johnson, representing petitioner and property owner;  
Audrey M. Kustka, property owner;  
Michael Reynolds, petitioner;  
Henry Russell, Engineer

This is a petition filed by Michael Reynolds, Trustee of MBBR Realty Trust, which is a party to a purchase and sales agreement with the current owner, Audrey M. Kustka, regarding the property located at 90 Newton Avenue, Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407 and 701 for minimum lot size for Plots 42 and 43 to re-divide the property, so that Plot 43 will contain 11,000 square feet and Plot 42 will contain 5,500 square feet. The property is located within a Residential B Zoning District, as shown on Assessor's Map No. 3052, Plot 43 and Plot 42 and contains +/- 16,500 square feet of land.

#### Notice

Pursuant to a notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. c.40A, a hearing was scheduled for July 23, 2013 at 7:00 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA and was continued to

August 27, 2012. Sitting on this petition were Chairman Stephen Karll and Members Michael Calder and Michael Ford. The members conducted a site visit of the subject property prior to August 27, 2013.

### **Evidence**

The petition was presented by Attorney Carl R. Johnson.

This petition seeks to divide an existing and conforming lot at 90 Newton Avenue, Braintree, MA, which has a single-family dwelling located on it, into two nonconforming parcels, which would be nonconforming as to both lot width and area requirements. The Zoning By-law currently requires a minimum lot area of 15,000 SF. The proposal seeks to create one lot of 11,000 SF in area and another of 5,500 SF in area. The Zoning By-law also requires a minimum lot width of 100 feet. The proposal for the 5,500 SF lot would only offer 50 feet of frontage. Therefore, variances are required.

Attorney Johnson and other representatives for the Petitioner, including Henry Russell, P.E., noted that there are steep slopes at the subject property and that storm water runoff is currently an issue in the area, but they have developed a design that would control the proposed post-construction runoff so that it would not be increased in rate or volume. This was proposed to be accomplished through landscaping, gutters and the use of berms and curbing and placement of the driveway, so as to direct water to Newton Avenue and then to two catch basins located approximately 100 feet down gradient from the property.

Attorney Johnson asserted that the property is unique and that the Petitioner has experienced a hardship because the property has been assessed as two buildable lots. The Board inquired, and the Petitioner indicated that she was aware that there was an abatement process, but had not pursued that relief.

Mr. Lance Connolly of 79 Cotton Avenue, Braintree, MA spoke in opposition to the Project due to his concerns about storm water, but understood that changes were made to the project to channel the water down the street, which was of assistance in addressing his concern. At the July meeting, Michael Laing of 74 Cotton Avenue raised questions about water and drainage problems at the site and in the neighborhood. Mr. Laing also submitted a letter for the August meeting in opposition to the petition.

The petitioner submitted a packet of materials, including a narrative, photographs and a plan entitled, "Subdivision Plan, 90 Newton Avenue, Braintree, MA" dated May 13, 2013, prepared by Neponset Valley Survey Assoc., Inc. of Quincy. The petitioner also submitted a plan entitled, "Site Plan, 90 Newton Avenue, Braintree, Mass.," prepared by Neponset Valley Survey Associates dated May 9, 2013 and stamped by Henry Russell, R.P.E., dated August 27, 2013.

The Planning Board recommended favorable action on the petition by a vote of 4-0-0.

### **Findings**

The Board closed the public hearing and then found, based on the site visit that the members conducted and taking into consideration the proposed development of the property, that the creation of two undersized lots was not consistent with the principles of zoning, which encourages land and structures to become more conforming, and that allowing the construction of another dwelling on the property would be too dense for the neighborhood. Therefore, the Board voted 3-0 to find that the proposed project would more detrimental to the neighborhood and did not satisfy the requirements for issuance of a variance under Zoning By-law §135-701 or G.L. c.40A, §10.

### **Decision**

On motion made by Mr. Karll and seconded by Mr. Calder, it was voted 3 to 0 to deny the requested relief as the requested relief would be more detrimental to the neighborhood as the addition of another dwelling would adversely increase the density of the neighborhood, and the project did not satisfy the criteria for the issuance of variance relief under the Zoning By-law or G.L. c.40A, §10.

**2) Petition Number 13-25**

**Edward Mitchell, Director of Design & Construction, Legal Sea Foods, LLC representing owner,  
Karma Trustee, LLC  
RE: 30 Forbes Road**

Present: Attorney Frank Marinelli representing petitioner;  
Roger Berkowitz, owner of Legal Sea Foods, LLC;  
Edward Mitchell, Director of Design & Construction, Legal Sea Foods, LLC

This is a petition filed by Edward Mitchell, Director of Design and Construction, Legal Sea Foods, LLC, One Seafood Way, Boston, MA 02210 on behalf of Karma Trustee LLC, regarding the property located at 30 Forbes Road, Braintree, MA, 02184. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, 904.2(A)(5)a, b and g, and 904.2(A)(1)a to install illuminated letters spelling “Legal Sea Foods” measuring 54’4’ x 4’ easterly facing, a northerly facing company logo/sign measuring 6’10” x 4’5”, and change the southeasterly ground sign panel measuring 12’2” x 2’4” from “Braintree” to “Legal Sea Foods”. The petitioner seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located in a Highway Business District Zone, as shown on Assessors’ Map 2043, Plots 1 and 1A, and contains a land area of +/- 10 acres.

**Notice**

Pursuant to a notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. c.40A, a hearing was scheduled for July 23, 2013 and continued to August 27, 2013 at 7:00 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition were Chairman Stephen Karll and Members Michael Calder and Michael Ford.

**Evidence**

The petition was presented by Attorney Frank A. Marinelli, representing the petitioner; and Roger Berkowitz, owner of Legal Sea Foods, LLC and Edward Mitchell, Director of Design & Construction for Legal Sea Foods, LLC.

This petition seeks zoning relief to allow multiple signs at 30 Forbes Road, Braintree, MA, resulting in 270 sq. ft. of signage as shown on drawings and depictions prepared by SRPSIGN Corporation of 236 Pearl Street, Somerville, MA 02145 that consisted of 7 sheets, numbered 1-3 and 5-8, with Sheets 1-3 dated January 26, 2013 and Sheets 5-8 dated May 30, 2013 (the “Drawings”).

There are four proposed signs: (1) a main identification sign with marquee letters shown on Sheets 1-2, 6; (2) an entrance sign shown on Sheets 3 and 5; (3) a directional sign to be placed on an existing pylon as shown on Sheet 7; and (4) a side sign that will be internally lit that is shown on Sheet 8. Variance relief is need for the number of signs, the square footage of the signage and the directional sign proposed for the nearby pylon.

Attorney Marinelli explained that Legal Seafood is relocating from the rear of the South Shore Plaza to a more prominent location in the \$20 million redevelopment effort occurring at the 10 acre property located at South Shore Place on Forbes Road, which includes the Hyatt Hotel. Legal Sea Foods will be a prominent anchor, to draw commerce to the new development and the area. He then explained that the proposed signage requires variance relief because the overall size of the signage exceeds the as-of-right requirements of the sign by-law. However, each sign proposed is well within the range and number of signage variance relief granted for anchor tenants at the nearby South Shore Plaza, including for the Café Bistro, Nordstrom and Lord and Taylor.

Attorney Marinelli stated that the location of the new restaurant will be in a unique location due to the slopes of the land. They have a hardship due to the configuration of existing structures, including the existing TGI Fridays restaurant and Jared's Jewelry store, which interrupt the sight lines to the proposed Legal Sea Foods location and create sporadic view corridors. These conditions require variance relief, so that the signage can be viewed from the adjacent roadway system, which is complicated, and allow patrons to find the location without confusion. He asserted that the signage also will be in the public interest as Legal Sea Foods is a premier restaurant destination that will promote commerce in the area.

Attorney Marinelli and Mr. Berkowitz discussed with the Board that it would be appropriate to restrict the lighting of the signage, so that the signs are turned off one hour after the restaurant closes.

No one spoke in opposition to the project and the public hearing was closed.

By vote of 4-0-0, the Planning Board recommended favorable action on the petition.

### **Findings**

The Board agreed with the Petitioner's assertions that the property was unique due to the slope of the subject property, the setback of the proposed restaurant from the main access roads, and that there is a hardship due to the sporadic view corridors and that there was a need for the signage to announce the location to the adjacent complicated roadway system to avoid confusion, and that the signage is in keeping with variance relief granted for other anchor tenants in major developments, to promote commerce.

### **Decision**

On motion made by Mr. Calder and seconded by Mr. Ford, it was voted 3-0 to grant the requested variance relief as shown on the drawings, and subject to compliance with the drawings, the condition that the signage lighting shall be turned off within one hour after the restaurant closes for business.

### **NEW BUSINESS:**

#### **3) Petition Number 13-28 Albert Spahiu RE: 66 Francine Road**

Present: Albert Spahiu, petitioner and property owner;  
Fatiola Spahiu, property owner

This is a petition filed by Albert Spahiu, 66 Francine Road, Braintree, regarding the property located at 66 Francine Road in Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under

Chapter 135, Sections 403, 407, 701 to build a second floor addition over existing footprint of house. The petitioner seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located in a Residential B District, as shown on Assessors' Map 2088, Plot 36 and contains a land area of +/- 8,314 sq. ft.

### **Notice**

Pursuant to a notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. c.40A, a hearing was scheduled for August 27, 2013 at 7:00 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition were Chairman Stephen Karll, and Members Michael Calder and Michael Ford.

### **Evidence**

The petition was presented by Ms. Fatiola Spahiu. She presented a Survey Plan, which was entitled "Plan of Land in Braintree, Massachusetts, 66 Francine, Road" and consisted of one sheet, prepared by CS Kelley, Land Surveyors and dated July 9, 2013 and stamped by Christopher S. Kelley, Professional Land Surveyor (the "Plan Survey") and 7 architectural sheets, which were prepared by KNK-studios and labeled and dated as: A-1, "Existing First Floor Plan," dated May 1, 2013; A-3 "Existing Elevations," dated May 1, 2013; A-4 "Exhibit Elevations," dated May 14, 2013; A-5 "Proposed First Floor Plan," dated June 26, 2013; A-6 "Proposed Second Floor Plan," dated June 27, 2013; A-9 "Proposed Elevations," dated June 27, 2013; and A-8 "Proposed Elevations," dated June 27, 2013 (the "Architectural Plans").

Ms. Spahiu explained that she and her husband have three children and the existing house has only one level and one bathroom. They wish to add a second floor, with four bedrooms and two bathrooms to accommodate their growing family. She presented multiple letters from neighbors who indicated support for the petition. The property is nonconforming and the proposed project requires a finding that it would not be more detrimental to the neighborhood.

Ms. Laurel Lawrence of 53 Alfred Road, a direct abutter to the rear, initially spoke in opposition to the project as the existing dwelling on the Petitioner's property is only 15 feet from her property and she objected to a second story being placed within 15 of the property line that would block the light and air on her property. Mr. Albert Spahiu responded and noted that the plans anticipated Ms. Lawrence's concern and accommodated those concerns by lowering the height of the new addition at the point closest to Ms. Lawrence's property, so that the new addition would be only two feet higher than the existing structure. Ms. Lawrence withdrew her opposition.

By vote of 4-0-0, the Planning Board recommended favorable action on the petition.

### **Findings**

The Board found that the petitioner did not demonstrate a need for variance relief from the Zoning By-law, only a finding; and the Board concluded that the requested relief could be granted without detriment to the neighborhood.

### **Decision**

On motion made by Mr. Ford and seconded by Mr. Calder, it was voted 3-0 to grant a finding that the project, as shown on and subject to compliance with the Survey Plan and the Architectural Plans, would not be more detrimental to the neighborhood than the existing structure. Any other relief sought was denied as unnecessary.

**4) Petition Number 13-29**

**Paul C. Pando**

**RE: 5 Mann Street**

Present: Paul Pando, petitioner and property owner

This is a petition filed by Paul C. Pando of 5 Mann Street, Braintree, MA 02184 regarding the property located at 5 Mann Street, Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407 and 701 to construct a 12 ft. x 31.4 ft. wood deck at rear of house. The Applicant seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located in the Residential B Watershed District, as shown on Assessors' Map 1073C, Plot 187 and contains +/- 18,432sq. ft. of land area.

**Notice**

Pursuant to a notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. c.40A, a hearing was scheduled for August 27, 2013 at 7:00 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition were Chairman Stephen Karll, and Members Michael Calder and Michael Ford.

**Evidence**

The petition was presented by Paul Pando, who explained that he wants to build a deck on his oddly shaped lot. His property is lawfully nonconforming as to area, lot width and the minimum rear setback. His existing deck is set back 15.5 feet from the rear property line, but 30 feet is required. He proposes to increase that nonconformity, so that the new deck would be 12.5 feet from the rear lot line. The new deck is shown on a plan entitled "Plan of Land in Braintree, prepared by Neponset Valley Survey Assoc., Inc., dated July 23, 2011" (the "Plan").

No spoke in opposition to the petition.

By vote of 4-0-0, the Planning Board recommended favorable action.

**Findings**

The Board found that the proposed increase in the rear setback of three feet for the deck as shown on the Plan would not be more detrimental to the neighborhood than the exiting nonconforming situation.

**Decision**

On motion made by Mr. Calder and seconded by Mr. Ford, it was voted 3-0 to grant a finding that the proposed increase in the lawfully nonconforming rear setback from 15.5 feet to 12.5 feet as shown on the Plan and subject to compliance with the Plan would not be more be more detrimental. Any other relief requested by denied as unnecessary.

**5) Petition Number 13-30**

**Marguerite Trudel**

**RE: 11 Wynot Road**

Present: Marguerite Trudel, petitioner and property owner

This is a petition filed by Marguerite Trudel of 11 Wynot Road, Braintree, MA 02184 regarding the property located at 11 Wynot Road, Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 135-403, 407, Chapter 7, Section 135-701 to replace existing deck with new 11.5' x 10.7' deck with landing and stairs. The Applicant seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located at 11 Wynot Road, Braintree, MA, in the Residential B District Zone, as shown on Assessors' Map 2022, Plot 11 and contains +/- 7,075 sq.ft. of land area.

### **Notice**

Pursuant to a notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. c.40A, a hearing was scheduled for August 27, 2013 at 7:00 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition were Chairman Stephen Karll, and Members Michael Calder and Michael Ford.

### **Evidence**

The petition was presented by Marguerite Trudel. She explained that her existing deck needs to be replaced. Her property has a single-family home on it and is lawfully nonconforming as to area, width, depth and rear yard setback. The current rear setback is 26.1 feet, but 30 feet is required. The project proposes a rear setback of 23.1 feet. The project is shown on a Plan entitled "Plan of Land 11 Wynot Road, Braintree," prepared by J. Lowell Associates and stamped by J. Lowell, Registered Land Surveyor, dated July 15, 2013 (the "Plan").

No one spoke in opposition to the Petition.

By vote of 4-0-0, the Planning Board recommended favorable action.

### **Findings**

The Board found that the proposed alteration was minimal and will not be more detrimental to the neighborhood.

### **Decision**

On motion made by Mr. Calder and seconded by Mr. Ford, it was voted 3-0 to grant a finding that the proposed increase in the rear yard nonconformity from 26.1 feet to 23.1 feet as shown on the Plan, and subject to compliance with the Plan would not be detrimental to the neighborhood. Any other relief was denied as unnecessary.

#### **6) Petition Number 13-31**

**Francis X. Messina, Jr., Executive Vice president of Wildwood Estates of Braintree, Inc.**

**RE: 400 Franklin Street**

Present: Attorney Carl Johnson representing the petitioner;  
Ronald Marshall, General Counsel for Wildwood Estates of Braintree, Inc.

This is a petition filed by Francis X. Messina, Jr., Executive Vice President of Wildwood Estates of Braintree, Inc. of 400 Franklin Street, Braintree, MA 02184 regarding the property located at 400 Franklin Street, Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Chapter 4, Sections 403, Chapter 7, Section 135-711 for extension to a nonconforming structure or site by the erection of an

attached roofed canopy (110'-2" x 8'-8") over the existing sidewalk area in front of the building that extends the existing canopy from the Panera Bread restaurant to the Bertucci's restaurant. The Applicant seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located in the General Business District Zone, as shown on Assessors' Map 1022, Plot 14 and contains +/- 3.25 acres of land area.

### Notice

Pursuant to a notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. c.40A, a hearing was scheduled for August 27, 2013 at 7:00 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition were Chairman Stephen Karll, and Members Michael Calder and Michael Ford.

### Evidence

The petition was presented by Attorney Carl R. Johnson, who asked the Board to allow the Petitioner to withdraw the site plan relief request under §135-711. The Board voted 3-0 to grant the request to withdraw that relief.

Attorney Johnson presented the petition to erect a new canopy at 400 Franklin Street, Braintree, MA as shown on three sheets: (1) "Proposed Canopy Extension," a pictorial representation; (2) Proposed Canopy Extension," a site plan representation; and (3) "Parking & Site Plan," prepared by Green Environmental, dated August 26, 2009 (collectively, the "Plans"). He advised that the hardship was due to the lot shape and topography resulting in the existing structure being non-conforming.

No one spoke in opposition of the application.

By vote of 4-0-0, the Planning Board recommended favorable action.

### Findings

The Board found that the requested relief would not be substantially more detrimental.

### Decision

On motion made by Mr. Calder and seconded by Mr. Ford, it was voted 3-0 to grant the requested relief based upon the Plans, and subject to compliance with the Plans.

#### **7) Petition Number 13-32**

**James H. O'Leary, Trustee of 177-179 Commercial Street Realty Trust**

**RE: 177-179 Commercial Street**

Present: Attorney Carl Johnson representing the petitioner;  
James O'Leary, Trustee and petitioner

This is a petition filed by James H. O'Leary, Trustee on behalf of the Commercial Street Realty Trust of 177-179 Commercial Street, Braintree, MA 02184 regarding the property located at 177-179 Commercial Street, Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Article 4, Section 135-407; Article 7 Section 135-701, 705, Article 6 Section 135-806 to demolish existing dwelling and construct a new five (5) dwelling unit structure. The Applicant seeks a permit, variance and/or finding that the proposed



alteration will not be more detrimental to the neighborhood. The property is located in the Residential C/Commercial District Zone, as shown on Assessors' Map 3008, Plot 8, and contains a land area of +/- 17,775sq. ft. of land area.

### **Notice**

Pursuant to a notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. c.40A, a hearing was scheduled for August 27, 2013 at 7:00 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition were Chairman Stephen Karll, and Members Michael Calder and Michael Ford.

### **Evidence**

The petition was presented by Attorney Carl R. Johnson, who presented the project which was shown on: (1) a site plan entitled "Site Plan for 177-179 Commercial Street," dated December 20, 2013, prepared by Neponset Valley Survey Assoc. (the "Site Plan"); (2) "ZBA Site Plan showing Proposed Building at 177-179 Commercial Street in Braintree, Mass.," dated July 26, 2013, prepared by Neponset Valley Survey Assoc. (the "Proposed Building Plan"); (3) architectural drawings shown on six sheets entitled "A-1" through "A-6," dated on various dates in 1997, and prepared by Jim O'Leary; (4) a "Proposed Landscaping" plan dated August 19, 2013 which has been submitted to the Conservation Commission and was offered as a chalk; and (5) various pictures representing the final proposed house (collectively, the "Plans").

Attorney Johnson stated that the existing structure would be removed and replaced with five dwelling units as shown on the Plans. He stated that the property is a unique site because it is a split lot (with the front in the Residence C District and the rear in the Commercial District) and has steep slopes and now is subject to the Rivers Act as it is within 200 feet of the Monatiquot River. There will be one ADA unit on the ground floor, with no need for ramps. The new structure will be the same size as the existing, except for the front bump out shown on the Plans, which was required due to the landscaping that will be required by the Conservation Commission and will push the structure forward. The project will comply with parking requirements and will control storm water runoff with a cultic system in the rear and cisterns near the structure. There will also be landscaping that will assist with controlling the runoff and provide an improvement for the nearby river.

The lot is pre-existing nonconforming as to area, lot width and frontage. The Zoning By-law requires a minimum one acre lot, but the lot offers only 17,775 SF. The Zoning By-law sets a minimum lot width of 200 feet and minimum frontage of 100 feet, but the lot offers only 75 feet each. The existing structure is also nonconforming, as it encroaches into the front and side yard setbacks. The proposed structure will further encroach into the front yard setback. While the Zoning By-law requires a 50 foot front yard setback, the existing structure is 18.4 feet from the front lot line and the proposed structure will be 14.5 feet from the front lot line. The existing structure is located 14 and 16 feet from the side lot lines, while the proposed structure will also encroach into the side yard setback. The Zoning Bylaw requires a side yard setback of 30 feet, while the proposed structure will be located 10 feet from the easterly lot line and 27 feet from the westerly lot line. Therefore, variances and a finding under G.L. Chapter 40A, Section 6 will be required.

Attorney Johnson requested that the Board allow the Petitioner to withdraw the off street parking variance request and the Board voted 3-0 to grant that request.

No one spoke in opposition to the Petition.

By vote of 4-0-0, the Planning Board recommended favorable action.

### **Findings**

The Board found that the petitioner demonstrated the need for relief from the Zoning Bylaw. Further, that the petitioner satisfied the necessary criteria as to the shape of the lot, the distance to the river and the need to protect the buffer zone. Additionally, the topographical conditions on the property are unique and constitute a hardship. Therefore, the project would be an improvement to the neighbor and not a detriment, and there would be no derogation from the intent and purposes of the Zoning By-law.

### **Decision**

On motion made by Mr. Ford and seconded by Mr. Calder, it was voted 3-0 to grant the requested relief, subject to compliance with the Plans as presented, and also: (1) a finding was granted that the lot width, frontage and side yard setbacks for the increased number of units would not be more detrimental than the existing nonconforming situation; and (2) variance relief for lot area and front yard setback was granted as to the shape of the lot, its distance to the river, the need to maintain and protect the buffer zone, the existing topographical conditions constituting unique conditions and a hardship, and the grant of the relief would not derogate from the intent and purposes of the Zoning By-law and the project would be an improvement to the neighborhood.

### **APPROVAL OF MINUTES:**

On a motion made by Mr. Calder and seconded by Mr. Ford, the Board voted unanimously to accept the meeting minutes of July 23, 2013.

The Board adjourned the meeting at 9:25 pm.