

UNAPPROVED MINUTES OF FEBRUARY 9, 2022



TOWN OF WARNER

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Zoning Board of Adjustment Minutes of February 9, 2022

Town Hall in the Lower Meeting Room

1. The Chair opened the ZBA meeting on February 9, 2022 at 7:03 PM.

A. ROLL CALL

Board Member	Present	Absent
Barbara Marty (Chair)	✓	
Howard Kirchner (Vice Chair)	✓	
Sam Bower (Selectmen)		✓
Beverley Howe	✓	
Harry Seidel	✓	
Elizabeth Labbe (Alternate)	✓ (Zoom)	
Lucinda McQueen (Alternate)	✓	

Also: Janice Loz, Land Use Administrator

- B. The Chair elevated Lucinda McQueen as a voting member.

- 2. APPROVAL OF THE MINUTES OF December 8, 2021**

The Chair noted on page three, four lines from the bottom of the page should read, "Bob said there is 12-feet between the driveway..." Page four, number the three, should read "it is close to the shop for convenience minimal changes to the existing plantings and stonework provide southern exposure, and will minimally impact roots of the existing trees." On page six, the first paragraph should read, "the Chair asked the Board if they found..." On page seven, paragraph five should read, "The Chair noted no abutters or public had submitted comments on the application." Page seven, paragraph eight should read "If this was a smaller piece of property with close abutters, ..." Page eight, paragraph one should read "She asked when people make an entry on the chat box, do we read them into the record as part of the meeting or,"

Howard Kirchner made a motion to approve the minutes. Harry Seidel seconded the motion.
Discussion: None. **Voice Vote Tally:** 5 – 0. The minutes were approved as amended.

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3. NEW BUSINESS

The Chair and the Land Use Administrator (Janice) briefed participants on Zoom protocols. Use of the hand-raising feature on Zoom, or comment in the chat section and Janice will bring it to the Chair's attention. The Chair informed the public to direct all comments through the Chair. Also, lower masks to speak and identify their names.

The Chair explained the process for the public hearing. The board meeting would start with the acceptance / or / denial of the application as complete/incomplete, open the public hearing, applicant, abutters and then all public, then close the public hearing and begin board deliberations.

A. Application for a Variance. Case: 2022-01

Applicant: Daniel Violette, Paula Brown and Marc Violette

Agent: Suzanne Brunelle, Esq. Devine, Millimet & Branch, PA

Address: 302 and 296 Kearsarge Mountain Road, Warner, NH

Map/Lot: Map 14, Lot 36-1

District: R-2

Description: Subdivide the property into two lots, which will allow the residential home on the property to be separated from the commercial cell tower.

Janice confirmed that all fees had been collected and all abutters noticed.

Harry Seidel made a motion to accept the application as complete. Beverley Howe seconded the motion. Discussion: None. **Voice Vote Tally:** 5 – 0. The board found the application to be complete.

The Chair asked Suzanne Brunelle who is the agent for the applicant to present the application. Suzanne said she is an attorney from Devine, Millimet and Branch. She thanked the Board for what they do, she sits on her own town Zoning Board, and she knows what a tough job it can be. She started by saying the Violette family has been part of the Warner community since the early 1960's. Diane Violette was very involved in the town and served as the town Treasurer for several years in the 1980's and 1990's. She passed away in October of 2020 and left the property we are discussing today to her three children Daniel, Marc, and Paula. Paula lives at the property currently and she would like to purchase the property. She is having problems getting financing for the property. Beverley asked if she has tried? Suzanne confirmed that she had tried. The issue is the banks are concerned with the residential nature of the property with a cell tower on the property. It has been suggested to the family it would be easier to subdivide the property to move the cell tower to a separate lot. That is the stated hardship. Beverley Howe asked if it would be easier, but not impossible? Suzanne said to get conventional financing it would probably be next to impossible. She said unless someone here would like to step up and finance or suggest some other means. I don't know how they (Paula) would go about financing to buy out the other family members.

The Chair asked Suzanne to go through the application and the responses to the conditions.

Suzanne said they are here to request two variances, to allow for the property to be subdivided. Without this hearing and the board's approval we cannot move forward with a subdivision plan with the Planning Board, which would be the next step. She said that Michael Brown went before the Planning Board on June 7, 2021 and requested that the house and barn purchased in 1983

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be separated from the cell tower that was purchased in 1984. The recommendation of the Planning Board was that he seek these two variances. Also, he was here in front of the ZBA in August of 2021 and had issues with an incomplete application.

The Chair confirmed that Suzanne should go through the five conditions. Suzanne said the plan shows what they are proposing for the property. The two lots which will allow the residential home on the property to be separated from the commercial cell tower. A copy of the proposed plan dated December 2021, prepared by Allen & Major Associates, Inc. is attached hereto as Exhibit B. The first newly proposed lot would be the dwelling with 2.9 acres with 296.05 feet of frontage on Kearsarge Mountain Road. This would be a fully conforming lot and does not require any relief from the Zoning Board. The second proposed lot would include the cell tower with 1.39 acres of land, which would not have access to the road. They would draft an easement with a right-of-way running from Kearsarge Mountain Road to the back lot where the cell tower is located.

As such an application for a variance is being requested from Article VI, Section C.1.a. which requires that lots created by minor subdivision have a minimum buildable area of at least two acres (Variance 1) and a minimum frontage of two hundred feet (Variance 2). The property with the cell tower will not meet these criteria.

Suzanne said the owners are requesting the variances to allow the creation of two parcels. The cell tower, due to the commercial nature of the tower, has created a hardship for the owners of the property as it relates to the residential nature of the other proposed lot. The owners are having difficulty in obtaining financing, as lenders are unwilling to mortgage the dwelling because it shares a lot with the commercial cell tower.

Condition 1. Granting the variance will not be contrary to the public interest because: The granting of the variance would not alter or change the current structures on the land, activities on the property, nature of the landscape or tax revenues. The variance is strictly for establishment of a separate lot for the cell phone tower. The variance would not change the property's current state, nor alter the essential character of the neighborhood.

Condition 2. By granting the variance, the spirit of the ordinance is observed because: The spirit of the ordinance has been written to promote the health, safety, and welfare of the inhabitants. In the present case, the division of the lot is not being proposed for any new development or for the addition of a structure, rather the owners are just seeking to address the current buildings located on the property. By granting the variance there would be no impact on the health, safety or welfare of the owners or abutters as there is no proposed changes to the property other than the legal division of the parcels.

Condition 3. By granting the variance, substantial justice is done because: The variance would not result in any change to the land or the structures thereon and would restore the owners' ability to seek and obtain financing for the home located on proposed Lot 36-1. The inability to obtain financing would result in a substantial loss to the owners, while granting of the variance would allow the legal subdivision of the property, which would likely go unnoticed by the public.

Condition 4. Granting the variance will not diminish the values of surrounding properties because: The variance will not result in any change to the land, structures, nature of the landscape or tax revenues and therefore would not diminish the value of the surrounding properties.

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Condition 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship: A. Meaning that owing to special conditions of the property that distinguish it from other properties in the area: The property is unique and has the special condition of containing both a residential home and a commercial cell phone tower on the same lot. We are not aware of any other properties in the neighborhood, which contain both a residential home and cell tower. Allowing the subdivision of the property will allow the residential parcel to obtain financing and act as a standard residential lot, with separation from the cell tower. There is more than sufficient land at 1.39 acres to operate the cell tower.

- i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision on the property; It does not make sense to enforce the provision with regard to minimum lot size in this situation. As previously indicated, the proposed residential lot will comply fully with zoning requirements once subdivided from the cell tower. This will allow the homeowner to obtain financing and use the property as a standard residential property. However, there is sufficient acreage for both the residential lot and the cell tower to exist as proposed on Exhibit B, which will be of no detriment to the town or its citizens. The owners will provide access to the proposed cell tower lot by way of an existing right of way as detailed on the plan attached as Exhibit B.

There is no fair and substantial relationship between the ordinance and the application of it to the subject property because there is no advantage for the Town of Warner or the citizens of the community if it were strictly enforced. The resulting hardship to the owners' is significant in that they are unable to obtain a mortgage for the dwelling and otherwise enjoy the residential property as a home.

AND

- ii. The proposed use is a reasonable one. As the requesting use of the property is the same as the current use of the property, the granting of the variance will not change the current reasonable use of the property.

Suzanne asked if they would have a chance to address the public letters she was provided. The Chair said, yes, later in the meeting.

The Chair said that since the response to condition number 5 is resting on the statement that the owners cannot obtain financing. She asked how many institutions they have gone to, to obtain financing? Suzanne didn't know the answer. But, stated that her area of knowledge lies in financing and real estate. She said it is very difficult to obtain financing with a property in that situation. There are often residential lots that seek to separate a cell tower from a residential lot, so they can get professional financing. The Chair asked if she had actual evidence that they had gone to a financial institution. She referred to Marc Violette who was attending the meeting via Zoom, potentially for more specifics. She said Marc did speak to a lender, who said it was difficult to get financing.

The Chair asked Marc, who was participating via Zoom, to contribute to the conversation. Marc stated that he spoke with Harbor 1 mortgage company and a mortgage company located in Manchester, NH. He couldn't remember the name of that company in Manchester although he

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had worked with them in the past, as a real estate agent. He did not use local banks; he has found in past experiences that using mortgage companies and mortgage lenders is a bit easier. He has established relationships with both companies. Both companies said it would be difficult to come up with comparables for a market analysis to see if financing would be available. He said there are not a lot of these cases in the state of New Hampshire. The Chair clarified the problem was they couldn't come up with a comparable and they (lenders?) didn't say specifically that they wouldn't finance the property. Marc said they told him it would be very difficult to finance the property.

Beverley wanted to know if this property was ever mortgaged. Suzanne deferred to Marc for that answer. Marc said the property was purchased in 1981 by his parents. He was 17 at the time and does not know. He assumes there was a small mortgage on the house, before the original cable TV construction site was put on the property. That site is now the cell tower. He doubts it was a very long (duration) mortgage, they had sold another property in Warner to buy that house. That mortgage had been paid off, this all happened in the early to mid-eighties. Suzanne clarified that the mortgage went on before the cell tower went up. Marc said keep in mind originally it was not a cell tower location, because there were no cell phones in the early 1980's.

The Chair noted that Sam Bower, board member, submitted a couple of questions. He asked if there is rent, or a financial agreement associated with the tower now? Suzanne responded, yes. The Chair asked Janice, Land Use Administrator, if the property the tower sits on now is a commercial lot. She said the owners previously received a special exception to put a tower on the property. Although, it is not zoned commercial, it is residential.

The Chair read another question from Sam, if the property were split and someday the tower was taken down is the property large enough to build a house on? The Chair said the answer is, no, it would need a variance. Janice said if it is given a variance to exist as a non-conforming lot and it is zoned residential, and it becomes a lot of record, she doesn't see why you couldn't put a residence on the lot. Howard said it could be approved with the condition that it not be a residential lot. It could be approved as only having a commercial business on it. He suggested that could be a condition of approval. Beverley said then any kind of commercial building could go there. Janice suggested maybe a condition could be that only a cell tower or a communications tower is acceptable on that lot. Howard said a condition could be that it not be a residential lot. The Chair offered potentially not a buildable lot. Howard agreed.

Beverley asked that since this property has been in the family for over forty years, she read the family wants to move back into the property. So, why are we doing this, why not leave it the way it is. Suzanne said because of the death of the matriarch of the family. There are three siblings, and one wants to purchase the property and buy out the other two siblings. To do that she needs financing.

The Chair said she wishes there were a little more evidence that financing couldn't be obtained. Suzanne said when you approach a bank and explain your situation, they will tell you right off the bat don't waste your time. Because they will not be able to find the comparables for them. They aren't going to be able to finance it, it isn't going to pass through underwriting. Underwriting conditions are extremely strict now, especially with the government backed residential loans. If your loan doesn't look like everyone's else's loan, then it doesn't get bought. So, it makes no sense to go from lender to lender having the same people telling you the same thing repeatedly.

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She often tells people you only have to apply to one lender, because if one lender turns you down, they are all going to turn you down. It is a uniform application process.

Beverley said this family has been in town for a long time and are very respected. She couldn't believe if they went to Sugar River Bank, on the corner in Warner that they wouldn't get financing.

Elizabeth Labbe, via Zoom, asked if these lots are subdivided who takes ownership of the cell tower lot. The Chair said at the time they are subdivided they would remain in the hands of the current owners. The Chair said they aren't approving the subdivision drawing; we are addressing whether or not they can obtain a variance. Suzanne said the three siblings own the entire property. The sister wants to own the residential lot and all three would continue to own the cell tower.

The Chair opened the public hearing. Beverley asked Janice for paper copies of the public's letters which were distributed via email. The Chair asked if anyone who wrote letters were in the audience. Also, could they speak to the letters that were submitted.

The Chair recognized Robert Holmes and Mary Allen. Robert said he lives at 52 Kearsarge Mountain Road, which is north of the Violette property. He said in 1984 the town didn't have an ordinance dealing with cell towers. The only restriction they had as he understands it was minimum lot size. He said the Violette's bought 1.3 acres and merged it into the home lot. Otherwise, they would meet the zoning requirements for minimum lot size. Now, 45 years later they want to separate it back out, which makes sense. In the meanwhile, the town now has extensive ordinances on cell towers. This cell tower could not have been built on that property under the existing ordinance. A cell tower cannot be located on the top of a ridge. There is also a minimum lot size and a special exception and other requirements for a cell tower. This would never have been built today. So, at this point you are taking a nonconforming commercial use and putting it on a separate lot. At first, he thought it was put on the lot without any protections. Then he found out in 2010 the Planning Board did put on conditions when it went from being a satellite dish to a cell tower. The cell tower couldn't be any higher than it was already and other conditions.

Robert asked that they have screening around the cell tower. He doesn't know how much screening is available on 1.3 acres. His concern was if the house is separated. Then trees can be cut leaving little screening of the cell tower. He would like to see screening added as a condition of approval.

Robert wondered if the cell tower becomes obsolete and is taken down, what would happen to a potentially newly create lot? If conditions say it couldn't be residential, only commercial, he views that as the worst possible outcome. He does not want a commercial operation on a residential street. If it is used as a cell tower, and nothing else, would it have to stay vacant? He didn't think that was in conformity with the zoning ordinances. He would like to have some understanding of if approved, even with screening, what happens if the cell tower becomes obsolete? The Chair thanked Robert Holmes for his comments.

The Chair said the board does not have any right to tell someone whether they can or cannot cut trees. So, the abutters within setbacks or other requirements can take down trees on their property. The Chair said Warner does have telecommunications ordinances. When they were written they did recognize that the MCT tower was a pre-existing tower. The Chair read from the text of the ordinance "any provider intending to collocate on the MCT tower or the Kearsarge tower (the two pre-existing towers) must submit written notification and an application to the

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Planning Board notwithstanding anything in the ordinance to the contrary. This ordinance shall not apply to pre-existing tower and antenna, however any change to either of these facilities by present or future owners must conform with height, aesthetics, lighting and lighting site plan review standards in effect at that time." She said one of the current requirements on cell towers is no tree cutting, removal or damage within a 200-foot radius of the permitted and fenced facility.

The Chair said whether or not the subdivision that is purposed which does not provide those 200-foot radiant screenings would be allowed, or in some way manipulated, by the Planning Board to provide additional screening. Because now they are creating a cell tower lot where one didn't exist before. That may be a question, she needs to get answer for before the Board makes a decision.

The Chair said cell towers are permitted by special exception in the R-2 district also weighs on this decision. This tower the way that it is sited now would not be allowed under the current ordinances. She confirmed that Mr. Holmes is correct.

The Chair called on Nick Clark from 278 Kearsarge Mountain Road. Nick stated his property is flat in nature and he can see everything on the back of his property. He can see workers on the subject property. His biggest concern really is what is being expressed here in the meeting. This is a nonconforming lot that has already been given an exception. He has never been to a meeting of this sort before. His understanding is you are allowed to operate a business on a residential lot. There is a commercial entity on a residentially zoned lot. In the Warner zoning laws that seems fully acceptable and permitted. But, if this were to be separated into its own commercial entity lot, and twenty-five years down the road we potentially may not have cell towers. What happens to this lot that is now zoned commercial? This lot is within eyesight of his house. So, if this is going to be zoned a commercial lot, then it is going to change the aesthetic of the neighborhood. Someone will want to buy it and develop it as a commercial lot.

The Chair said any change of use would have to go through the Zoning and Planning Boards. Someone could not come in and build a 7-11 because the tower is no longer there. Janice said the district is R-2, it is not zoned commercial. She understands that can be confusing. Janice said they are looking for a variance to create a non-conforming lot. The cell tower is a permitted use in an R-2 district with a special exception. The Chair said that was already given when they made the change to the cell tower, and they went through a site plan review. Any change to the site plan would have to go through an additional review process.

The Chair called on Mary Allen. Mary asked if the variance is granted in an R-2 with a special exception to support a cell tower. Then the cell tower is removed, then it goes back to being an R-2 lot that is 1.3 acres in size, then what? The Chair said her understanding is, it is a residential lot. Mary said it was annexed originally. Nick related the history of the property and who originally owned it and how it was annexed. Mary said if it is separated as an independent 1.3-acre lot, behind an existing house with no road frontage and a right-of-way which would run with the house lot property, but it would be a residential lot.

Howard said it would be a substandard sized lot in a R-2 zone. Mary said if the cell tower was not on that lot, it would be an undersized, no frontage lot in a R-2. Mary asked if there would be setbacks? The Chair said any future use of the lot would have to meet setback requirements for the use.

Robert said, suppose the cell tower goes away in 15 years. He supposed there would be a 1.3-acre lot, so you can't build a house on it, or put a commercial entity on it? The Chair said someone

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could apply for a variance to build a house on a nonconforming lot. Janice said, she thinks if you create a nonconforming lot with a variance then you have given permission for something to be built there. She said in the Land Use office we get nonconforming lots that have been created as lots of record and the public is allowed to build on them. All we can tell them is to be as mindful as they can of the setbacks but there really aren't any rules. Because they have a nonconforming lot. The Chair said even if it is created now that we have zoning regulations. Janice said if you create a nonconforming lot, that is what is in the balance.

The Suzanne didn't think that was accurate. You could put a condition on it that the setbacks would have to be met. She said they are not looking to change the use of the property. Janice said that would be a good question for the Board's lawyer.

Nick said if the variance is granted then the board is saying it is a nonconforming lot and it is useable. He felt that is very concerning to him, as an abutter.

The Chair recognized Christine Mell. The subject property is behind her home. She was concerned about individuals walking on her property. She was upset about this, and they left stakes on her property. The Chair asked if they were working on the cell tower. She did not know what they were doing. Gary Mell said they came back a week later and put survey stakes well within the boundary lines of our property. When the property was acquired the satellite dish was on the subject property. The property was well screened, seasonally. In the past, when they wanted to manage the trees for the satellite dish someone would come to our property and discuss it, respectfully. Nick said they were walking around his property as well. Nick in the meeting asked that the owners of the property have the survey company communicate to neighbors in the future. Nick said creating a nonconforming lot is very concerning to him.

The Chair said you have the right to ask anyone who comes on your property for identification and ask them to leave your property. Nick said his first call was to Tim Allen, who assured him they were not doing work in the area. His second call was to the state police, and they cited an incident with the surveyors. The Chair thanked them for their contributions and was sorry that happened to them.

The Chair recognized Kim Nolan of 301 Kearsarge Mountain Road; she lives directly across the street. She is very concerned about screening. A couple of years ago some pine trees were removed, which opened her view of the lot. She is concerned that other pine trees may be removed, fallen, or pruned which could affect the view. She said the Violette's have always been very good neighbors. If someone else buys the cell tower property she is concerned how it could be managed. Beverley said the only way that piece could be sold is if it is separated.

Suzanne said they may not be able to sell this property to someone who needs financing, in its current state. The Violette's may be a neighbor for a very long time and that would be a difficult hardship for them, and she is sure they wouldn't want this to happen to them.

Mary wanted to concur with Kim that when Mrs. Violette owned the property, she had a vested interest in protecting the appearance of her lot. A cell tower company in, Florida, doesn't care. Then it is not a neighborhood anymore.

Marc, on Zoom, apologized to the neighbors for surveyors being on their property. Marc, his sister and brother did know the property was going to be surveyed but did not know the exact day. If they had known they would have called the abutters. It was not meant to be malicious or harmful

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to the neighbors. This location started out as a cable television location. The cell tower was put up in 1984 with antennae on it, so the people of Warner could reach Boston stations. There were satellite dishes, that we have tried to screen. The company that owned it was MCT and then TDS. He was employed by both companies and always tried to be a good neighbor. The tower today is no bigger than it was in 1984 and it is a 100-foot tower. To screen it so no one could see it would be difficult. You can't just transplant mature 100-foot trees, for screening. His mother was always cognizant of trimming the plantings. People who live up the street from the property are a higher up and more apt to see it, than other properties.

Marc said whenever they have done anything with that tower, they have gone through the proper channels within the town. Anything that will be done has to go through the Zoning and the Planning Boards. We are not trying to be sneaky neighbors.

Nick asked Marc if there was anything they could do about the massive footings laying around the tower. Marc said those were part of the satellite dish tower and are grounded. There isn't much he can do about them. The Chair said this is a conversation the two should have between themselves it does not belong in a public hearing. Nick said he felt the large concrete footings detract from the value of properties in the area.

The Chair recognized Janice to speak as a member of the public. Janice asked if the applicant considered creating two conforming lots. Suzanne said she didn't think there was enough space there. They are never going to be able to create frontage for that back lot. Janice said they have over four acres and you need two acres per lot in an R-2. Suzanne said it is possible they could make the back lot larger. Janice said it would create some frontage, it wouldn't be enough, but wondered if the owners considered it. Suzanne deferred to Marc, as to why the property was proposed to be subdivided in the way it was. Marc said they didn't divide the lot into two 2-acre lots because of road frontage. Janice said you wouldn't have the road frontage but at least you would meet the 2-acre requirement. Marc said they cannot subdivide it into two traditional lots and that was never the intent.

Janice said if the variance doesn't go through the cell tower remains. Also, if a variance is granted, screening and the subdividing process is handled though the Planning Board.

Mary asked what Planning Board hearing is required after the Zoning Board does a subdivision? The Chair said the ZBA deals with the terms of a Variance. The Planning Board does a subdivision. The Chair said the PB may or may not approve what is on the plan, shown here tonight. The Chair reiterated the ZBA either approves or denies a Variance.

Nick said this property with the cell tower, was added to the Violette property in 1984. So, they are trying to go to pre-1984 lot dimensions? The Chair said that lot line adjustment, or annex, was not a house lot. Janice said this piece was owned by the person who previously owned Nick's property. They did a lot line adjustment and the Violette's purchased it.

The Chair closed the public hearing. The Chair explained the Board usually reviews the information and comes to a decision. The Chair said she has questions she would like to pose to the Town's attorney. She suggested to the Board they meet again in two weeks and continue the Board deliberations.

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The Chair, Barbara Marty, made a motion to continue the Board deliberations until February 23, 2022. Harry Seidel seconded the motion. Discussion: None. Voice Vote Tally: 5 – 0.

The Chair clarified that on February 23rd, the board will continue its deliberations there will be no more public comment, although, it will be a public meeting. It will commence at 7:00 PM.

Marc asked if this meeting will be available on Zoom. The Chair said, yes. Marc made a comment that he would have to pay his attorney to come to next meeting. The Chair said, the lawyer will not be able to participate in the hearing, as the public hearing was closed. She said it is just the board deliberating. Howard asked if any other information and public letters can be submitted. The Chair confirmed no more comment or letters. Marc said when he went to the ZBA in 2003, for a cell tower and it was approved. The Chair said the Board knows that and they have the records of the meetings.

Janice said she will give him notice of the meeting and that his lawyer is welcome to participate through Zoom. The Chair thanked Marc for his input.

Janice asked the Board how they would like to communicate with the town lawyer. The Chair said they would get questions to Janice, and she would submit them to the Lawyer. Harry inquired as to what kind of questions she would ask. The Chair suggested, can we put conditions on the variance, how detailed and can we legally impose those conditions. Janice said please keep in mind there is no mechanism to make sure conditions are met. We do not have a code enforcer. We do have a BOS, but they may be unaware of conditions unless someone mentions it. Twenty years from now, the only way to know about a condition on a property is to access the property file in the Town Hall.

Beverley said her problem is with the premise that a financial institution will not give a loan to the property without it being subdivided. Howard said they want a clean deed. Lucinda wondered if someone creates a hardship, why would we let them out of it. The Chair said they will say it was created by a previous generation. Howard said it is a hardship for the estate. Beverley said they based their whole case on the hardship of a mortgage, so they need to prove that.

4. OLD BUSINESS

None.

5. COMMUNICATIONS

Howard said he will not stand for re-appointment. His last meeting will be in March. He has served seven years, he said it has been a pleasure serving with all the members. All the board members thanked Howard for his service. The Chair said it was good having someone with the history, and the ability to apply applicable situations to a case. Howard said he would probably continue to be involved in public input when possible. He asked if Sam would be able to participate as a voting member on the February 23rd hearing. The Chair said if he familiarizes himself with the hearing, by listening to the Zoom recording. Howard said deliberations is open for all alternates. The Chair affirmed that once the motion is made the alternates can no longer participate. The board discussed whether members participating on Zoom would be able to vote. Harry and the Chair said they saw no difference between voting on Zoom or when present in the room. Janice read from the December 8th ZBA minutes, where the Chair said members can participate in Zoom but, a quorum has to be present in the room. The

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Chair agreed a quorum in the room was necessary. But the 5th member could be on Zoom and vote. The Chair said that is why it is important to know whether people are going to be present for the meeting.

6. ADJOURN

Harry Seidel made a motion to adjourn. Howard Kirchner seconded the motion. The meeting was adjourned at 8:34 PM. Voice Vote Tally: 5 – 0.

Submitted by: Janice L. Loz