

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
August 25, 2009

A public hearing of the Zoning Board of Adjustment was held on Tuesday, August 25, 2009 at 6:30 PM in the Auditorium at City Hall.

Jack Currier, Chair, conducted the meeting.

Members present were:

Jack Currier, Chair  
Sean Duffy, Vice Chair  
Kathy Vitale  
Gerry Reppucci  
Carter Falk, Deputy Planning Manager/Zoning

Mr. Currier explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Currier explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Currier also explained procedures involving the timing light.

Mr. Currier stated that case 2 will be taken first, and case 1 will be taken second.

- 1. Nashua Assembly of God Church (Owner) Bishop Guertin High School, Inc. (Applicant) 91 Farley Road (Sheet I Lot 47) requesting use variance to allow a private, outdoor recreation facility, including athletic fields, tennis courts, a multi-purpose building and related improvements. R30 Zone, Ward 1.**

Voting on this Case:

Jack Currier  
Sean Duffy  
Kathy Vitale  
Gerry Reppucci

Jim Petropulos, Hayner Swanson, Inc, 3 Progress St, Nashua, NH.  
Mr. Petropulos stated that they are proposing a private outdoor recreation facility for Bishop Guertin High School (BG). He said the property is in the extreme northwest corner of the

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City, and described it's location. He said it is 20.3 acres, it is gated, and is zoned R30.

Mr. Petropulos said in the late 1980's, both the Zoning Board and Planning Board approved a 46,000 square foot church/school facility, with 296 parking spaces. He said that construction began, but they never completed the project, and it is partially built.

Mr. Petropulos said that Bishop Guertin's intent is to use this property for practice fields for its student athletes. He said the main campus doesn't have the room for all these sports teams, and the proposed site allows them to ease some overcrowding on their current site. He said the proposed site meets their needs, as it is flat, wide open, and will have minimum impact to all the abutters.

Mr. Petropulos said that access is from Farley Road, very similar to the existing location, it will be gated and fenced. He said there will be a small sign identifying the property, about 6 square feet. The driveway will be about 200 feet of pavement, leading to a gravel parking lot, with a turn-around. He said at the end of the parking area there will be a small, single-story structure, 2,700 square feet, to be used for storage, lockers, and changing rooms for the teams. It will also have a canopy for inclement weather. It will be serviced by a well for water, and septic. He said the parking area will be fenced in.

Mr. Petropulos said there will be four rectangular fields; three will be soccer sized, one for field hockey, four tennis courts with the ability for two more, and an all-purpose field. He said the fields will be entirely fenced on the south side, and on the west side for security. He said that fencing, if needed, could be put in on the other sides.

Mr. Petropulos said the proposed use will have less stormwater than the church. He said the parking area will be lit with low-level lighting, as it gets dark earlier in the fall. He pointed out the one field that will be lit, but the closest resident is over 700 feet away from it. He said that all lighting will be turned off at 8:00 during the evenings of use. He said that for buffering, the previous plan for the church had a 10 foot buffer along the Church of Christ lot, and a 40 foot buffer along the St. Pierre parcel. He said that BG will meet and exceed those

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buffers. He said the proposed buffer is between 20-25 feet along the Church's property, and along the St. Pierre's they have a 90 foot buffer along the entry, and it goes down to about 70 feet, and goes up to 100 feet. He submitted some photos of the area to the Board. He said it is a young buffer, with coniferous and deciduous trees, and is appropriate for the abutting uses.

Mr. Petropulos said they hired a consultant who has come up with an integrated fertilizer plan. He said that Pennichuck Water Works has approved the plan, and they are in favor of it.

Mr. Petropulos said the use is for BG only, for fall and spring sports, specifically, soccer, lacrosse, tennis and field hockey. There will be no use in the winter. He said the fields are for practice only, the only games will be for freshmen teams. He said that these teams do not generate large crowds. He said that the fields will not be used for sports such as football, baseball, softball, marching bands, cheerleading, and winter sports. He said there will be minimal traffic impact, and have met with the City on this already.

Ms. Vitale asked if there will be concession stand sales during the games.

Mr. Petropulos said there will not be any.

Ms. Vitale asked about the cutoff time for the parking lot lighting.

Mr. Petropulos said 8:00 pm.

Mr. Reppucci asked where the fencing will be located.

Mr. Petropulos indicated from pointing to locations on the map. He said that no car can get into the fields from the parking lot from the front entry.

Mr. Reppucci asked if there will ever be the need for all 130 parking spaces to be utilized.

Mr. Petropulos said it is possible during the crossover times when parents are picking up athletes, but it may be only about 100 cars.

Mr. Duffy asked if the site has any asbestos or any brownfield conditions.

Mr. Petropulos said no, the site was intended to be a church facility, with 1,000 seats, classroom space, but the site was clean from our due diligence. He said this site is only intended for BG related activities.

Mr. Reppucci asked about weekend use.

Mr. Petropulos said there will be opportunities for an early Saturday morning practice, such as 8 to 10 am, and a Sunday practice from 4 to 6 pm.

Mr. Currier asked what could go in this R30 zone by right.

Mr. Petropulos stated that if a public roadway went into this property, with individual septic and wells, yields about 12-14 lots. He said if it were developed under a conservation subdivision, where smaller lots are used to preserve open space, could give 1.5 units per acre, or 30 units, but most likely, would yield about 18 residential lots.

**SPEAKING IN FAVOR:**

Attorney Brad Westgate, Winer and Bennett, 111 Concord Street, Nashua, NH. Atty. Westgate said they have provided an in-depth description of the points of law for the property. He stated that in this case, the restriction is the Use Table, which allows City related outdoor recreation facilities, but a private use cannot, even though they may be the same use, it's an ownership issue. He said the use will be just like a public high school would use.

Atty. Westgate stated by its' very nature that the rectangular athletic fields in this setting show a reasonable use for this property. He said the shape of the property is ideal for the proposed use, also, the land is flat, surrounded by virtually undeveloped land.

Atty. Westgate said the general purposes of the zoning ordinance include promoting recreation and sports, also, in this part of the City. He stated that the Master Plan promotes this type of use, and the restriction cuts into this use, also, athletics are an integral part of education.

Atty. Westgate said the third part of the hardship test is that the variance must not injure the private or public rights of others. He said that the public rights of others is actually enhanced, as BG will lessen their use of City fields by having these fields, and the use serves a number of Nashua students every year.

Atty. Westgate stated that they have a letter of support from a real estate professional, and they have outlined all the points of law in their application.

Mr. Duffy asked about off-street parking, and if there will be any parking on Farley Road.

Atty. Westgate said they want to accommodate all parking on the site.

Mr. Reppucci asked what may happen if people were to come to the site when the gate is locked, and walked in to use the fields.

Atty. Westgate said it would be done without BG's permission, so it would be a code enforcement issue, and would be trespassing.

Mr. Currier asked how the traffic for the proposed use would compare to the traffic for eighteen homes that could be here.

Atty. Westgate said the ITE manual will estimate ten trips per day per household, so it may have about 180 trips per day. He stated that even during the cross-over times, the proposed use may have about 100 cars. He said the church that was originally approved for this site would have about 400 cars per day. He said that BG expects their students to behave and drive carefully 24 hours per day, the environment should be very controlled.

Mr. Duffy asked if the buffer could be a no-cut buffer along the parking lot area.

Mr. Petropulos said the most critical area is around the St. Pierre's, he said there is a 20-foot tree buffer on our property along the westerly property line. He said the center of the property has already been cleared for the church, which will be expanded.

Mr. Currier said for the record, a 20-foot no-cut buffer zone on the easterly side of the property, the Poulin family is the trustee.

Linda Brodeur, 51 Forest Park Drive, Nashua, NH, and Principal of Bishop Guertin High School. Ms. Brodeur read a letter of support from Brother Mark Hilton into the record. The letter read that prior to becoming a co-ed school, BG had 500 students, and 20 athletic teams, which was reasonable for the 18 acre site. Since 1992, when the school went co-ed, there are 880 students and almost 70 athletic teams, so far more space is needed for these teams for the development of these students.

Mr. Reppucci asked what the proposed use is specifically called under, from the ordinance.

Mr. Falk said the proposed use is not specifically listed, therefore, anything not specifically listed is not permitted, and the applicant may apply for a use variance.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Joseph St. Pierre, 93 Farley Road, Nashua, NH. Mr. St. Pierre said his property abuts on two sides. He stated that a reasonable use in the R30 zone is a 30,000 square foot lot. He said that the church and school was a permitted use in any zone in the City, that's why it was approved. He stated that there is no hardship, it's an R30 zone and should abide by the City ordinances. He said that the proposed use, by nature, will be loud, plus, the roads are narrow and windy. He said that the private use of the property goes against the code.

Mr. St. Pierre said the spirit and intent of the ordinance goes towards safety issues, and even though there is 1,500 feet of Farley Road in Nashua, but it is a road in dire need of repairs, and it's never been resurfaced. He said that 18 new homes would be a beautiful neighbor that would generate tax revenue for the City.

Mr. St. Pierre said he is concerned about people lighting fires and smoking on the property. He stated that this request will not benefit the general public, as it is a private facility. He stated that a developer could build a nice residential development here, to meet the zoning intent. He handed out some photos of his property with the improvements that have been made

over the years he's owned it. He said he believes the use will expand over the years.

Mr. Currier asked if the property were developed with the 18 homes, would it be a better use than the athletic fields.

Mr. St. Pierre said without a doubt. He stated that if he were to sell his house someday, a potential buyer would look elsewhere.

Mr. Currier said he was impressed with the buffer that BG is proposing, and stated that there is a guaranteed buffer of 60 feet of trees.

Mr. St. Pierre said from looking at the buffer from his deck, the trees are all tall mature pines, and you can see right through them.

Bethany Poulin, 81 Farley Road, Nashua, NH. Ms. Poulin stated that she doesn't like having the church there due to it's abandoned nature. She said the area is rural, and should remain rural. She said she has called the police numerous times due to people vandalizing the property or riding dirt bikes or lighting fires. She said that the fact that this site will be empty most of the year, and that the site will have lights and inexperienced drivers will be the same problems that it has now. She said once it becomes this, it can never go back. She said that if it's houses put here, at least people will maintain them. She said it doesn't have any public benefit, it only benefits BG, and the roadway is not in good condition. She said they have a right to a certain quality of life.

Mr. Currier stated that he believed that the bad events that have occurred in the past will be mitigated, and will be gone. He said that the fence will block vehicles from getting onto the field. He said the school will invest a lot of money into this, and it will be controlled very effectively.

Mr. Currier said he heard that Ms. Poulin thought there would be no restrictions on the land. He stated that there are numerous restrictions that BG has proposed, and the restrictions would run with the land, not the owner.

Ms. Poulin said she thought the idea is ok, but the noise and the light pollution is bad, and the area has such a rural nature

out here, and her grandmothers land would be undermined, it's been rural living for so long.

Alderman Mark Cookson. Ald. Cookson said he was contacted by Mr. St. Pierre, who had expressed some concerns about this case. He stated that he is concerned about traffic in his Ward, and the route to this property will be impacted, and a lot of the roads getting to this site are already at failure. He said that Farley Road is a rural road, and is not intended to handle the traffic that it has, and is in disrepair.

Ald. Cookson stated that the land, while flat, is low, and might exhibit some drainage issues. He said that traffic is also an issue. He said that many homes out here have wells, and runoff of gasoline and petroleum products from additional traffic is a concern. He stated that the wells are shallow, and there are no fire hydrants.

Ald. Cookson asked about the use, as described and advertised.

Mr. Falk stated that the City's Land Use Code has a Table of Uses, with about 300 different types of land use. The specific use is not listed, therefore, they are asking for a use that is not only not listed, but not permitted, as the City's Code is "permissive", in other words, if the use is not listed, it's not allowed. He stated that they have the right to ask for a Use Variance to allow it, which is how it was advertised.

Mr. Reppucci asked if Ald. Cookson, as the Ward Alderman, is in favor or opposed to this request.

Ald. Cookson said he hasn't had the opportunity to review the application, and does not have a lot of details about the plan.

Ald. Cookson said that there are a lot of uses on Pine Hill Road, and the area is busy with a growing traffic concern.

Collette St. Pierre, 93 Farley Road, Nashua, NH. Ms. St. Pierre said that her husband covered all their points. She said that she wondered where the water will come from to water the fields.

Mr. Currier asked which use would be less of an impact, the 18 homes or the proposed athletic fields.

Ms. St. Pierre stated that the homes would be less noise, it would be less children outside.

**SPEAKING IN FAVOR - REBUTTAL:**

Attorney Brad Westgate. Atty. Westgate stated that many of the issues that have been brought up by the abutters are Planning Board issues, such as traffic, they may want certain intersections to be analyzed. He said that car speeding to the site is such that the clientele going to this site is being watched, there are discipline issues if they do not behave properly. He said the buffer will be analyzed carefully at the Planning Board, as well as fencing and utilities.

Atty. Westgate said for vandalism, the existing church building is the catalyst for causing unwarranted visitors to the site. He said a fenced facility, monitored by an existing institution in the City, used and maintained under their supervision, has a much greater chance for success than the existing conditions. He said that the NHIAA regulations prohibit smoking at these events and practices, and it is not allowed and not even seen at these arrangements. He said the focus should be on the use, not the Planning Board issues. He said it's not the nature of the use, its more of an ownership issue, a City or public owned place such as this is appropriate and permitted.

Mr. Duffy asked about the wells that would serve the property.

Jim Petropulos, Hayner Swanson, Inc. Mr. Petropulos stated that they do intend to irrigate the fields, exactly how it will be done is not determined yet. He said the goal is not to impact any other existing wells, and we know that many of them are shallow. Also, the irrigation system is not designed yet.

Mr. Currier asked if shallow wells are common.

Mr. Petropulos said the deeper wells are more common today, for reliability. He said in this site, there are sandy soils and high groundwater. He said the goal is to understand the aquifer and region, and design a system that works, and if there are impacts, we will stand by it.

Mr. Currier asked how 18 homes with 18 septic systems and wells would compare to the proposed plan.

Mr. Petropulos said 18 homes would have a much greater septic impact, there would be much more sanitary flow on a daily and year round basis into the aquifer. He said that well withdrawal for 18 homes would likely be deeper, bedrock wells.

Ms. Vitale asked if the property is going to be rented out to anyone.

Mr. Petropulos said it will not be rented out.

Ms. Vitale asked if security cameras will be used here, since it is such a remote location.

Mr. Petropulos said it is an idea that certainly could be considered.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:**

Mr. St. Pierre, 93 Farley Road, Nashua, NH. Mr. St. Pierre stated that he has lived at this location for 23 years. He said the majority of the people that come in and misuse this land do not come in from the road, they come in from the back on the other side. He said the fence will not keep the kids out, and once the fields are in, it cannot be taken back. He said if it has 18 homes, the owners will take care of their property, and no one can see this property from the street. He said that the use is private, it is not for the public benefit. He said the use does not meet the spirit and intent of the zoning ordinance.

Mr. Reppucci said he can't support the use, even though it's a good plan. He stated that he didn't believe they could meet the concerns of the abutters. He didn't see how there is a hardship, or anything unique, in the land. He thought the intent of the zoning district is to keep it residential, and it should be addressed through a rezoning from the Board of Aldermen. He stated that he didn't think it is up to the Zoning Board to allow this use. He didn't think it met the public interest point of law, as it's a private use, and the abutters will not see a benefit to having this use next to them. He said that he believes that BG would be a good neighbor, but since they'd be there such a limited time, there would be issues going on within the property that would be beyond their control.

Mr. Duffy said it is a unique setting in the City, and it is a 20 acre piece of property that is undeveloped and relatively

flat. He said that the City of Nashua could put in a football stadium in the site, and people are going to come into this site no matter who is here, or even if anyone is here. He said that the applicant has a great track record, and the only difference in the ordinance is whether it is a public or a private owned use.

Ms. Vitale said even for the 18 houses, there's no benefit to the public, except for the people who buy the house. She stated that the homeowner will pay more in taxes than the benefit they will get.

Mr. Duffy said the Board is a quasi-judicial Board, we act like judges. He said he lives near a public park facility, and hears bands, screaming, yelling and activity almost all year long. He stated that the proposed use is low-impact, and not nearly as intense as what could be there if it's a City-owned recreation use, and it's a reasonable use.

Mr. Currier thought originally that the property could be built with residential homes. He said that the writers of the Code didn't think of the proposed use as one to include in the Code, which isn't necessarily a bad thing. He felt that it is a hardship of a reasonable value. He said snowmobiles and ATV's will always find a way to get in here, but if this is approved, it will be fenced and maintained, maybe with security cameras. He said that the school will have a big investment in the property, and they will ensure to make it safe and in good condition.

Further discussion ensued.

**MOTION** by Mr. Duffy to grant the use variance on behalf of the applicant for the specific identified uses by the applicant of soccer, lacrosse, tennis and field hockey practice fields. Mr. Duffy said that the zoning restriction in the City interferes with the reasonable use of the property, considering the unique setting of the property in this environment, it is a large 20.3 acre flat undeveloped grassland area, surrounded by woods, it is rather unique in the City, it's in a remote area of the City, and the restriction of the ordinance is that there are other uses approved for that property and priorly used for that property, specifically, the church and school facility on that site, so, granting a use variance is a reasonable purposeful use that will also be maintained by the spirit and intent of the

ordinance because it is going to remain a grassed-in large undeveloped field area.

Mr. Duffy stated that it will be within the spirit and intent of the ordinance that an existing piece of property be used of a low impact use compared to a potentially more intensive use, even though it's not a non-use, or an incomplete use which is currently being used for and approved by the Planning Board.

Mr. Duffy said it should not adversely affect property values of surrounding parcels, even though there was different testimony on either side, there was a broker letter that was introduced, but no appraisal letter, however, the basic use continues to be open field area, surrounding by woods and large tracts of undeveloped property, therefore, it is not contrary to the public interest, and substantial justice is served that the applicant have a reasonable use that doesn't include buildings and accessory uses on a very large piece of property.

Mr. Duffy said there are 14 special conditions:

1. The applicant will abide by their August 25, 2009 Pennichuck letter for proposed fertilizer, herbicide and pesticide use and turf maintenance products.
2. There will be a gated single-access entrance egress to the property.
3. The use of this property will be for those uses identified specifically in this plan, soccer, lacrosse, tennis, field hockey practice sports, and no interscholastic varsity games except for tennis matches are to be played on the site.
4. The proposed lighting plan locations will be the only approved lighting plans approved for the site.
5. There will be no other accessory uses or building other than those presented by the applicant this evening, there will be no permanent or temporary bleachers or seating, no stadium seating, no temporary or permanent audio or broadcast speaker systems, no concession stands, etc.
6. Only the multi-purpose building, not to exceed greater than 3,000 square feet, excluding the overhang, a one-story multi-purpose building.
7. The buffers are to remain no-cut buffers from the east side on a 20-foot area surrounding the parking lot area, and also that there is a 60-foot no-cut buffer around 93 Farley Road, and a 20-foot no-cut buffer to the rear of 97 Farley Road properties, as testified.

8. Only Bishop Guertin or Bishop Guertin affiliated activities will be conducted on the property.
9. There will be no surplus parking area as identified on the plan on the front portion of the property on the access entrance allowed to this site.
10. A stormwater management plan for both drainage and irrigation will be created and placed on file before the Planning Board meeting, so that the abutters and people who have concerns can see the plan before the meeting.
11. There shall be fencing determined between the applicant and the abutters at 97 and 93 Farley Road, at 6-foot height, to be determined between the abutters and the applicant, of the type and position of that fencing, as well as 81 Farley Road.

**SECONDED** by Ms. Vitale.

Ms. Vitale asked if the Board should designate the time of the lighting.

Mr. Currier said it says specifically, number 4 on the August 25<sup>th</sup> letter, only one field to be illuminated, lights to be off by 8:00 pm.

Ms. Vitale said she wanted to add in the parking lights that was mentioned during testimony, and the Saturday and Sunday usage.

Mr. Duffy said he mis-numbered the items, and wanted to add in the hours of operation on weekdays are 2:00 pm to 8:00 pm, and on Saturday from 9:00 am to 10:00 am, and on Sunday from 4:00 pm to 6:00 pm on Sunday.

Ms. Vitale said it should be 9:00 am to 11:00 am on Saturday.

Mr. Duffy agreed, and this should be part of the Motion.

**MOTION CARRIED 3-1** (Mr. Reppucci).

2. **Steven M. Chagnon (Owner) 10-12 Underhill Street (Sheet 13 Lot 4) requesting variance to maintain two driveways for a duplex totaling 39'-6" - 24 feet permitted. RB Zone, Ward 7. [POSTPONED FROM 8-11-09 MEETING]**

Voting on this Case:

Jack Currier  
Sean Duffy  
Kathy Vitale  
Gerry Reppucci

Steven Chagnon, 36 Beaver Street, Waltham, MA. Mr. Chagnon said he is the property owner, since 1999. He said he has been trying to update the property, so that the tenants enjoy where they live. He said the driveways were in disrepair, and there were dirt patches that became muddy during rain periods.

Mr. Chagnon called the Building Dept and asked what he needs to do. He was told the requirements, and told his contractor, who also called and asked what the requirements are, and was told the same information. He said his contractor could do two 12-foot wide driveways, with one car in back of another, for \$10,000, or, to do it the way it was done for \$12,000. He said he wanted the property to look good, and this would remove the dirt patches and make the property look good. He said the tenant liked the look of the property, and neighbors have complimented the work. He said the full intent of this job was to improve the property.

Mr. Chagnon said he spoke with Community Development Director Kathy Hersh, who reiterated that a variance was necessary because the driveways were over 24 feet wide. She stated that the freshly paved driveways looked like an asset to the property, and that most likely, there was a miscommunication when Mr. Chagnon originally called.

Mr. Reppucci asked where the contractor, Norman Giroux, is from.

Mr. Chagnon said he is out of Rollinsford, NH.

Mr. Reppucci asked who did the paving.

Mr. Chagnon stated that Hudson Paving did the work.

Mr. Reppucci asked how he came up with the 20 foot dimension. He said that he heard testimony that as long as the driveways are under 24 feet, they are ok.

Mr. Chagnon said that is what he heard.

Mr. Currier asked if the Planning Dept. said it's ok to have 20 feet on either side, for a total of 40 feet.

Mr. Chagnon said it was a phone call from several months ago, he said he's not exactly sure what was said, he said he heard that 20 feet per side is ok. He said there was no ulterior motive here, he said he just wanted it to look good.

Mr. Currier said all the Board members have no stake in any case, we are all volunteers, he said with two 12-foot driveways, it would also look fine.

Mr. Chagnon said it was just dirt before, and elected to spend the \$12,000 to make it look better.

Mr. Currier said the Board gets challenged with wider driveways on occasion, and said he's struggling to find a hardship in this situation. He said the house was built in 1982, and had two 12-foot wide driveways then, and asked if anything has changed to warrant wider driveways since then, except for the miscommunication.

Mr. Reppucci said the result of two phone calls to the City, in which both of them gave the same answer, 20 feet.

Mr. Chagnon said it looks like incorrect information was received.

Mr. Reppucci said that Mr. Chagnon, the contractor, and Hudson Paving, who has been paving for a long time, all heard the same thing, and they paved beyond a 24-foot wide curb-cut, and didn't ask to verify if that was meeting the Code, and asked Mr. Chagnon to clarify what he heard.

Mr. Chagnon said that he believed there was a conversation between Norman Giroux and Hudson Paving, and someone from Hudson Paving raised a flag, and said it was potentially in need of a variance, and the conversation ended there, and the work was done.

Ms. Vitale said she was surprised he didn't take the less expensive route, and seed the area.

Mr. Chagnon said he likes the way it looks.

Mr. Duffy said he drove around the neighborhood, and asked if there are other larger curb-cut areas.

Mr. Chagnon said the property to the right of his is about 28 feet, and the property across the street is about 30 feet. He said there are other wider ones in the neighborhood.

Mr. Reppucci asked if he built the driveway he wanted to build, then decided to ask for permission once it was built.

Mr. Chagnon said that did not happen. He said he called the Building Dept, and his contractor called too.

Mr. Currier said while a miscommunication could be looked at as a hardship, he said he was struggling to think that there is one in this case. He said he believed that Mr. Chagnon did call and try to get the proper information.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No One.

Ms. Vitale stated that there were other options available for the driveway, and didn't believe she could support it the way it happened.

Mr. Duffy said they could have six cars there.

Mr. Currier stated that he tries to help the applicant, especially if they're a lay person. He said that there's only a 10 foot front yard setback here. He said there are other ways to accommodate the parking here, that wouldn't cut into the 24 foot requirement.

Mr. Reppucci said he didn't believe that they had two conversations with the Planning Department, and a professional paving company did as well, that has paved thousands of driveways in the City, could go forward without knowing that there is a 24-foot curb cut maximum requirement, that is sixteen

feet above the requirement. He stated that he didn't see any hardship, and that people can be aggrieved by contractors who do work that isn't allowed. He said that if people are doing things after the fact, and come to the Board, expecting it to be approved, is a big consequence.

**MOTION** by Mr. Currier to deny the variance on behalf of the applicant. He stated that there is not a hardship found, it is an after the fact approval, and while there was apparent miscommunication, it doesn't have a hardship, and is not worthy of a variance.

**SECONDED** by Mr. Reppucci.

Mr. Duffy said, in effect, what we're asking the applicant to do is to reduce one side or another, or cut, so there are two 12 foot driveways, or, do we have to make a decision on what it will be, and asked what needs to be done to the driveways now, to reduce it to 24 feet.

Mr. Currier said it's been on record since 1982 that it has had two 12 foot driveways. He said that we can't design the driveway for him.

Mr. Reppucci said if he brings it down to 24 feet, we're fine.

Ms. Vitale said it's just the curb-cut, after 10 feet he could make it wider.

**MOTION** by Mr. Duffy to suspend the rules to allow the applicant to speak.

**SECONDED** by Mr. Currier.

Mr. Chagnon said it's a sloping hill that comes down, and part of the project is to help with the slope, and to have the water come down and stop the erosion. He asked if he could have a sliver of pavement to allow the water to run off.

Mr. Currier said whatever he wants to do with the runoff, the best thing is to sketch it and show it to the Planning Department for review, or, could it be a rehearing request.

Mr. Reppucci said it's the size of the curb-cut that's restricted, they'll measure from opening to opening, it could curve out after the front yard setback.

Mr. Falk said after the front yard setback, which is 10 feet, the driveway could become wider, so there may be only a small area of pavement that has to be removed from each driveway.

Mr. Falk suggested he meet with the Street Department relative to the curb cut, and Planning Staff would also review a revised plan to the driveway.

**MOTION CARRIED UNANIMOUSLY 4-0.**

**OTHER BUSINESS:**

**REHEARING REQUESTS:**

None.

**REGIONAL IMPACT:**

The Board did not see any items of Regional Impact on the next agenda.

**MINUTES:**

None.

Mr. Currier stated that there is the training session with Attorney Dave Connell on October 6, 2009 at City Hall.

Mr. Duffy said he may not be able to make it, but will be attending the State training on October 17<sup>th</sup>.

Further discussion ensued.

**ADJOURNMENT:**

Mr. Currier called the meeting closed at 10:45 p.m.

Robert Shaw  
Clerk

CF

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING

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Taped Hearing