

**Town of Milford  
Zoning Board of Adjustment  
May 16, 2019  
Case #2019-07  
Ogie Brewing, LLC  
Special Exception**

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Present: Steve Bonczar, Chair  
Michael Thornton  
Rob Costantino  
Wade Scott Campbell  
Karin Lagro, Alternate  
  
Lincoln Daley, Community Development Director

Absent: Joan Dargie, Vice Chair  
Tracy Steel  
Paul Dargie, Board of Selectman Representative

Secretary: Peg Ouellette

Ogie Brewing, LLC, for the property located at 12 South Street, Milford Tax Map 26, Lot 157 in the Commercial District is seeking a Special Exception of the Milford Zoning Ordinances per Article V, Section 5.05.2.A.4 to permit the manufacturing of craft beer products associated with a low-volume nano brewery.

Motion to Approve: \_\_\_\_\_  
Seconded: \_\_\_\_\_  
Signed: \_\_\_\_\_  
Date: \_\_\_\_\_

1 Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the  
2 procedures of the Board. He said there was one case continued from the previous meeting and one new  
3 case. He stated that Joan Dargie was not present and asked for a motion to seat Karin Lagro.

4 M. Thornton so moved.

5 R. Costantino seconded.

6 All in favor.

7 S. Bonczar said K. Lagro would be acting as a regular member for the first case, even though it was a  
8 continuation of the May 2 hearing. She was present then and heard testimony and received all the  
9 exhibits.

10 S. Bonczar invited the applicant to come forward.

11 S. Bonczar stated that it was left at the last meeting that they wanted time to review and read all the  
12 material provided by abutters. He asked if everyone on the Bd. had looked at it. Re #2, two areas to go  
13 back and look at. The first being venting systems being used by other nano breweries in the area, i.e.  
14 Martha's Exchange and second, the plan for disposal of byproducts. Applicant had submitted a packet  
15 which the Bd. reviewed. He asked applicant to hit the highlights of that packet.

16 William Ogert said he visited several breweries of the same size and slightly larger, mostly in the Nashua  
17 area, to see what measures they had in place and if anything differed from what he thought was normal.  
18 Some of them were electric and didn't require venting. In general, all of them used the same system as  
19 proposed. No filtration of the stack. Some use natural draft. Others used a fan system. None had  
20 anything extreme, just conventional kitchen stacks to the roof. One picture showed it not going to the  
21 roof but straight out the side of the building. The same level as the building. None of them had any  
22 objections from the Town.

23 R. Costantino asked if the stack was over the roof.

24 W. Ogert said it was just over the edge of the roofline. If you looked at Martha's, it was not above the  
25 roofline.

26 S. Bonczar referred to pictures of Martha's.

27 W. Ogert said one of the breweries used electric brewing and rather than cost of any stack used a  
28 condenser pipe which he suggested as a possible alternative. It uses cool water mist to condense the  
29 steam into a liquid. Picture was shown of Martha's with that on the first floor and apartments above.  
30 Showed a picture of the back of the building with two stacks on the left. One for propane and other for  
31 steam.

32 W. Campbell asked how many stories up they were.

33 W. Ogert said second floor.

34 W. Campbell asked if the apartments were below that.

35 W. Ogert said yes.

36 M. Thornton asked if there were apartments above.

37 W. Ogert said he assumed not below but in front of the vents.

38 S. Bonczar asked about the sizes of these compared to what the applicant had.

39 K. Lagro said seven

40 W. Ogert said seven barrels. He proposes three and a half.

41 S. Bonczar showed photograph of the vent to the side.

1 W. Ogert showed Odd Fellows venting of steam through the roof. Also Liquid Therapy in Nashua on the  
2 first floor, one street away from Main St.

3 M. Thornton asked if the building was to the right of 90 degrees.

4 W. Ogert said yes, the old firehouse. Dance studio above with Peacock Players theater – people who  
5 would complain if there was a smell. He showed condenser stack some used as an alternative to venting.  
6 A big candy cane-shaped pipe – downside is increased water usage.

7 M. Thornton asked why not copper pipes with coolant you could re-use.

8 W. Ogert said he hadn't seen anybody manufacture that. It would probably have to be custom built. He  
9 just wanted to show breweries that didn't use venting directly.

10 S. Bonczar asked if the Bd. had any other questions.

11 R. Costantino had a comment. He called Nashua Code Enforcement Officer and identified himself and  
12 asked about compliance for the breweries in town. He said they had none. They had four in town. He  
13 said Martha's had people upstairs. He was interested in what people complained about. There were 86  
14 breweries in NH.

15 M. Thornton thanked the applicant for the summary and that he had proposed to use the condenser, but if  
16 the condenser stack was not sufficient he would be more aggressive. The intent was to be a good  
17 neighbor.

18 W. Ogert said yes.

19 L. Daley showed picture of the actual vent system at the proposed site showing rear of the building and  
20 extending above the roof line, and pointed out apartments and the building Mr. Kaplan spoke about.  
21 Distance was pretty close but one could talk about the height difference between the buildings.

22 M. Thornton said he was familiar with vent stacks and straight stacks. That looked like a turbine fan or  
23 power stack

24 W. Ogert said it was motor driven with exhaust return air on a separate system.

25 S. Bonczar said the second part of the request was disposal of byproducts.

26 W. Ogert said he couldn't contact them himself because he had a day job. His fiancée contacted several  
27 farms in Milford. One would take grain – probably not all of it. Two others may. He was waiting for  
28 answers from others.

29 S. Bonczar asked about a commercial contractor.

30 W. Ogert said he hadn't lined them up. He contacted some who said it was typical perishable waste like a  
31 restaurant. It didn't make a difference if it was grain or food waste. They treat it all the same. He  
32 proposed to store steel drums in the loading area. Farms could get easier access if they come in on  
33 Monday. Loading area used for deliveries of supplies and it would give them access.

34 R. Costantino asked if it was inside.

35 M. Thornton asked if there was any filtration.

36 W. Ogert asked, in the bay area? No.

37 M. Thornton said the grains were contained and moist. After 24 to 48 hours, it makes pressure. Was he  
38 planning to have them out of there before it could have an unexpected opening?

39 W. Ogert said he planned to have it picked up by farmers within one or two days of brewing.

40 S. Bonczar asked about commercial.

1 W. Ogert said with commercial waste management they have set schedules they contract. Working with  
2 the farms there will have to be something they negotiate. If you are going to take them you need it  
3 removed by Monday or Tuesday. If that will be a problem they will need to look elsewhere. In addition  
4 breweries have number of on-line forums. He posted on national forums looking for suggestions of other  
5 breweries in operation if they knew of any systems they may have found on-line. No answers re systems.  
6 All answers he got were that he was basically trying to address an issue that was not an issue. They said  
7 don't let your grains sit for a couple of weeks.

8 S. Bonczar said he thought that was key. He said applicant mentioned that operation would be seven days  
9 a week. As far as the boiling of the hops or grain, could that potentially be seven days a week?

10 W. Ogert said no.

11 S. Bonczar asked about a set day of the week he would be expected to do that part of the process and how  
12 many days later he bottled.

13 M. Thornton said he spoke of a two hour boiling.

14 W. Ogert said that would be max. Most are 1 or ¼. hour.

15 S. Bonczar asked if a particular day in the week for that.

16 W. Ogert said Saturday probably between 9 a.m and 1 p.m. Fitting a full day of brewing into a day, that  
17 was one of the early steps to get done early before you run out of hours.

18 M. Thornton asked if he was flexible to address A. Kaplan's issues for the people who might not be able  
19 to adjust to smell, so it was not during business hours.

20 S. Bonczar said, assuming it was a problem.

21 W. Ogert said he would certainly be open to working with everyone on it unless it made it impossible to  
22 brew. Once you start the process you have to keep going.

23 M. Thornton said start the process at a time when it would be least offensive.

24 W. Ogert said yes.

25 S. Bonczar said 2.4 barrels a week, which was 208 barrels a year or 62 to 124 gallons per batch. State  
26 allowed up to 2000 which applicant said he couldn't do there. Would he object to a restriction on how  
27 much could be brewed per week? It would have to be proposed and a motion, but if it was restricted to six  
28 barrels a week, which was fifty percent above what he planned - which was some leeway for growth - but  
29 there was a limitation with his space. That would be about 312 barrels a year. Would that be not  
30 desirable?

31 W. Ogert said it wouldn't impact on business. Between available space and floor loading, three and a  
32 half would be maximum of that location.

33 M. Thornton said if he were that successful he would be seeking another place.

34 W. Ogert said if he grew, he would need another building.

35 S. Bonczar asked if there was anything to add.

36 W. Ogert said no. It was pretty much covered.

37 L. Daley said another issue was water based effluent material.

38 S. Bonczar said he was going to ask about it. Planning Bd. brought it up. Had that been addressed with  
39 Water/Sewer?

1 W. Ogert said he had a phone conversation. He understood he needed to have a system put in place so it  
2 was not going into the sewer line without pretreatment or settling tank. He had an application to get to  
3 him. He [at Water/Sewer] didn't see concerns but would have to get together.

4 M. Thornton said filtering out solvents.

5 W. Ogert said re the chemicals, not so much with brewing process. It can be addressed with storage and  
6 conditioning.

7 K. Lagro quoted from the application re projected water usage of 50 to 100 gallons.

8 M. Thornton said the first time he said the chemicals were very benign.

9 W. Ogert said water and there was alkaline and put into water to dissolve chemicals. Mostly designed to  
10 be environmentally friendly.

11 M. Thornton asked if anything would have to be added to the effluent to adjust the pH.

12 W. Ogert said possibly if it was out of range. If it was too alkaline would have to add to bring the acidity  
13 up. Simple process. He spoke to company the other day whose entire business was waste water  
14 treatment. They didn't think he would need their product because they work with really large businesses,  
15 but he contacted them in case it became something he needed to put in.

16 L. Daley asked W. Ogert re management of solid material. W. Ogert mentioned storing temporarily in  
17 the bay area. Was that a pull-up door?

18 W. Ogert said yes.

19 L. Daley asked what vessels it would be stored in.

20 W. Ogert said plastic 55 gallon drums with sealed lids. Those would be used to seal it and still move it.  
21 A single batch would probably use two and a half of those.

22 L. Daley asked, per week?

23 W. Ogert said yes.

24 M. Thornton said they saturate and swell. Was that swelled?

25 W. Ogert said yes.

26 L. Daley asked, when applicant was talking with other breweries, when they store their used material, was  
27 there an odor or did it cause any problem?

28 W. Ogert said no. They didn't even seal their containers.

29 M. Thornton said because of the anaerobic bacteria.

30 W. Ogert said yes, with the oxygen it is more natural process. He would seal them because of the  
31 concerns raised.

32 L. Daley said concerns of the last meeting about the process and he mentioned agreement with farmers to  
33 remove on a regular basis. It would be a level or comfort to have a contract with a waste management  
34 company. He didn't know if the landlord had a waste management contract in place.

35 W. Ogert said no.

36 L. Daley said it should be part of the process.

37 W. Ogert said he would need that for regular trash.

38 S. Bonczar said that had to be primary because farmers are not available all the time.

1 L. Daley was envisioning that farmers come on Monday and if it was not there the waste management  
2 would come the following day.

3 M. Thornton asked L. Daley and applicant – most of the contractors he knew come and take it as a fixed  
4 price. Do they charge on volume, too?

5 W. Ogert said there was a service charge to come out and then poundage.

6 L. Daley said his point was a set schedule to have it removed off site on a certain date. Also settling tank  
7 as a possible step before it went into the town waste system. What material was generated in that  
8 process?

9 W. Ogert said it was a tank where anything like drains from the washing sink and flow drains and goes  
10 into large steel container in the basement where solid allowed to settle and clear liquid pumped out to the  
11 septic. Over time you will reach a point where an average septic company can come in and pump the  
12 bottom out.

13 L. Daley said it was not part of the disposal of other material.

14 W. Ogert said no, strictly water.

15 L. Daley asked if it there was a smell.

16 W. Ogert said no. Enters a drain trap.

17 M. Thornton said it was like a septic system.

18 W. Ogert agreed it was very much like a septic system.

19 S. Bonczar opened the meeting for public comment. He asked people to keep their comments around this  
20 evening's testimony. A lot of time was spent last meeting to go over items and they had a lot of items to  
21 review. Would like to keep discussion at that this evening. He said Atty. Quinn had sent a letter to the  
22 Bd. and he would like a summary of that put into the record as Exhibit 5. Would not like to re-hash what  
23 was discussed at the last meeting. Would like to hear any new concerns.

24 A. Kaplan, owner of 19 Nashua St., behind the proposed site and an abutter of those buildings, came  
25 forward. He presented a memo to the Board May 16, 2019 requesting restrictions (Exhibit 6). At the first  
26 meeting he read an application that said intent of plan was producing 2 to 4 barrels and the State allowed  
27 up to 2000 and there were many other concerns showing seven days a week, Monday through Sunday,  
28 brewing time. Based on that he had to protect his property and his tenants and abutters by asking for  
29 outright denial of the application. After that hearing he reached out to the real estate agent and asked for  
30 opportunity to meet with the applicant. They met that weekend and discussed some issues. He didn't  
31 even know what restrictions he would want. Meeting was productive. He liked the applicant and was  
32 impressed by him. One of the issues was brewing per week. Believed he was fine with 4 a week  
33 indefinitely. One of A. Kaplan's concerns was micro breweries.

34 M. Thornton said it was nano.

35 A. Kaplan was satisfied with 4 barrels a week. Thought it was two days a week.

36 W. Ogert said yes.

37 A. Kaplan said that alleviated his concerns.

38 S. Bonczar said that was process. It will be operating 7 days a week. But the whole process of brewing  
39 was Mr. Kaplan's concern.

40 M. Thornton asked if it was the business 7 days, or brewing 7 days.

41 W. Ogert said the confusion was that the proposal mentioned in the beginning had been operating Friday  
42 through Sunday because he was keeping his job. Hoped within a year he would be up to 7 days. That

1 would be tap room and sampling room and tasting room, in addition to brewing on weekends. If things  
2 shifted and he had to brew on Tuesday instead of Saturday.

3 A. Kaplan said that would be OK unless some circumstances arose to warrant that. They do not object to  
4 the tap room. If the brewing process were limited to two days that alleviated a lot of concerns. However,  
5 they came into it asking for a denial. At this point, if the restrictions not in place to protect abutters  
6 appropriately and cannot be meaningfully enforced then their objection stays. If it was a bunch of  
7 worthless restrictions, they would not want it.

8 S. Bonczar said there would be restrictions.

9 A. Kaplan said would like to proceed. But about odor and waste water but not waste water department  
10 which was reviewing the proposal and didn't know if he can discharge into the sewage. There may be  
11 whole details there, pre-treatment chemical and things not sorted out yet. He would like to address waste  
12 byproduct. That has shifted to the garage which W. Ogert did say that at the meeting. He did research  
13 into grain. That concerns him. He referred to a microbrewery.com web site. If this expanded down the  
14 road, so they know what restrictions are. He cited information from the web site re 2.1 sq.ft. per barrel.  
15 Application said 2045 SF which came out to 947 barrels talked about. That, according to the site, it was  
16 much higher. If the restriction stays, it stays at that, then it is addressed. If W. Ogert decided to cash out  
17 and sell, the new owner may have other ideas. He believed the special exception was only for the  
18 business.

19 L. Daley said if the brewery moved out and a brewery came in the special exception would maintain.

20 M. Thornton said if he were to sell and the business stayed the same.

21 L. Daley said if the use stayed the same.

22 M. Thornton said all restrictions would stay the same.

23 L. Daley said yes.

24 A. Kaplan said it was important it be done right from the beginning. If you were also to take into account  
25 their basement which was access then it ups the gallons to just a little shy of that 2,000 figure. Wants to  
26 be sure it was not something like that down the road.

27 M. Thornton asked S. Bonczar if they were going to stick to 6 or go to 4 barrels.

28 S. Bonczar said they hadn't discussed that yet. Wanted to move along and not discuss what was  
29 discussed at last meeting. Changes applicant had made. They had another case to hear.

30 A. Kaplan asked if he had a specific time [to speak].

31 S. Bonczar said he needed to move along because there were other abutters waiting.

32 A. Kaplan said re waste he did like wide garage door re waste byproduct he quoted from  
33 [beveragemaster.com](http://beveragemaster.com). No one knew what would be there. He quoted from an article stating that for every  
34 gallon there was approximately 10 lb amount of waste. Another article backed that up re FDM how much  
35 would have been thrown away. One said 200,000 month. Amount of waste they were talking about, if it  
36 was stored in the garage if it is not removed immediately – 24 to 48 hours. He said M. Thornton was  
37 right on track when he asked. He mentioned figures from brewery, Old Ox Brewery set up in an  
38 industrial district in Virginia. Same scale operation [as Ogie] which wants to set up in a commercial  
39 district with a tap room and tasting room. He said grain would be removed within 24 hours of brewing.  
40 He didn't see how one or two weeks was correct.

41 Bd. members said that no one had said that.

42 A. Kaplan said W. Ogert just said it.

43 S. Bonczar said no he didn't.

1 W. Ogert said he was confusing plan to vacate grain with the time it takes for it to become a primordial  
2 soup. It was a comment from other brewers that if you left it for that time you would have an issue.

3 A. Kaplan said that he was saying one to two weeks was the time it took to degrade?

4 W. Ogert said one to two weeks was a comment from other brewers that if you didn't maintain healthy  
5 practices and left them for that amount of time you would have issues.

6 A. Kaplan said he was pointing to one to two days – 48 hours. If they said one to two weeks, that was not  
7 accurate. Whatever was said was said. There was a statement that some breweries said steam would be  
8 vented through the roof of the building and they had no complaint of odors and he questioned how to  
9 accomplish it. He called them and they explained it was in an industrial area. Only one complaint from a  
10 potential tenant who would not liked smell because they were brewing while he was there. He said you  
11 want to get rid of that byproduct within 24 to maximum 48 hours.

12 M. Thornton said sunlight would affect it.

13 A. Kaplan said this looked at how they mitigate odor – venting through the roof. He also spoke to  
14 Nashua. They don't have complaints. He looked at businesses other than in a building where he was  
15 familiar with the landlord, Odd Fellows. She said they had some issues when they first opened with  
16 odors. She put him in touch with that person. He would submit that information into the record. It was  
17 in Nashua. He quoted from the response he received. The department didn't have any knowledge of it  
18 but it may have been handled between the landlord and tenant. Re odors they talked about scale. That  
19 would matter when they talk about Budweiser. It was the process that created problems, not the scale.  
20 On NBC there was story about two workers who went into a complex and detected a smell and called the  
21 fire dept. who evacuated the building. Odor was from a few gallons in a bucket from home brewing kit.

22 W. Campbell asked if the firefighters knew it was a brewery, going in. They would treat that as a hazmat  
23 anyway. They would evacuate the building if they didn't know.

24 A. Kaplan said one of them is methamphetamine. That is why they evacuate. It is an odor strong enough  
25 to call the fire department.

26 M. Thornton said an article he read said brewery odors can be alleviated by a higher velocity or extending  
27 the stack. He believed the odor the fire dept. was addressing was something that had been sitting in a  
28 bucket for a while. Didn't know of a commercial process that allowed biologically active substance to sit  
29 around. It was more of a hazard to them than to the abutter.

30 A. Kaplan said a commercial process made it better, was what M. Thornton was saying.

31 M. Thornton said a commercial process had an investment in keeping it clean so they and their customers  
32 are not affected by odors of a primordial soup with bacterial action.

33 A. Kaplan said they had cases showing how they mitigate. One of the concerns was that W. Ogert  
34 engaged in doing this at home and was going commercial. More things to deal with. Things that could  
35 go wrong.

36 S. Bonczar said they would make sure there were conditions. At the last meeting and this they knew there  
37 was concern. The question was - based on what applicant said and what he additionally proposed, that is  
38 the method of storage and other conditions– whether he had concerns re that.

39 A. Kaplan said he was saying there would not be issues.

40 S. Bonczar said they didn't know that.

41 A. Kaplan said he had articles that said otherwise.

42 M. Thornton said they had his public statement.



1 A. Kaplan said it would be easy to continue his straight up objection. Going a different way now saying  
2 to put conditions in place.

3 S. Bonczar said asked what conditions.

4 A. Kaplan said extending the flue or a condenser?

5 W. Ogert said that was a proposal based on numerous examples of non issue with standard kitchen flue he  
6 would be allowed to start and if there was an actual issue then he would go to the stack ventilation. It  
7 would be an additional expense.

8 S. Bonczar showed pictures of the candy cane unit. That steam was not going up.

9 W. Ogert agreed. Would have to take on expense of coming up with engineering solution.

10 A. Kaplan said if they say they can't do it because it is winter or they don't have the money, if there is a  
11 complaint by the tenants, the brewing is discontinued. Was he comfortable with that kind of restriction?  
12 A guarantee.

13 W. Ogert said he wasn't sure how to guarantee.

14 S. Bonczar said it was for the Bd. to put conditions on.

15 M. Thornton said you propose and we enforce.

16 S. Bonczar said you propose and we may or may not.

17 A. Kaplan said it would better than being adversarial.

18 S. Bonczar said that was outside of the Board.

19 A. Kaplan it wouldn't do for the town to put in something that made the abutters uneasy.

20 S. Bonczar said it was a balance of the property owners and abutters.

21 A. Kaplan said it didn't do W. Ogert any favors to push it in with restrictions they were not comfortable  
22 with. Then it goes to a rehearing and then to Superior Court and Supreme Court. There should be  
23 restrictions which made everyone comfortable. Put guarantees there. He didn't feel the pictures shown  
24 were very accurate. If you stand by Wadleigh and look up. You see the flue. It was said it is above the  
25 roof line.

26 M. Thornton said above the peak.

27 W. Ogert said above the lower.

28 A. Kaplan said they had testimony that it has to be above the top of the building.

29 S. Bonczar said they had testimony that suggested that.

30 A. Kaplan said that was an expert.

31 S. Bonczar said Mr. Ogert could hire an expert that might say something else.

32 A. Kaplan said you can't cast aside expert testimony. Not a good thing to do.

33 M. Thornton said he also addressed velocity of the effluent. This was a power vent. Before anyone got  
34 upset, please read last paragraph on that page while he made a statement. Didn't know if the landlord  
35 would be amenable, if it became necessary, to carry some of that burden of the stack. Probably the most  
36 affordable option available was keeping the power unit and extending the stack. Still, on a windy or  
37 overcast day you will smell something.

38 A. Kaplan said there was a substantiated claim there. He quoted from a web site where tenant had  
39 complaints. Had a stack condenser that didn't please tenants. He said he was asked if it was fine to store

1 grain in the basement. He couldn't say based on that. Cared about the end result. If he put in a stack  
2 condenser and still odors, that was not enough. Serious restrictions to satisfy them so the abutters who  
3 have invested in properties and tenants occupying the new building. They had a lot to lose if not done  
4 right.

5 Ron Kaplan, father of Aaron Kaplan, said the alley in winter was not usually shoveled. They would go for  
6 weeks without trash being picked up. They can't get in because of snow or car parked. The stuff in the  
7 alley would be a problem.

8 W. Ogert said it was determined at the last meeting and said the alleyway would have to be maintained.  
9 S. Bonczar said maintained and no storage. That would probably be restrictions.

10 A. Kaplan said he spoke to Mr. Ogert and he agreed to that, but that was before he [A. Kaplan] was aware  
11 of the volume. A more appropriate location would be in front of the building. A small storage with  
12 small ramp and he wouldn't have to go down the alley.

13 M. Thornton said better for him for security and farmer access. But he didn't see it as a problem for the  
14 Bd. if the waste was stored appropriately and there was no odor, there was no issue.

15 A. Kaplan agreed. Another point agreed - brewing would be no more than two days and week and no  
16 more than 4 barrels per week. That was settled. Brewing waste, byproduct grains removed within 24 to  
17 48 hours. Waste will not be stored anywhere else. He didn't want a situation where someone says they  
18 will put it there but they won't pick it up and move it. Restriction if waste produces odors it must be  
19 removed immediately. For example, a bad batch. Restriction 3: They were a little at odds. That was for  
20 Bd. to decide. Garage to the rear where he is storing, door will remain closed at all times except for  
21 ingress and egress. In summer, they leave that open.

22 M. Thornton said that was why he was asking about ventilation. A power vent on the roof would  
23 alleviate.

24 R. Costantino said nothing there for ventilation in the area now.

25 M. Thornton said that was why he asked.

26 A. Kaplan said they keep doors closed at Liquid Therapy. No complaint unless there is an odor. Doesn't  
27 mean you have to keep it closed, but can't be odors coming out. Point 4: Objectionable odors shall not  
28 be noticeable outside the premises. Have to look at what you will allow into the district. If complaints by  
29 abutters, neighbors, upstairs tenants, and he can't control it, then brewing will cease. Odor must be  
30 demonstrable to the town officials. Someone can't say they had a fire in the kitchen and want them  
31 closed. Must be deference to the tenants. It was on the industrial to make sure people are not put out.  
32 Point 5: Immediate mitigation of the problem. If not immediately, brewing must cease.

33 M. Thornton asked L. Daley if it was a problem and the town investigated, would there be a cease and  
34 desist?

35 L. Daley outlined the process: contact the individual who has violated and a written discussion and  
36 thereafter there is a violation letter sent out. It is a progression. Probably handle things immediately and  
37 have dialog with people and usually settled. He understood A. Kaplan's giving deference about tenants  
38 and property owners. That was was subjective. Was that realistic from enforcement?

39 A. Kaplan said he didn't want tenant to be in a back leg in their own apartment trying to convince  
40 someone that has this hop smell or sulphur smell – in his research the reason sulphur is so bad was it was  
41 detected at very low level.

42 M. Thornton asked, hydrogen sulphite.

43 A. Kaplan said hydrogen sulphite, whatever – the rotten egg smell.

1 W. Ogert they discussed that that was if you had your own wastewater treatment, not the brewing process.

2 A. Kaplan said they may decide you need a treatment in place before it went into sewer. He asked the  
3 Keene official if those created odor and was told yes. Maintenance and setup. Those details needed to be  
4 ironed out. Point 6: Existing vent be extended per guidance of expert witness. If the stack condenser  
5 does it, and the applicant was comfortable with it and it works, fine. But he won't be satisfied if there are  
6 odors and they say sorry you have to wait until we get around to it. Needs to be immediate, or operations  
7 cease until then. It protects him and tenants upstairs. Needs to be restriction to protect tenants and  
8 abutters. He quoted from a source that said "brewery moved in" and talked about "noxious odors from  
9 brewing ." J. said can be done. Answer: "was surprised the State allowed them to put in a brewery." He  
10 doesn't want the onus to be on tenants to prove it is objectionable. Suggestion on site was to speak to the  
11 landlord to see what they could do. There are equipment attachments to reduce odor. He didn't want  
12 onus to be on the tenant. Has to be demonstrable to town official.

13 M. Thornton said air ventilations in a residence. What he wanted was no smell in the apartments?

14 A. Kaplan said or business. If no smells, then fine. But guarantees had to be there for everybody who has  
15 already invested to build up the downtown.

16 M. Thornton asked if the Bd had the power to put in that kind of stipulation.

17 S. Bonczar said they would discuss that. He said Atty. Quinn wanted to speak.

18 A. Kaplan said zoning came before planning. He thought they went over details of interior If the Bd.  
19 decides on restrictions they tie into the plan. He didn't want to go without restrictions and someone  
20 comes in and wants to go full scale and you can't stop it because of the way the ordinance is worded.

21 M. Thornton said each is individual.

22 A.Kaplan said because of the way the ordinance is worded, you can't stop them because that was already  
23 there.

24 S. Bonczar said to Atty. Quinn re his testimony, he didn't mean he wasn't an expert but he was saying  
25 you could bring in multiple experts to say all kinds of things. He didn't mean to demean the expert.

26 Cynthia Dokmo, whose family owns LLC that owns 1 Nashua St, came forward. She said A. Kaplan and  
27 Atty. Quinn and Dr. Bower would not be there were it not for the deck. Her family put a considerable  
28 amount into that building. Deck was a special feature you could not find, overlook the Oval. If this was  
29 enclosed she would not care. She was asking them to protect the investment of her family. Even though  
30 W. Ogert was going on a shoestring that was no excuse to not putting in conditions before he began.  
31 Even though it might cost him a little money to ensure no problems down the road. It seemed his  
32 assurance he would fix it if it was a problem was closing the barn after the horses have left. She didn't  
33 expect him to spend a lot to do it but as long as it was done correctly it wouldn't impair value of their  
34 investment in the town.

35 T. Quinn, Attorney for Buttermilk Farms, an abutter, came forward. First casualty would be the situation  
36 in Nashua because it was not the same neighborhood as this. He talked to people in Nashua and they  
37 verified no complaints except for one who said he could smell it from his office at City Hall. T. Quinn  
38 didn't know if the windows were open there or upstairs at Martha's Exchange. He didn't know how  
39 relative that was to this discussion. He was not trying to contradict every point. Products would not exist  
40 if there were not a smell to be mitigated. The condensers designed to handle the odors. Condensers  
41 designed so that the vapors generated have to be controlled. You have condensers that trap the steam and  
42 then liquidate it and then it goes into a bucket. It doesn't go outside. About 70 to 80% effective. Not a  
43 big expense. Can be obtained for hundreds of dollars, not \$10,000. Another thing done is installation of  
44 carbon filters.

45 W. Ogert said he looked into it. It was not viable for brewing.

1 T. Quinn said it wasn't for mitigating steam, but for brew process. He discussed with Dr. Bower. Steam  
2 in condenser can be brought down in temperature to be handled by the carbon filter. But reducing  
3 temperature of the gas to the point where the coal filter works could be costly.

4 M. Thornton asked if he was saying first the condensers and then the carbon filters.

5 G. Bower said the condenser is designed to pull out vapors. Doesn't deal with any odor producing  
6 compounds, like alcohol, they are below the point at which you are condensing. Ethyl alcohol will  
7 evaporate at very low temp. Condenser couldn't do anything for that. You are taking water vapor which  
8 carrying out compound producing odors and removing it from the air stream. Then, if necessary, to go to  
9 second step. Even the piece T. Quinn mentioned really simple for putting an existing stack to make  
10 discharge well above the roof line.

11 M. Thornton said he did some research. It seemed that, if amenable to the landlord, was the cheapest  
12 solution for him.

13 T. Quinn said the reason their proposed condition called for immediate installation of the condenser and  
14 carbon filtration system is the reluctance exhibited at the first meeting to do what Dr. Bower suggested,  
15 which was raise the stack above the peak of the roofs and adding a fan to increase velocity.

16 M. Thornton said there was already a fan there.

17 T. Quinn said they knew there was a fan but didn't know what it did to the velocity of the stack. Can  
18 have analysis done so they know what had to be done to the stack to make it effective. They want that  
19 analysis done.

20 G. Bower said 42 ft. per second.

21 T. Quinn said if analysis of the stack was done and showed that will be sufficient with possible addition  
22 or upgrade of the present fan – under \$500, likely - if that was done they would be through talking about  
23 vapors and they focus on spent grain. Didn't sound like there was any disagreement on that. 48 hours, -  
24 that worked.

25 M. Thornton said it was a number they could control.

26 T. Quinn said to do the analysis of the stack and agree what was to be done and the problem goes away.  
27 He knows W. Ogert may not have \$10,000 in his pocket but it was a reasonable cost of doing business.

28 To S. Bonczar's point, it was about balancing interests. The whole point was to create districts with  
29 similar activities in the same zone. Also to adopt regulations so that people in the zone get along –  
30 setbacks, etc. He was asking for a balance of interests. You can do this, but not in a way that is  
31 objectionable to your neighbor. In Art. 10, there are five tests to be met. Every one is part of the test  
32 implicitly balancing interest of people in the district. He was not objecting to the activity but don't harm  
33 our property values in the process. That is what their conditions were about. If the stack is done then  
34 their insistence on carbon filtration and condensers will probably go away. But if not analysis of the  
35 stack, then they want those.

36 G. Bower said he went to look at the stack and they had photos. Is the stack appropriate? If that was  
37 industrial you would never have a stack like that. It is not. It is intend to get fumes from cooking area out  
38 Given the height of that stack and location, the peaks of the roofs around , when you have moderate wind  
39 velocity from the east or north to the northwest there will be a wake - an air cavity that will trap what  
40 comes out. If there is boiling from 9 a.m. on a Saturday morning the people on that deck having lunch on  
41 a lot of days would be impacted.

42 M. Thornton said that was why he asked if he was willing to adjust his hours so there was no impact  
43 during those hours.

1 T. Quinn said the Bd. wasn't going to get into limiting his hours. His life may change and he may not be  
2 able to do it on Sunday. Just don't want him to vent his odors. Reason for other conditions received was  
3 to control growth. They don't care how much patrons but don't want, if brewing becomes more  
4 profitable than tasting, that tasting goes and brewing become primary. It is a tasting room similar to a  
5 restaurant. But if tasting goes away it is not like what is on the Oval and should go to West Milford in the  
6 industrial zone. Doesn't want to get into going in and counting tables. Somehow have to make point that  
7 this is tasting room and part time brewing. They talked about tasting room and open grain. Talked about  
8 if they don't modify the stack then they want those other two. Just looking for a fair shake.

9 S. Bonczar said understood. Adjacent properties and beyond that. He asked if there was anything else.

10 M. Thornton asked if what he thought if you raise the stack and get the velocity above the peak at 42 ft.  
11 per second.

12 G. Bower said higher velocity, lower the stack.

13 M. Thornton said that is first condition and from that point would he be willing to go into a condenser. In  
14 other words, he raised the stack and if a smell, then get a condenser. But if no odor then no condenser.  
15 You have limited negative effect on the neighbors. If they can achieve that with the stack, everything else  
16 goes away.

17 G. Bower said nobody expected it would never be an impact even with a perfect stack. When they look  
18 at analysis they look at five years of hourly data. Standard is you can't be an impact for two hours. You  
19 would not be expecting that level. Might be a time when you smell something at ground level but not at  
20 high concentration.

21 W. Ogert said in those two proposals, the condenser built into is least expensive and easiest. The height  
22 increase of the stack would be second most. The condenser is easier and would be cheaper option for  
23 him.

24 G. Bower said in terms of initial capital, yes. In terms of optimum issue, the condenser is more of a  
25 problem.

26 M. Thornton operating cost vs. capitalization.

27 G. Bower said yes. Take the simple way out if you can get it to work. Almost no maintenance. With  
28 condenser you have all the cleaning every time you brew.

29 S. Bonczar asked for any other questions.

30 L. Daley said they were talking about adding to or modifying the building itself. It might be good to talk  
31 to the property owner.

32 S. Bonczar said they would talk after the meeting.

33 L. Daley said from T. Quinn was a tiered solution. He was hearing from the expert witness that if the  
34 stack was extended there will still be an odor that could be identified.

35 G. Bower said he couldn't rule it out, but same with the condenser. If the condenser 80% effective, you  
36 have 20% going out the stack so you may still have it on some days.

37 L. Daley said the condenser is connected to the stack regardless.

38 G. Bower said you would still have the non-condensable, the non liquid going out the stack.

39 L. Daley if that was addressed by T. Quinn's suggestion that the carbon filter might alleviate that.

40 G. Bower said correct. But then you are just layering one layer of money on top of another layer of  
41 money. It was effective, but there were simpler ways.

1 R. Costantino said there were a lot of breweries around. Not a lot of people complaining or you would  
2 hear about it. Trying to figure out why that is. Because they don't have a deck near where they want  
3 people to sit outside? Or odor there but no people there?

4 G. Bower said exactly. If he goes into technical literature air control there is a lot of stuff on breweries.  
5 In Ontario Canada they have a whole set of regulations re even small breweries. Not a lot of complaining.  
6 Most of them do so little. NH would like to see people doing these things. If you set the company beside  
7 a restaurant with a patio or a day care there will be impact.

8 T. Quinn said it was a unique juxtaposition of the buildings. A narrow area only 11 ft. wide. A problem  
9 for A. Kaplan and his clients. Not only because of the close proximity if you sell it, but also because of  
10 the location of stack that same alley accumulates vapors under certain conditions.

11 R. Costantino said he thought they started out saying if there wasn't an outside deck there wouldn't be a  
12 problem.

13 S. Bonczar asked if there was anything else.

14 Andrea Kokko of Kokko Realty, Managing Agent for the property W. Ogert was renting. Wanted to  
15 point out that he was a tenant and had to abide by the lease agreement. Because there were four  
16 residences above that they were very adamant they want restricted. He has to abide by lease agreement  
17 that he will not be doing anything to create a disturbance to the residents. These types of things are a  
18 concern to a landlord. If it became a problem for the tenants they would have to address these types of  
19 things. They want to encourage growth and new business downtown and have worked cooperatively with  
20 neighbors with the construction going on. She found the Nashua example very interesting because  
21 Martha's was a little bit of the same scenario where it vents out the second floor and third floor tenants.  
22 Last year she had trash not picked up for a week because of construction and three people complained  
23 about the smell. When getting into these mixed residential commercial districts the residents complain  
24 about issues. Very telling there were no complaints in Nashua. Just wanted to let the Bd. know that as a  
25 landlord they would be addressing any issues.

26 M. Thornton asked if she was the landlord.

27 A. Kokko said she was the agent for the landlord.

28 M. Thornton it was sheet metal it was cheaper to do over time. It was easier for tenants and everybody  
29 else. Everybody in the audience concerned and he would like to address that in stipulations.

30 S. Bonczar said they would get to that. He would state his opinion.

31 A. Kokko said she didn't foresee it; but she was not the official owner and would have to go to them.

32 A. Kaplan said he knew Andrea and believed they would address issues upstairs. But one thing it went  
33 back to since this ran with the land, if in ten years or a year from now W. Ogert is very successful and  
34 buys it outright and says everyone out. Can't rely on the landlord. He believed the landlord and A.  
35 Kokko would address issues. It was permitted until it was abandoned. Only thing that had teeth were  
36 restrictions. He knew Nashua had breweries but it was different/. Main St. expanded out was 250 ft.  
37 from one side to the other. Trying to say be careful what you allow in. One asking for a brewery and  
38 then you may have five or six unrestricted, Town may have confusing issue if it was not addressed from  
39 the get go. He believed Nashua didn't need special exceptions because it was a different district. People  
40 in a town of 90,000-plus might expect odors that people in Town of Milford with 15,000.

41 S. Bonczar asked for any other questions. None. He closed public comment. He said a lot of testimony,  
42 information and documentation were presented. He let them know he sat now. He had to go through five  
43 special exception criteria. Based on where they stood, re the use as developed will not adversely affect  
44 the adjacent area. He had issues. The burden of proof on the applicant. They talked about potential  
45 odors and how to handle those. He was not an expert and no one on the Bd. was. Wished they should

1 have seen an engineering solution. That hadn't happened. They put conditions on it. Some not difficult  
2 - maximum amount of barrels and handling of byproduct. Vents are a difficult one. L. Daly mentioned  
3 several of them. Personally he did not like that. If not this, try this. Makes it difficult for Town to  
4 enforce. Would like to see an engineered solution and look at that and say, based on looking at that and  
5 engineer proposes that the condenser would be sufficient or not, the stacks had to be this height, etc.

6 Trying to be fair to the applicant and everybody else. Didn't know if it would pass but if they put  
7 conditions on and can't answer this, then it is a done deal. It was a legitimate solution but they don't  
8 know it. No guarantee but he would feel more comfortable with stated and clear conditions for that  
9 particular site. Every property was unique. What were the specifics of that property? He wanted to get  
10 the feeling of the Bd.

11 M. Thornton said that was a good point. Why saddle W. Ogert with doing things that were expensive and  
12 may or may not alleviate the odor problem. He didn't know how much a study would cost. If he had an  
13 engineered solution that said over time this was most effective as absorbability solution. If it was not,  
14 then do this. What was the cost and was applicant prepared to bear it?

15 S. Bonczar said otherwise they risk not passing it; once they say no, it is no. They can't come back and  
16 redo. Not convinced, based on that variable of venting, it would mitigate the potential odors.

17 M. Thornton said each process was a decrimmentation. Will never get to zero.

18 S. Bonczar said never say never, but heard from abutters the big issue was effort to mitigate and they had  
19 concrete proof a certain thing would mitigate based on engineering design it would be. They could go  
20 through and vote on it or continue this again and ask if the applicant wanted to continue with this or  
21 willing to go to get an engineering study.

22 R. Costantino said make an engineering study a condition.

23 S. Bonczar said it would already be approved or not [at that point].

24 R. Costantino asked S. Bonczar if in his mind it was okay to approve with the condition.

25 W. Campbell said he didn't know what that was.

26 M. Thornton said they were going on feelings. Not comfortable with that. Get the facts.

27 S. Bonczar said get a design. Not we'll do nothing and if this happens and if that doesn't work, we will  
28 do this. Wanted a concrete proposal to make a decision. Or else each trying to answer these questions in  
29 the positive, didn't think he could. Might be in that sense, be short sighting the applicant. If they said no,  
30 that would be short sighting the abutting property owners.

31 M. Thornton said it was the Oval's proximity.

32 S. Bonczar said it was unique characteristics of that property. The closeness to adjacent property. He  
33 agreed you look at the alley and it was downhill from the library. Could odors hang in there? Didn't  
34 know. Heard testimony that raising vent would help. How much?

35 M. Thornton asked if the landlord would permit that.

36 S. Bonczar said that was a different story. They could approve it, say it had to be this type of design, and  
37 if not, do you want to go through with it.

38 R. Costantino heard 42 ft per second.

39 S. Bonczar said that was not based on this site.

40 R. Costantino wasn't sure that was true.

41 S. Bonczar asked what about height of the stack? Or condensing sufficient?

1 R. Costantino asked what kind of design S. Bonczar would accept.  
2 S. Bonczar said an engineering design showing, based on that size operation, in order to remove vapors  
3 and mitigate odors from hanging over there, a certain percentage of success, the stack has to be, say, 50 ft.  
4 taller. He asked K. Lagro if she felt she had enough to decide. He never thought it would be this  
5 complicated. Wanted to get it right.  
6 R. Costantino asked if he felt they could not write a condition.  
7 W. Campbell said, and hold to it.  
8 S. Bonczar said no. Would rather approve a design that addressed abutters' concerns and based on that  
9 particular site.  
10 M. Thornton said and town could see if they were in place or not.  
11 R. Costantino asked if they wanted to table it.  
12 M. Thornton said or continue.  
13 S. Bonczar said continue. It would tabling decision tonight and continuing it to get an engineered design  
14 for venting system that size operation. He wouldn't say, but there were some other conditions re size of  
15 the operation, but those were fairly easy. What kind of conditions for the venting – he could not propose  
16 one now.  
17 R. Costantino asked if a continuation would not be for next week, but when the plan was available?  
18 M. Thornton thought when they continued something it had to be for a date certain.  
19 S. Bonczar agreed. But asked applicant how long he would need to get that information.  
20 L. Daley said it would be continued to next scheduled meeting or a months later, and if applicant was not  
21 prepared then to the next available meeting after.  
22 K. Lagro said limiting the number of barrels, storage of waste. Those were addressed. Only remaining  
23 issue was mitigation of odor.  
24 M. Thornton mentioned his brewing time.  
25 K. Lagro said that didn't matter if you have an engineered design to mitigate odor as much as possible.  
26 M. Thornton said it was less of a concern.  
27 K. Lagro said you were never going to mitigate everything. The exhaust from cars on a hot day, etc.  
28 M. Thornton said with high pressure and gentle wind it will swirl and go down.  
29 K. Lagro said that was the only remaining issue.  
30 S. Bonczar and M. Thornton agreed.  
31 M. Thornton said right, but deal with facts.  
32 R. Costantino asked they needed a motion.  
33 S. Bonczar said yes.  
34 L. Daley said that the time of the last meeting they asked the applicant t do a number of items and this  
35 was additional.  
36 S. Bonczar agreed they completed those. Based on testimony of abutters and concerns and expert witness  
37 and even what was presented by applicant, he didn't' feel comfortable, and didn't think the Bd. was -  
38 doing anything beyond discussing.



1 L. Daley emphasized that the Bd. be very clear what they were asking.  
2 M. Thornton said a study that said if you do 1, 2 & 3, it will have an exceedingly good chance to mitigate  
3 noxious odors. How do you do that?  
4 S. Bonczar said they needed an engineered design and data to back up that design.  
5 M. Thornton asked for a design that mitigated odors to what extent? 99%?  
6 W. Campbell said they would have to wait for what the engineered study produced.  
7 M. Thornton was trying to quantify a result.  
8 W. Campbell said 100% wouldn't happen  
9 K. Lagro said they should not put a number on it.  
10 M. Thornton said he was trying to quantify a result.  
11 S. Bonczar would like to get this design and mitigate 90% or whatever. W. Ogert knew they wanted to  
12 mitigate as much as possible based on testimony and design has to fit that location.  
13 K. Lagro said he may come back and say what he had was adequate, or say he only had to do this one  
14 solution and that would be adequate.  
15 S. Bonczar agreed.  
16 M. Thornton said even with engineering plan that said this one thing will take care of it, he liked the "if,  
17 then else. Because it was a certain progression of events. If you do not mitigate and they were pervasive  
18 then you must do something else. It was incumbent on him [speaking of himself] to take care of his  
19 property; if not, the Town can take action.  
20 S. Bonczar said they were not experts in that.  
21 M. Thornton said the town was.  
22 S. Bonczar said if you have an expert design and prove that through the design it will mitigate a  
23 percentage, then for him "C. The use as developed would not adversely affect adjacent area", then for  
24 him, if the design was right and the expert explained how design worked, he could answer yes. Right  
25 now he couldn't. Maybe everybody else on the Bd. could.  
26 M. Thornton said he felt for abutters.  
27 S. Bonczar understood where they were coming from.  
28 M. Thornton said he also felt for the applicant. There was a tremendous lack of quantifiable subject  
29 matter and a study that would address that. Didn't know how much it would cost, but that was not the  
30 Bd.'s problem.  
31 L. Daley said another discussion was management and storage of waste.  
32 S. Bonczar said that was spelled out.  
33 M. Thornton said what made sense was an accessible enclosure that was not dependent on access through  
34 an alley that was not always accessible.  
35 L. Daley said he heard a mixture of possibilities. He said, along the same lines as discussion for the  
36 venting, he would encourage the Bd. to also request that the applicant provide a written management plan  
37 for storage and removal of waste.  
38 S. Bonczar was okay with that.

1 R. Costantino suggested a motion: Provide an engineering design to adequately mitigate the odors from  
2 adjacent properties and explain the design as an adequate solution.

3 M. Thornton said L. Daley brought up a written plan for management of waste. Add that.

4 S. Bonczar asked if they wanted two motions.

5 M. Thornton said or one that included both.

6 S. Bonczar said L. Daley had a good point about a crisp definition. W. Ogert did explain how he intended  
7 to handle the byproduct waste. Need something formal in writing. A management plan for byproduct  
8 waste removal, storage, timing, etc.

9 M. Thornton said they were talking about 50 gallon barrels. Even dry grain in a 50 gallon barrel was  
10 heavy. How was a farmer going to pick it up?

11 S. Bonczar said that was where management plan came in.

12 R. Costantino said removal, timing, and what?

13 S. Bonczar said removal, timing, storage location, and he thought they needed a proposal or estimate from  
14 a commercial hauler. He didn't necessarily have to have a contract in place, but an estimate for a removal  
15 schedule, etc. The farmer thing will be variable.

16 R. Costantino said just say removal details.

17 S. Bonczar said removal details with a commercial contactor hauler. He asked applicant if he was open to  
18 those suggestions if they make a motion to continue this case, vs. taking a vote tonight which may or may  
19 not go in his favor.

20 W. Ogert said he would have to look into the expense of engineering design, which may eat up his entire  
21 startup budget. He said to let him see what he could find for firms that do that kind of study and the  
22 average cost of that and proceed from there. He was in agreement with additional stipulations proposed  
23 but will have to check expense of getting an engineering plan.

24 S. Bonczar said they would make a motion to continue. Would like to ask if they continue it, would he  
25 like to continue it a month out?

26 W. Ogee asked if they continue to two weeks and he is unable to it in that time, can he contact the Bd. at  
27 that time and ask for a postponement?

28 S. Bonczar and L. Daley said yes.

29 W. Campbell said he felt more comfortable.

30

31 R. Costantino then said the **two motions**:

32

33 1. To provide an engineering design to adequately mitigate the odors from the adjacent properties  
34 and explain the design was an adequate solution to this problem.

35 2. To provide a written management plan regarding byproduct waste regarding removal, timing,  
36 storage location and removal details with a commercial contractor or hauler.

37

38 M. Thornton said it sounded like S. Bonczar wanted to see that as a subset of the waste management plan  
39 proposal of the whole.

40 R. Costanino suggested: Will provide written removal details.

- 1 S. Bonczar said also to continue the meeting.
- 2 R. Costantino said a motion to continue the meeting to provide the information to June 6.
- 3 K. Lagro seconded all those motions.
- 4 All in favor.
- 5 Case was continued to June 6.
- 6 S. Bonczar said those requests in those motions would be available in the minutes.

**Town of Milford  
Zoning Board of Adjustment  
May 2, 2019  
Case #2019-05  
Leisure Acres Mobile Home Park Associates  
Special Exception**

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Present: Steve Bonczar, Chair  
Michael Thornton  
Joan Dargie  
Rob Costantino  
Wade Scott Campbell  
Karin Lagro, Alternate

Lincoln Daley, Community Development Director

Absent: Tracy Steel  
Paul Dargie, Board of Selectman Representative

Secretary: Peg Ouellette

Richard Cane/Leisure Acres Mobile Home Park Associates, for property located at 26 Melendy Road, #5, Milford, NH, Tax Map 42, Lot 73 M-5, in the Residential R district, is seeking a Special Exception of the Milford Zoning Ordinances per Article II, Section 2.03.C1, to allow for the change from a 14' x 72' sq. ft manufactured home to a 27' x 52' ft. manufactured home with a with a 10' x 12' sq. ft. deck.

Motion to Approve: \_\_\_\_\_

Seconded: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

1 Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the  
2 procedures of the Board. He made a correction in the notice of hearing, which he said was Sec. 2.0.1.C.1.  
3 S. Bonczar read the notice of hearing and invited the applicant to present the case.  
4 Richard Cane of 22 Sandpiper Lane, Merrimack, NH, partner of Leisure Acres Mobile Home Park  
5 (LAMHP), which owns the mobile home park, came forward. He stated they were seeking a special  
6 exception to allow replacement of a 14 x 72 ft manufactured home with a double wide 27 x 52 ft.  
7 manufactured home with a 10 x 12 ft. deck. Like the last property he was before the Bd on, this was let  
8 go and conditions were quite severe. It was abandoned. Always a problem with hot water heat. Severe  
9 mold problem in the unit. Since manufactured homes are no longer permitted in the R zone, and they  
10 were increasing the square footage, they were seeking an expansion of a nonconforming use. Existing  
11 unit was three bedrooms and two baths. New one will be same, with more square footage. It was an  
12 expansion of a nonconforming use. He then read the responses to the five criteria in the application. On  
13 Ques. 5, he added that on the maps provided it was a unit at the end of the short cul-de-sac. He offered to  
14 answer any questions from the Bd.  
15 S. Bonczar stated he had forgotten to identify W. Campbell as a full voting member and K. Lagro as  
16 alternate.  
17 S. Bonczar said he had looked at the material sent to him. It was going on the existing footprint as closely  
18 as possible, using the same septic and water. A little further away from one of the lot lines, on a cul-de-  
19 sac.  
20 R. Costantino hadn't seen it. He wanted to know if it would be in the same location.  
21 J. Dargie said it was a different profile.  
22 S. Bonczar said a little more angled across the yard with deck on the smaller side. He read from the  
23 ordinance, Sec. 2.03.0, Non-Conforming Use and Structures down to 2.0-3.1 Re Intent and 2.03.C1 re  
24 Alteration, Expansion or Change. He asked for questions from the Bd.  
25 J. Dargie said there were no pictures of the new unit.  
26 R. Cane said it was the same as the one on Lot 63 [in a previous case]. He didn't include it. He had a  
27 copy of the floor plan. It was a double wide vs. single wide which are very long and narrow. Had a  
28 master bedroom at one end and the other two bedrooms at the other end. It was an asset to the park and to  
29 the community and tax base because of higher value than with the single wide.  
30 S. Bonczar said it was updated and an improvement.  
31 W. Campbell agreed, it was modernization of the area.  
32 R. Cane said the difference was night and day.  
33 S. Bonczar opened the meeting for public comment.  
34 Mary Pert of #4 had a question. She wanted to know the exact position since she lived at #4. Didn't want  
35 #5 sitting in her yard.  
36 R. Cane showed her the unit and existing unit and new unit would be moved even further away as they  
37 could.  
38 M. Pert was satisfied.  
39 S. Bonczar said it looked like the positioning was better from her unit.  
40 S. Bonczar asked for any further questions from the public. None.  
41 He closed public comment.

1 W. Campbell asked how old the existing unit was.  
2 R. Cane said he believed it was built in 1982 or 1983.  
3 W. Campbell asked how long manufactured homes lasted.  
4 R. Cane said like any property, if you maintain it, it will last. Unfortunately some older people are unable  
5 to. There were a large number in the park in great condition because residents have been able to maintain  
6 them.  
7 M. Thornton asked if the mold was tested to see whether it was toxic. Will unit be disposed of easily?  
8 R. Cane said yes [it was not a problem]  
9 S. Bonczar asked for any other questions. None.  
10 S. Bonczar asked for discussion of the criteria. Since he already read the ordinance re nonconforming use  
11 and structures, they could talk about the proposal.

12 **1. Was the proposed use similar to those permitted in the District?**

13 J. Dargie said it was.

14 S. Bonczar asked if anybody felt it was not. Even outside of the park it represented a  
15 single family home.

16 M. Thornton said if you saw it placed on a typical lot you would think nothing of it.

17 No one saw an issue with this criteria

18 **2. Was the specific site an appropriate location for the proposed use?**

19 R. Costantino said it was just an exchange.

20 S. Bonczar agreed. Replacing something there to something new and better. If it was  
21 appropriate before it was appropriate now.

22 **3. Would the use as developed not adversely affect the adjacent area?**

23 M. Thornton said there was more separation from the nearest neighbor.

24 R. Costantino said it was also the same distance from the road - might be an issue if it  
25 was right up against it. Setbacks were not included

26 S. Bonczar said it improved the situation in the park with the adjacent units but outside  
27 the park it didn't affect anything.

28 **4. There will be no nuisance or serious hazard to vehicles or pedestrians.**

29 M. Thornton said they were swapping it.

30 J. Dargie said it was the same bedrooms. Same number of people who could be at the old  
31 one could be at the new one.

32 S. Bonczar said they were exchanging one for another similar unit.

33 **5. Adequate appropriate facilities will be provided for the proper operation of the proposed**  
34 **use.**

35 M. Thornton said it was existing.

36 J. Dargie agreed

37 S. Bonczar said it was same septic, street, driveway.

1 R. Costantino agreed.  
2 S. Bonczar asked if anyone had anything to add. None.  
3 S. Bonczar moved on to vote on the Special Exception:  
4

5 **VOTE: On Special Exception:**

6 **1. Is the Special Exception allowed by the ordinance?**

- 7 J. Dargie – yes
- 8 R. Costantino – yes
- 9 W. Campbell – yes
- 10 M. Thornton – yes
- 11 S. Bonczar – yes

12  
13 **2. Are all the specified conditions present under which the Special Exception may be**  
14 **granted?**

- 15 W. Campbell – yes
- 16 M. Thornton – yes
- 17 R. Costantino – yes
- 18 J. Dargie – yes
- 19 S. Bonczar - yes

20 S. Bonczar said, based on the vote being unanimous, the criteria for special exception were satisfied and  
21 the application was unanimously approved. He reminded applicant of the 30-day appeal period.  
22

**Town of Milford  
Zoning Board of Adjustment  
February 7, 2019  
Case #2019-01  
Jean Family Revocable Trust  
Variance**

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Present: Steve Bonczar, Chairman  
Michael Thornton  
Rob Costantino  
Karin Lagro, Alternate  
  
Robin Lunn, Zoning Administrator

Absent: Jason Plourde, Vice Chair  
Joan Dargie  
Wade Scott Campbell, Alternate  
Tracy Steel, Alternate  
  
Laura Dudziak, Board of Selectmen Representative

Secretary: Peg Ouellette

Jean Family Revocable Trust, for the property located off North River Rd, Milford Tax Map 3, Lot 10, in the Residential R district is seeking a Variance of the Milford Zoning Ordinances per Article II, Section 2.01.0 to allow for this lot of record to be classified as a buildable lot without fifteen (15) feet of road frontage on a class V or better road.

Motion to Approve: \_\_\_\_\_

Seconded: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



53  
54  
55 Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the  
56 procedures of the Board. There being several regular Board members absent, he asked to seat Karin Lagro,  
57 Alternate, as fully participating and voting member. All in favor.

58 S. Bonczar read the notice of hearing into the record.

59 Marissa Schuetz, of the Alfano Law Office, Inc., acting as counsel for Andrew Gardent, the applicant, who  
60 was seeking a variance for a lot of record. She said the property was a landlocked parcel as shown on the tax  
61 map--no frontage on any road. It was currently 28 acres, more or less, parcel. Requirement for lot of record  
62 was two acres. It had a current access easement across Lot 9. They were working on an easement on Lot 11  
63 to be 25 ft. going through the property to give 20 ft. of frontage on North River Rd. Current access easement  
64 on Lot 9 was 20 ft. frontage going through Lot 9 and frontage on North River Rd. Property currently  
65 undeveloped. Lot of record required 15 ft. access, so this would give greater frontage on the road. It will be  
66 easement. Otherwise the parcel was conforming to residential use in residential areas. Plan was to put a  
67 single family residence on the property. No other subdivision happening. Will keep property largely the  
68 same.

69 R. Costantino asked the length of the driveway. 3,000 ft.?

70 Michael Ploof of Fieldstone Land Consultants, in the audience, said it was about 3,000 ft long and 25 ft wide.

71 R. Costantino asked if they were getting a right of way and they had to build on it or did the owner build.

72 M. Schuetz said the applicant would be building.

73 R. Costantino asked if that would be where utilities came through.

74 M. Schuetz said yes.

75 R. Costantino said if you asked what lot it was, it said Jean Trust off of another Rd.

76 M. Thornton said going up to Lyndeborough.

77 R. Costantino asked if the Jean Trust also owned the lot north of it.

78 R. Lunn said they weren't there yet.

79 S. Bonczar agreed. Said to hold that question. He pointed out where access will be coming from and pass  
80 through Lot 11 to Lot 10.

81 K. Lagro asked if Lot 11 was undeveloped.

82 M. Schuetz said it was.

83 S. Bonczar asked if there was nothing on Lot 11.

84 M. Schuetz referred to the green areas on the map, wetlands and a proposed easement. Proposed easement  
85 will not be affecting wetlands. Will be building with consideration of not disturbing anything.

86 S. Bonczar said they would have to come before the ZBA for wetlands based on design of the access road.  
87 They were not discussing that this evening. Only discussion they needed to have was a buildable lot on a lot  
88 that doesn't conform.

89 R. Lunn said it had no frontage.

90 S. Bonczar agreed. They had to have 15 ft

91 M. Schuetz the easement was granted in 1919. Parcel probably was created at that time; landlocked at that  
92 time, prior to current ordinances in 1969 requirement allowing for lot of record.

93 S. Bonczar said it was interesting how back then extra pieces got formed.

94 R. Costantino said it wasn't just that.

95 S. Bonczar said it was still a lot. It was formed from something bigger. At some point it was deemed a  
96 single lot in itself.

97 R. Costantino didn't know whether they had talked to the Tax Assessor. Did this change current use by  
98 making it a different use? Tax change?

99 M. Schuetz said she hadn't talked to the Tax Assessor. Not sure if R. Costantino was asking about Lot 11.

100 R. Costantino said Lot 11. It was more than an acre. Tax Assessor's job was to look for something they can  
101 tax on.

102 R. Lunn said, would it disturb tax classification for Lot 11, was what he was asking.

103 R. Costantino said if you change, you billed the change

104 S. Bonczar said it depended on how it was currently accessed. If it was not current use.

105 M. Schuetz said she didn't know if it was in current use. No plans to develop Lot 11.

106 R. Costantino said the lot might not be taxed; didn't know if it would.

107 M. Schuetz said she wasn't sure.

108 R. Lunn wondered what alternative to putting access way to that lot had been looked at. Instead of Lot 11,  
109 any conversation about going through the conservation easement to the subdivision. Or by taking roadway  
110 access through Lyndeborough?

111 M. Ploof (Fieldstone Land Consultants) said they had not had conversation about conservation land. If you  
112 went through Lyndeborough, his lot on the other side was also landlocked. Distance would be further to go  
113 from the Center Rd.

114 R. Lunn said she was not suggesting Center Rd. Suggesting from South River Rd.

115 M. Ploof said that had not been investigated yet.

116 S. Bonczar wanted M. Schuetz to continue the presentation

117 M. Schuetz said the lot was currently undeveloped. Granting the variance to allow it to be a lot of record  
118 would keep it residential property. Would just be a single family home and would be far and buffered from  
119 the conservation land. Would not significantly change neighborhood. Would allow for more productive use  
120 of the property. Current owner unable to use property as it is. Only a small access easement to it. Allowing  
121 would allow it to be productive and to be used in a way consistent with the neighborhood.

122 S. Bonczar asked for distance between property markers on the frontage of N. River Rd

123 R. Lunn said about 71 ft.

124 S. Bonczar said that was not even conforming with existing ordinances as it is, if you wanted to build on that  
125 lot.

126 R. Lunn said not to be a lot of record you must have 15 ft.

127 S. Bonczar agreed. He was forgetting that. In that it followed the preexisting ordinance.

128 M. Schuetz said, to further address the potential of going of the Gortland land, it would require going to  
129 another property owner to negotiate an easement. Also in a different town, which would make it difficult;  
130 also would go through conservation easement. She had not read conservation easement on the town land but  
131 generally restrictions on allowing other easements.

132 R. Costantino asked about utility poles.

133 M. Schuetz said there would be access.

134 K. Zahn (of Keller Williams Real Estate) said that decision had not been made yet.

135 M. Schuetz there would be consideration to cope with them esthetically with the neighborhood. As well as  
136 the public.

137 R. Lunn asked if they had spoken to Police, Fire and Ambulance to find out their consideration for a  
138 driveway for that length.

139 M. Ploof said that would be in the design. Haven't designed the driveway yet. Just proposing access.

140 M. Schuetz imagined as long as it was paved as a normal driveway.

141 M. Thornton said their concerns were access and ability to turn around and egress. It would be good for  
142 them (applicants) to use time to research.

143 M. Schuetz said before the design was finalized, sure there would be a way. 25 ft wide would be wide  
144 enough to go straight down. Will be a drive and the lot itself. That would be a turn around.

145 S. Bonczar said the easement would be 25 ft.; but the driveway would not be that wide

146 M. Schuetz said easement will be 25 ft. Drive will be within that.

147 S. Bonczar said they didn't know the topography.

148 R. Costantino asked if a decision was made to pave

149 M. Schuetz said it was not. Maybe finished gravel.

150 R. Lunn showed a slide of the topography.

151 M. Schuetz said easement going more toward flatter area of the lot as much as possible.

152 M. Ploof said they staked it out; took into consideration the flattest. That would be both run across property  
153 to get to the back.

154 R. Costantino asked about maintenance and plowing.

155 M. Schuetz said the applicant will be plowing and maintaining access.

156 S. Bonczar asked for any other questions from the Bd. None. He opened the meeting for public comment.

157 Karl Zahn of Keller Williams, representing Bob Jean, the owner of the piece on the north owned by the same  
158 family. 54 acres. Served by easement already done over Holt property of 50 ft. wide easement . He thought  
159 the way they came about this planning the existing easement. In the next lot the McLeods owned acres back  
160 to the 1600s. Over the course of a couple of years they were nice enough to offer alternative to move  
161 easement. If this (application) was approved they would remove that other easement. Bob Jean did approach  
162 the town about easement. His late wife was Mrs. Hayward of Hayward's Ice Cream. Was told it was pasture  
163 at the turn of the century. A lot of thought had gone into getting to the piece of land because of graciousness  
164 of the McLeods. The 25 ft. easement. They will give temporary 25 ft easement for construction and then 15  
165 ft wide. They have allowed favorably because with cuts and grading they may have to go beyond that 25 ft.  
166 They have allowed that. Will be 25 ft when they build and ultimately 15 ft.

167 Chris Mott came forward. Her sister and she own McLeod Brothers. Re current use, she spoke to the  
168 Assessor's Office this week and Marty said the drive and easement should not change the whole lot to  
169 disqualify from current use. However, whatever egress was required would come out of current use and  
170 would be taxable event. Some of those responsibilities will fall to the buyer of 3-10.

171 S. Bonczar asked for any other questions or anyone wanting to provide information. None. He asked for any  
172 further questions from the Bd.

173 K. Lagro said the last two speakers answered all of hers.

174 M. Ploof said there was an existing easement they had been talking about. He believed the existing one  
175 snaked down through N. River Rd. If there was a driveway there you would not see it from the adjacent  
176 properties. It was well hidden as you came from the side. Didn't think anyone would know it was there.

177 R. Costantino asked if the current land that they were proposing to make buildable was used currently for  
178 logging or timber sales.

179 Kris Mossey of McLeod Brothers Orchards said Bob Jean had timbered that property in the past. It didn't  
180 disturb them. They would be allowing that in future for that property because it made sense.

181 S. Bonczar asked if there was anything else from the Bd. Nothing.

182 S. Bonczar closed public comment and said they would discuss what they had heard and deliberate. He said  
183 everybody understood that this situation that predated the ordinance. He read from the Ordinance, Sec.  
184 2.01.01 regard a lot of record. He also read from Sec. 5.04.4 b in the Ordinance for Res. R. form 2009  
185 regard lot sizes and frontages. He said he was just stating that if someone came and wanted to build today  
186 the lot would have to have that [meet the ordinance].

187 M. Thornton cited the requirements for access for fire vehicle access. Has to be designed to accommodate a  
188 lot of fire apparatus (i.e. a truck full of water). He questioned 15 ft as a long term adequacy. He encouraged  
189 them to talk with the Fire Dept. to avoid embarrassment later.

190 R. Costantino said he wasn't sure he understood the thing about the impact of the 300 ft.

191 S. Bonczar said M. Thornton was saying that if you went by the ordinance you would need that much  
192 frontage. He remembered a discussion way before with the fact that developers were coming in and  
193 chopping up large amounts of land to lots that had back lots. For example, his lot is on Jennison Rd shares a  
194 drive with the lot in the back. In 2009 ordinances were changed to prevent that from happening. He was  
195 just mentioning that for a big lot. This was already in existence. If someone wanted to chop it up under the  
196 existing ordinance it would be difficult and have a back lot. When they talk about variance and hardship this  
197 may or may not come into play for what he sees.

198 K. Lagro said if it was not already a lot of record, it would be different discussion.

199 S. Bonczar agreed. Because it was a lot of record.

200 R. Costantino said it will always be a lot of record.

201 S. Bonczar said unless someone said they wanted to absorb it into something else.

202 S. Bonczar said they would now discuss the five criteria for a variance.

203 He asked if granting the variance would not be contrary to the public interest.

204 M. Thornton said yes, it was not contrary to the public interest. It didn't cut through and impinge upon or  
205 endanger the conservation land nearby and it was important to have widespread support from the neighbors.

206 He saw no harm to the rest of the town.

207 S. Bonczar agreed. Less contrary to public. Didn't see any harm to public if it was granted. Didn't think it  
208 intentionally violated the ordinance and the intent of the ordinance in Res. R to keep a lower density area.

209 M. Thornton said they would have to argue completely in the other direction with a 28 acre parcel where  
210 only two acres were required. There could be 14 properties spun off and they were keeping it at one.

211 R. Costantino said, re the spirit of the ordinance, it didn't endanger the health, welfare and safety of the  
212 community.

213 S. Bonczar said it also had to do with 2009 ordinance that he read, was it keeping density in R district low  
214 and not having lots with minimum frontage, etc. The thinking behind that was when you had a large lot and  
215 were breaking it up. This one was already in existence. There will be no overcrowding of the area if this was  
216 approved as a buildable lot with that access. He asked if anyone had anything to add. Nothing.

217 Re substantial justice, S. Bonczar read from the Manual (The Board of Adjustment: A Handbook for Zoning  
218 Officials) which said perhaps the only guiding rule was that any loss to the individual that was not  
219 outweighed by a gain to the general public is an injustice.

220 R. Costantino didn't see it as an issue.

221 M. Thornton didn't see injustice. The town wasn't aggrieved and the owner would not be aggrieved by  
222 pursuing the course laid out.

223 S. Bonczar said by enforcing the ordinance to the letter of the law he didn't see a gain to the public by the  
224 owner not having a buildable lot.

225 R. Costantino agreed.

226 S. Bonczar asked about diminishing the value of surrounding properties.

227 R. Costantino said this one he had an issue in that he was thinking the surrounding properties was the  
228 property with the easement. He thought you would be less likely to purchase that property with a road across  
229 the property and easement like that.

230 M. Thornton said if the lot impinged on what you were purchasing.

231 R. Costantino said if he were purchasing that lot he would be less likely to do it or would pay less because of  
232 this other road.

233 S. Bonczar understood his thought. The fact that the easement was being granted by the current owner of  
234 that property. If they felt their property would be severely diminished they would not do it. He was looking  
235 at that.

236 R. Costantino said the idea was less density. Minimum size in Res. R was two acres. You have 28 acre  
237 property. Adding didn't diminish. He didn't disagree re Lot 111.

238 K. Lagro basically said they were swapping Lot 9 for 11. There would not be any overall loss. That would  
239 actually increase conformance for them.

240 R. Costantino said that was a good point.

241 S. Bonczar moved on to discuss unnecessary hardship. In reading this they should take this in total and also  
242 that the proposed use is a reasonable one. Take them together. He took notes as he reviewed the plan. Still  
243 felt the same after the presentation. Would like to hear from Board members first.

244 R. Costantino said when he looked at the question of hardship he thought of the uniqueness of the property.  
245 He did research and there were about 40 other landlocked properties. There were various things about them.  
246 Some were owned by conservation commissions or things like that. Some of them had access like these  
247 applicants were trying to get. Those were also owned by the lot in front of the lot. In his opinion it was not a  
248 unique lot because there were a lot of them. One of the things that was quite unique 3000 ft. drive, almost  
249 have a mile. Even if it was not unique they should look at each case based on the merits of the case itself.  
250 That was what he was trying to say.

251 S. Bonczar said when R. Costantino finished his last sentence that was when he started to agree. There may  
252 be many landlocked lots in town but they had to look at each situation.

253 M. Thornton said it was possible that the position of the land in itself by its location and lack of it was a  
254 special and unnecessary hardship because the hardship can be alleviated by the goodness of the neighbors by  
255 exchanging of values for what the town recognizes as adequate or generating no harm. Property owner gets  
256 to use the property in accordance with the law with lower density. Unnecessary hardship to deny the access.

257 S. Bonczar felt condition and circumstances presented a hardship. It was a landlocked lot. How it became  
258 landlocked, who knew? The Cortland Baldwin subdivision was there and may have been a way to get in and  
259 out. This was formed way before 1969. Now it is more restrictive as to what you can and cannot do. This

260 was a single use; it was 28 acres. In a nearby development you had houses on a lot less acreage. He thought  
261 it was a hardship and what was proposed was a reasonable use.

262 K. Lagro said that side was landlocked.

263 R. Costantino said that wasn't unique to that land. In his mind it was never intended to be used for a single  
264 family house. It was meant to be timbered.

265 S. Bonczar said they didn't know that.

266 M. Thornton said you would still need access.

267 R. Costantino said they had that.

268 M. Thornton asked, temporary access?

269 R. Costantino said they had access for timbering.

270 S. Bonczar thought the solution was a good one. For owner to use it beyond timbering. It was very  
271 restrictive on what could be done with that lot beyond timbering.

272 R. Costantino said it was.

273 S. Bonczar said it was not field so it couldn't be hayed or anything like that. In that case, compared to other  
274 lots in the area it constituted a hardship.

275 R. Costantino understood where S. Bonczar was coming from. Thought in some ways it was a good idea, but  
276 didn't it was a hardship.

277 M. Thornton asked how the town was benefitting.

278 R. Costantino said that was not hardship. That was question 3, and he didn't see a problem with health and  
279 safety.

280 S. Bonczar read from Variances, Sec 1 (5) (b) (A), Powers of the ZBA re the meaning of unnecessary  
281 hardship. R. Costantino had brought up others in town, which was true. But what about this area. If you take  
282 into consideration the surrounding area?

283 R. Costantino thought Milford was the area they should think about. There were others around it. One  
284 further down the road across from the fish hatchery. There were a couple on the Wilton line near there.  
285 There were others around it – three from his notes. He thought this was a town thing, not a neighborhood  
286 thing. There was no neighborhood, almost.

287 S. Bonczar disagreed. He looked at whole section as neighborhood, including Cortland and Baldwin  
288 [pointing to the map]. He asked if Bd. members had anything else to add re the five criteria.

289 S. Bonczar asked if they were ready to vote. All agreed.

290

291 **1. Would granting the variance not be contrary to the public interest?**

292 R. Costantino – yes; M. Thornton – yes; K. Lagro, yes; S. Bonczar - yes

293

294 **2. Could the variance be granted without violating the spirit of the ordinance?**

295 K. Lagro – yes; M. Thornton – yes; R. Costantino – yes; S. Bonczar – yes

296

297 **3. Would granting the variance do substantial justice?**

298 M. Thornton - yes; K. Lagro – yes; R. Costantino – yes; S. Bonczar - yes

299

300 **4. Could the variance be granted without diminishing the value of abutting property?**

301 R. Costantino –yes; M. Thornton – yes; K. Lagro – yes; S. Bonczar - yes

302

303 **5. Would denial of the variance result in unnecessary hardship?**

304 K. Lagro – yes; M. Thornton – yes; R. Costantino – no; S. Bonczar – yes

305

306 S. Bonczar said based on the vote there were three votes to approve and one against. Therefore, the majority  
307 rules and the application was approved and the criteria for the variance satisfied.

308 S. Bonczar informed applicant of the 30-day appeal period.

309 There being no other business before the Board, S. Bonczar asked for a motion to adjourn.

310 M. Thornton moved to adjourn.

311 R. Costantino seconded.

312 All in favor.

313 Meeting adjourned at 8:00 p.m.