Town of Milford
Zoning Board of Adjustment
Case #2015-20
Leroy Barr
Variance
December 3, 2015

Present: Zach Tripp, Chairman
Fletcher Seagroves
Michael Thornton
Joan Dargie
Kevin Johnson
Len Harten, Alternate

Excused: Katherine Bauer – Board of Selectmen's representative

Secretary: Peg Ouellette

The applicant, Leroy Barr, owner of Map 50, Lot 1, located at 247 Mile Slip Rd. in the Residence "R" District, is requesting a Variance from Article V, Section 5.04.4, to create two lots with less than the minimum frontage on a Class V or better road.

Minutes Approved on 12-17-15

Zach Tripp, Chairman, opened the meeting and informed all of the procedures and introduced the Board members and read an update to the Board's Rules of Procedure stating that the Board would continue as long as there was a quorum of three members. An applicant can ask to table, in which case the Board will vote to approve or deny the request to table.
Z. Tripp read the updated notice of hearing into the record (name of applicant had been updated) The list of abutters was read. No abutters present.
Chad Branon of Fieldstone Land Consultants appeared along with the applicant, Leroy Barr.
C. Branon said the Variance was being requested to permit two-lot subdivision. Sec. 5.504.4 of ordinance deals with lot sizes and frontages in Res. R. requires all single family lots have a minimum of 2 acres with 200 ft frontage on a Class V or better road. Also requires two family residences have a minimum of 4 acres or 400 ft. frontage on Class V or better road.
Currently Mr. Barr has 66.2 acres with 25 ft. frontage. Perimeter is depicted on the plan in blue. Narrow at Mile Slip Rd and opens up in the back. The Barrs have owned the property since 1998. Parcel currently serviced by private road which accesses Lot 50-1-5 which is abutting property to north as well as Barr home. Private road built to town standards and in great condition.

Z. Tripp asked him to outline location of the two houses on the map.
K. Johnson said this is a pre-existing nonconforming lot.
C. Branon said it was when it was approved. Bill Parker touched on that in his notes. He pointed out existing private road to right center of map and carries through and serves Lot 50-1-5.
M. Thornton presumed that if everything was granted, it would continue to the building area of another house.
C. Branon agreed. He pointed out existing residence with driveway. There is an existing wood road. Plan would be coming off the private road into the back. Currently client's home has gardens in that location. It is higher in elevation with beautiful views.
K. Johnson said it appeared from the topography that it is fairly flat area.
C. Branon said that was correct. Plan to come off private road. They show all setback lines.
Z. Tripp asked if the lot was currently subdivided or it was proposed.
C. Branon said orange line is proposed subdivide line.
J. Dargie asked if entire width of that lot was 25 ft. Where C. Branon did outline, it was almost the entire road. So, it was 25 ft. and 20 ft. of it was the existing private road.
C. Branon said they have 20 ft. on Mile Slip Rd and 25 ft on abutting, with private drive shared by the two lots. They have 50 ft. to work with. When subdivision was approved, back lot provision required 25 ft. They were built to town standards, except they are not paved. Private road is in extremely good shape and has lasted over time.
J. Dargie asked total number of houses that will use that private road.
C. Branon said three, the Barrs' residence, the Miles' residence, and the new home.
J. Dargie asked if the subdivided property would stay with that house.
C. Branon said that was correct.
K. Johnson asked about a line through the property on the map.
C. Branon said it was a soil boundary showing types of NRCS soils on the property. It is not a condition – wood road or trail – it is a dividing line between the types of soils. There is also a trail shown.
He continued that the Barrs would like to subdivide property into two lots which would permit building a home on the larger of the two proposed parcels. Looking at plan, subdivision would create one 12-plus acre lot consisting of existing residence which exceeds minimum lot size requirement but is short of frontage. Remainder of property 54.2 acres would remain Barrs property and have the future home site on it. After they filed for a variance, client made mention the Conservation Commission expressed interest in the past at the back because there is town-owned conservation land both to the north and to the south. So applicant decided to go to the Conservation Commission, and met with them on Oct. 8. Ultimately his client agreed to provide a permanent connection between their properties that would provide interconnection to large amount of conservation land. They asked Commission, if possible, to write a letter of support for this application. They received a letter dated Oct. 14; Board members had copies of it. Letter states the Conservation Comm. didn't see any environmental impact with the project. They were very interested in permanent connection. There was also a letter from the abutter to the north who would be somewhat impacted because client shares some of the responsibility for maintaining the private road with his client. He asked to submit that letter and read it into the record. Letter dated Oct. 15, 2015, addressed To Whom It May Concern from Jobe and Mamie Miles, owners of 245 Mile Slip Rd stating they had no problem with the Barrs getting a variance for the Miles' shared driveway. Leroy Barr had spoken with them and asked for any concerns; they didn't. They were happy to answer any questions from the Board.
Z. Tripp said the application stated this would eliminate future development. How?
C. Branon said back in the early 2000's this was part of larger subdivision. At that time client had not made commitment that it was where he would retire. Since then he has utilized the land. Building another residence on the property restricts future development on the piece. When it was originally going to be subdivided, the neighbor to the north's property was included, with a 50 ft. right away and could build a road and significant amount of development. Large acreages are tempting to developers who will

approach landowners. They approached the board on a similar proposal on this road, a 54-lot subdivision by three owners. Building one additional residence does restrict development potential for the future. That was his meaning with that statement.
Z. Tripp asked why not make it a three lot subdivision?
C. Branon said to build a town road was a huge expense, a financial burden his client may not be able to encumber. Even though it is private road it was built in '98 when slopes were steeper. There are potentials for a lot of work to make it a town road and would make project not feasible.
Z. Tripp asked if he had contacted the Fire Dept. re egress.
C. Branon said he didn't believe he had spoken to them on this project. In his experience, because the private road is so wide, there would be adequate room for turning around on the property. The worst case scenario, if the house were too far back, they may ask for some sort of sprinkler system.
L. Barr said when they built the current house sprinklers were required, as well as neighbors. He has had couple of visits by Fire Dept. over the years and they had no trouble getting in and turning around.
C. Branon said if house is too far away from what they consider adequate turnaround. Next step would be subdivision approval before Planning Board and that gets into Fire Dept. requirements.
K. Johnson said the new lot would have no frontage on the Class V road?
C. Branon said that was incorrect. It would have 12 ½ ft. frontage.
K. Johnson said basically the division plan for the 50-1 property which has 25 ft. frontage, the subdivision would divide that access to Mile Slip Rd.
C. Branon said that was correct.
J. Dargie said that was question she had tried to ask. The existing road out to Mile Slip Rd, they said was 20 ft. wide and would add 20 ft. to that. The pink line he drew, is the section 25 ft. or 50 ft?
K. Johnson understood it was 50 ft. and dividing ownership of it.
C. Branon pointed on the plan to their piece, a black perimeter. He pointed out the abutting piece. They have 25 ft, outlined in blue. They had sat down with Bill Parker preliminary to this application. Two options: Request a variance and give the new lot zero frontages; or divide the access to have frontage on Mile Slip Rd. Thought was having some frontage was more consistent with the regulations.
Z. Tripp said the Miles' would have 25 ft., the current owner would have 12 ½ and the new house would have 12 ½.
C. Branon said that was correct.
J. Dargie asked about the other 25 ft. going to the lot sharing the driveway but they are not actually using it.
C. Branon said yes, pointed to the driveway going onto their property at the entrance.
J. Dargie said the width of that entrance is a little bigger than 25 ft.
C. Branon said the road lies within the 50 ft., so that is shared.
J. Dargie said in the middle of all of it.
C. Branon said correct.
K. Johnson asked if they were not planning any changes to the existing road or just changing ownership of the ground underneath the existing road.
C. Branon agreed. If this is approved, they are taking private drive responsibilities and sharing it over three people instead of two.
K. Johnson asked if it would remain a private road with no responsibility for the town to maintain?
C. Branon said yes.
K. Johnson would not have a problem, with condition on the variance that there is no further subdivision.
L. Barr said he believed he couldn't develop it because it was totally surrounded by conservation land.
K. Johnson didn't know owners of Lot 50-70; theoretically a Class V road could be drawn off Mile Slip Rd into this property resulting in subdivision. Can't tell what future will hold. If applicant had no objection that if they grant this subdivision there will be no further request for subdivision that would make Board more comfortable.
J. Dargie said that is the problem with private roads, as ownership changes.

L. Barr would have no problem in making a commitment like that. He had been down this road before to have a development but that blew up.
K. Johnson explained that the grant goes with the land, not the owner. In future, a builder or his kids or grandkids might decide to subdivide it into more lots. If they put a condition on it that this is the last time, then that would continue with the land.
L. Barr couldn't picture trying to develop any further.
L. Harten said the applicant is agreeing to subdivide off a piece of new lot 50-1-6 to the Town of Milford so that the two pieces of Milford property which is conservation land would connect.
C. Branon said they agreed to an easement over the property.
F. Seagroves said, in other words, a path.
C. Branon said they agreed to a 50 ft. strip across back of the property.
L. Harten asked if it was basically on Milford-Mason line. It was not a road, but a trail.
C. Branon said yes.
M. Thornton said there was statement about wildlife traversing, which was very important in Beaver Brook discussions, about continuing wildlife paths. If wildlife can't traverse and follow the roadway they tend to get flattened. Having consideration of the Conservation Comm. made him more inclined to consider it kindly.
Z. Tripp opened meeting for public comment. There was none. He closed the public comment portion of the meeting.
C. Branon read application into the record

1. Granting the variance would not be contrary to the public interest because:
Granting this variance would allow for the productive use of the existing property. Zoning ordinances are generally written to manage development in towns and to allow for responsible and reasonable development and expansion. Considering the size of the subject property, the fact the proposed development will utilize an existing private road and that there will be no measurable impact to the adjacent properties, we believe that this proposal will not be contrary to the public interest. The addition of the conservation easement to this proposal actually offers a large public benefit as it will offer conservation area and permanent connectivity to the large conservation lands that abut the property. This proposal will not alter the essential character of the neighborhood nor threaten the general health, safety or general welfare of the public. For all of these reasons we believe this proposal will not be contrary to the public interest.

2. The use is not contrary to the spirit of the ordinance because:
We believe this proposed subdivision is reasonable and meets the spirit of the ordinance especially when you contemplate the size of the parcel (66.2+ acres), the size of the lots that are proposed and the placement of the proposed building site in relation to the surrounding lots. Section 5.04.4 of the Milford Zoning Ordinance requires that lots have a minimum of 200 feet of frontage and 2 acres. We believe that the intent of this ordinance is to provide adequate separation and buffering between land owners and uses. For example with a 2 acre lot you would need to have 200 feet of frontage so that you have a reasonable geometry to provide for a building envelope and buffering to the abutting properties. When you have an irregularly shaped parcel like the subject lot then we believe the frontage becomes less critical especially when you provide for large lots with significant separation from the proposed building site to adjacent lots. When you evaluate the proposal from this standpoint we believe the proposal certainly is consistent with its surroundings and in our opinion meets the spirit of the ordinance. This proposal will not alter the essential character of the neighborhood or threaten the general health, safety or general welfare of the public we therefore believe that granting the variance would observe the spirit of the ordinance.

3. Granting the variance would do substantial justice because:
Granting this variance would allow for the productive use of the land as well as allowing Mr. and Mrs. Barr to build their dream home on a property that they have owned since 1998. The Barrs have enjoyed this property for many years and they hope to spend their retirement on this land, whether it is hunting, managing the forest, gardening, hiking, birdwatching or camping with their grandkids. This proposal will now also incorporate a conservation element, being an easement, which will benefit the general public and offer permanent connectivity to conservation land. For this and all these reasons, we believe that granting this variance would do substantial justice. We believe the current proposal is a productive and reasonable use for the property. We also believe that a denial of this variance would be an injustice to my client with no apparent gain to the general public.

4. The proposed use would not diminish surrounding property values:
This proposal consists of subdividing a 66 plus acre parcel into two residential lots. The use is consistent with the zoning and the surroundings and will have no negative impacts on the surrounding properties. Since this proposal is consistent with its neighborhood properties and for the reasons stated above we do not believe that this proposal would have any negative impact on the surrounding properties. Our experience has been that new construction can oftentimes have positive impacts on surrounding property values, not to mention this project will promote long term conservation and provide connectivity to large tracts of conservation land and thereby maintain a large undeveloped corridor.

5. Denial of the variance would result in unnecessary hardship.

A). "Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:

i). No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:
The subject property is unique given its geometry and size. Granting this variance would allow for the productive use of the existing property. The zoning for the property is Residence "R" which has a minimum lot size requirement of 2 acres with 200 feet of frontage for single family homes. If the existing property were to be sold to a developer then we believe that the property certainly has potential to be developed into a considerable number of lots. This type of development would require significant land alteration and is not the desire of my client. Members of the Board may recall that this property was proposed to be developed in this fashion back in 2004. Since then my client has decided to retire on this property and would simply like to subdivide this same parcel into only 2 lots rather than the potential alternative.

We believe this property does possess special conditions as it is very unique in its geometry and size. As stated previously, the property only has 25 feet of technical frontage but consists of approximately 66.2 acres of land. Although this proposal requires a variance for frontage we believe that this style development is consistent with its surroundings and would be supported by the general public. It is our belief that this proposed subdivision meets the spirit and intent of the ordinance especially when you contemplate the geometry and size of the parcel (66.2 acres), the size of the lots that are proposed, the placement of the proposed building site in relation to the surrounding lots, and the permanent conservation connectivity and corridor that would be preserved. It is our belief that the intent of the ordinance is to provide adequate separation and buffering between land owners and uses. Mr. Branon touched on, in the narrative, that a 2 acre lot would typically have 200 feet of frontage so that you would have reasonable geometry and buffering between two abutting properties. When you have an irregularly shaped parcel like the subject lot we believe the frontage becomes less critical especially when you can provide for larger lots with significant separation from building sites. When you evaluate the proposal from this standpoint we believe that this project and this proposal certainly are consistent with its surroundings and in our opinion meet the spirit and intent of the ordinance. We therefore believe

that no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property and that a denial of this variance would result unnecessary hardship for all of these reasons.

ii) and; The proposed use is a reasonable one because:

For the reasons previously stated we believe that this proposal meets the spirit and intent of the ordinance. The proposed use will provide for safe access, large lots and adequate buffering. This proposal will also be consistent with its surroundings and will result in no negative impact to the public. For this and all the reasons stated this evening, we believe this proposed use is reasonable.

B) Explain how, if the criteria in paragraph A are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it:

The subject parcel consists of 66.2 acres of land with 25 feet of frontage and is currently occupied by one structure. We believe that the geometry and size of the property are special conditions that distinguish it from other properties in the area. The frontage of the property limits its reasonable use and therefore a variance is necessary to enable the proposed two lot subdivision which we believe is reasonable when you contemplate the geometry and size of the parcel.

Z. Tripp read a letter from the Conservation Commission dated October 14, 2015:

To: Zoning Board of Adjustment. Re: Case 2015-20, North Family Enterprises, LLC

To the Board: The Conservation Commission met with the applicants at our Thursday, October 8 meeting. This application variance is for a subdivision of a lot with less than the minimum frontage on a Class V or better road. Normally this type of application does not come before the Conservation Commission however the applicant requested a meeting not only to review the application with us but to offer the Conservation Commission a 50' easement on the back of the property for a trail connection between the two abutting town owned parcels. The Conservation Commission did not see any environmental impacts associated with one additional house lot but will comment on specific development plans when submitted. Please contact me if you have any further questions. Very Respectfully, Audrey Fraizer, Chair, Milford Conservation Commission.

The Board moved on to discussion of the five criteria.

1. The variance will not be contrary to the public interest.

M. Thornton – yes. It would not be contrary to public interest. Idea of 200 ft frontage is attempt to limit population density. 66 acres for two houses does that.

J. Dargie agreed. It is not contrary to the public interest for the same reason.

F. Seagroves agreed with Mike. Handbook mentions public gain. He doesn't see public gain if they deny it.

K. Johnson agreed that granting would not be contrary to the public interest. As Mike stated, 200 ft requirements, and as applicant stated, the real reason is to create lots of reasonable geometry, maintain density, and maintain access for fire and other services. Re Handbook, definition of what would be contrary is if it unduly and to a marked degree violated the basic objective of the zoning ordinance. It doesn't threaten character of the neighborhood, since after subdivision both lots would be significantly larger than those in the neighborhood. No threat to health, safety, and general welfare. In previous discussion they were cognizant of the safety features.

Z Tripp didn't think granting would unduly and to a marked degree violate the basic zoning objective. Frontage requirement, as commented on, are not to have odd shaped lots and prevent overcrowding. One additional house on 60 + acres would not be contrary to public interest.

2. The spirit of the ordinance will be observed.

J. Dargie – yes. Ordinance is to keep density low and it is still 66 acres and still meets the spirit.

M. Thornton – it could be granted without violating the spirit. Population density is the underlying general idea. His one concern would be that the access way, while narrow, be maintained in good condition so it is passable to rescue and fire equipment.
K. Johnson – Spirit of the ordinance is to maintain low density in rural setting. Even with the smaller of the two lots result from the subdivision it is still larger than minimum requirement.
Z. Tripp asked if he wanted to think about a condition.
K. Johnson said yes.
F. Seagroves said Handbook mentioned keeping to the zoning ordinance and as stated 66 acres seems to do that re health, safety and general welfare. This will not affect that. Will not be congestion in the street.
Z. Tripp agreed with the Board. This lot is in compliance with residential requirements – plenty of size, buffer, and separation. No increase in density by this one house. Will not threaten safety and general welfare. Looking at size, can imagine Fire Dept. could come up with some sort of mechanism for road access, and sprinklers, or what have you. Only concern is what Kevin referred to, with an existing road, in 20 years they want to put in one little shoot off it, and then in 20 years putting in another small lot and then another, and before you know it this private road has ten lots sticking off it. When thinking about this, he was thinking the same way and asking about the special condition limiting any more potential subdivision.

3. Substantial justice is done.

F. Seagroves – yes. Loss to the individual is not outweighed by gain to the public. He didn't see public gain in denying. Also Board cannot grant something that is an illegal variance. Reduced frontage is one they can do.
Z. Tripp said for special exception?
F. Seagroves said after he said it, he realized that was for special exception. Retract that.
K. Johnson said it was still a function they could perform. Even if the requested reduction in area was outside the requirements of special exception, it could be granted by variance because that is a function of the Board.
K. Johnson felt substantial justice could be done with a potential condition. Loss to the individual outweighed by gain to the public. This is where he sees condition following to insure that public interest is protected by Board specifying, even though applicant would go back to the Planning Board and say he is amenable to this easement, he would like a condition for easement and for no further subdivision. With those conditions, substantial justice would be done.
M. Thornton – yes. Three ways: to the owner, to the general public, and to the critters and plants that would be benefit by the easement discussed with the Conservation Comm. With that, he would say that is substantial justice.
J. Dargie – it would do substantial justice and agreed for the reasons stated.
Z. Tripp agreed with all four members of the Board. Didn't think public would gain by denial and would not lose anything by approving it. It would do substantial justice.

4. The values of surrounding properties are not diminished.

M. Thornton – it could. It would enhance abutting because of the limitation to two lots. It would keep suburban creep sprawl from creeping into the area.
J. Dargie agreed. It could be granted without diminishment. It is same road going in. No one in abutting property will see additional lot for house.
K. Johnson – it could be granted without impacting value of surrounding property. Only potential concern was with the property sharing drive, and applicant submitted a letter from them stating they don't believe there would be specific impact on them. Beyond that specific property with the shared drive, didn't see how subdivision would have any impact on surrounding.
F. Seagroves – didn't see how it would diminish value.
Z. Tripp – majority of the abutting property it would be transparent having one additional house and a private drive. Abutting property would be the property sharing the drive and they have a letter from them saying yes.

5. A. Owing to the special conditions of the property that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because:
i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

ii Use is a reasonable one.

K. Johnson – this property abounds with special conditions. It was created in an earlier time when private drives were around as a back lot. That is one special condition, that even as it exists it lacks required frontage. It is significantly larger than majority of property in the neighborhood. Has nearly ideal topography to be separated into one or more additional building lots. Because of its size and location subdividing this property for one additional house is reasonable use and there is no substantial relationship between the public purposes of the ordinance and this request.

F. Seagroves – proposed use is a reasonable one. He agreed that to put a lot in there would have to move through someone else's property and that makes it a hardship. No way to reasonably do this another way.

M. Thornton – it would create an unnecessary hardship because of the unique topography and configuration of the property as it approaches Mile Slip Rd demands that the property be allowed to be subdivided but limited to this one additional dwelling unit.

J. Dargie agreed. Denial would result in unnecessary for all the reasons Kevin and Mike gave.

Z. Tripp agreed with Board. It is present existing large parcel with 25 ft. of frontage. That makes it unique. Adding a second house to a 66 acre lot is reasonable request. Attempting to do it with 25 ft. of frontage is a unique characteristic. Not allowing would be a unnecessary hardship, especially considering his positive answers to the last four questions. It was demonstrated in application that frontage requirement for this parcel would not advance a valid public purpose. It is reasonable to have one house on a 50 acre lot that only lacks frontage.

B. If the criteria in Paragraph A are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance. A variance is therefore necessary to enable a reasonable use of the property.

Not applicable.

Z. Tripp asked for any conditions.

K. Johnson proposed two conditions to the grant of the variance:

1. That a 50 ft easement for connection between the two abutting town owned parcels at location to be determined by the Planning Board and/ or Conservation Comm.

C. Branon said location that they discussed and agreed with Conservation Comm. was along the back property line. Client would not like it to be anywhere else.

Z. Tripp said that would be lots 40-20 and 50-9

J. Dargie said as previously agreed with Conservation Comm.

K. Johnson asked if Planning Board didn't agree, did applicant want subdivision denied over that?

C. Branon would prefer to have that dialogue with Planning Board and not have it part of the variance.

K. Johnson said the Zoning Board didn't want to restrict where that goes. He wants Conservation Comm. or Planning Board or both together to make that determination.

J. Dargie said if the Conservation Comm. already agreed to it, why don't they put in the stipulation as what was discussed with Conservation. And then, if Planning wants to have it discussed with Conservation have it someplace else.

M. Thornton agreed with Kevin.

K. Johnson said they can't. If ZBA grants the variance, they are saying it is in a certain place, which it is. It takes it out of everybody else's hands.

M. Thornton said you could get away with a lot by saying "an" easement.

Z. Tripp suggested something generic. Really all they cared about was that the easement was present.

K. Johnson said that was his point. ZBA didn't care where it was, but Planning Board and Conservation Comm. may. That is why he said it would not be determined by them (ZBA).

M. Thornton noted that a discussion already took place with the Conservation Comm and the owner.

Z. Tripp said minimum 50 ft. easement between Lot 45-20 and Lot 50-9?

K. Johnson said to be granted to the town.
M. Thornton seconded the motion.
J. Dargie asked, if the Planning Board wanted it in the middle for some reason they would say no?
K. Johnson said applicant would have to work that out with the Planning Board.
C. Branon said they brought this problem along and they were trying to bring something good. They met with the Conservation Comm. and discussed where trail located on adjoining properties. Where his client likes to do activities on the property and doesn't want people walking by his house. His client as the landowner has to have some right as to location. Conservation Comm. was fine. Didn't see where Planning Board would tie into this. If at all possible they would like this Board to consider being specific to the back of the property. Saying it as a request. Intent was to do the right thing. He commended the applicant in going to the Conservation Comm. and doesn't want it to be problem for his client.
Z. Tripp said nowhere in their discussion did they use that as a rationale.
K. Johnson said he didn't want to restrict it to any area and have Planning Board bring it up as an issue. If applicant prefers, he was amenable to a 50 ft. easement along the rear of the property.
J. Dargie said, as discussed with the Conservation Comm.
K. Johnson said, along the western property line. So the condition is a 50 ft. easement connecting 45-20 and 55-9 be granted along the western boundary of parcel 50-1-6.
M. Thornton seconded the motion.
K. Johnson said he didn't want to close them into that and have somebody else make it something different and cause a problem. If applicant is comfortable, he was happy to do that.
Final vote on Condition 1:
K. Johnson – yes; M. Thornton – yes; F. Seagroves – yes; J. Dargie – yes. Z. Tripp – yes, even though he didn't feel it was necessary for approval
K. Johnson proposed a second condition:
2. Pursuant to granting of this variance that neither Lot 50-1 nor 50-1-6 to be further subdivided.
M. Thornton added "be further subdividable." The lots can't subdivided again.
Z. Tripp suggested "can't be subdivided further."
K. Johnson made motion for condition that neither Lot 50-1 nor 50-1-6 can be subdivided further."
J. Dargie seconded.
Final vote on Condition 2:
K. Johnson – yes; J. Dargie – yes; F. Seagroves – yes; M. Thornton – yes; Z. Tripp – yes
Z. Tripp noted there were two conditions attached to this application.
K. Johnson noted that on voting sheets, they should replace "North Family Enterprises" with "Leroy Barr" per updated application.

Vote on criteria:

1. Would granting the variance not be contrary to public interest?
F. Seagroves – yes; M. Thornton – yes; J. Dargie – yes; K. Johnson – yes; Zach Tripp – yes
2. Could the variance be granted without violating the spirit of the ordinance?
M. Thornton – yes; J. Dargie – yes; K. Johnson – yes; F. Seagroves – yes; Zach Tripp – yes
3. Would granting the variance do substantial justice?
J. Dargie – yes; K. Johnson – yes; F. Seagroves – yes; M. Thornton – yes; Z. Tripp – yes
4. Could the variance be granted without diminishing the value of surrounding property?
K. Johnson – yes; F. Seagroves – yes; M. Thornton – yes; J. Dargie – yes; Z. Tripp – yes
5. Would denial of the variance result in unnecessary hardship?
F. Seagroves – yes; M. Thornton – yes; J. Dargie – yes; K. Johnson – yes; Z. Tripp – yes
Z. Tripp asked for a motion to approve Case #2015-20
M. Thornton made a motion to approve.
J. Dargie seconded.
Final Vote:
M. Thornton – yes

J. Dargie - yes
K. Johnson – yes
F. Seagroves -yes
Z. Tripp – yes
Case #2015-20 approved by 5 to 0 vote.
Z. Tripp informed applicants they were approved and reminded them of the 30-day appeal period.