

CANDIA ZONING BOARD OF ADJUSTMENT  
Minutes of October 23, 2018  
UNAPPROVED

Place: Town Hall; Meeting room

Call to Order: 7:00 pm following the Pledge of Allegiance

Members Present: Bob Petrin, Chairman; Judith Szot, Vice Chair; Ingrid Byrd; Boyd Chivers, and Ron Howe.

Present: Mark Raumikaitis, Alternate; Dave Murray, Building Inspector; Al Hall, resident and Vice Chair of the Planning Board.

Approval of Minutes: September 25th, 2018

**MOTION:**

B. Chivers **motioned** to approve the minutes from September 25th, 2018 as presented. B. Petrin **seconded. All were in favor. Motion carried (5-0-0).**

**Case 18-639** Applicant: Timothy & Barbara McKinney, 860 Howe St., Manchester, NH 03103; Owner: same; Property Location: Douglas Drive, Candia, NH 03034; Map 410 Lot 50; for a Variance under Article X Wetlands Protection: Section 10.06B Buffer Provisions. Intent: To build a single family dwelling within the 100' wetlands buffer setback for very poorly drained soils.

Present: Legal Counsel, Daniel Muller of Cronin, Bisson & Zalinzksy, PC of 722 Chestnut Street, Manchester, NH 03104; Norris Viviers of Sirron Development, LLC.

Abutters Present: Robert Caron of 108 Douglas Drive; Mark Raumikaitis of 34 Douglas Drive.

Daniel Muller of Cronin, Bisson & Zalinzksy introduced himself; I'm here on behalf of the McKinney's and the co-applicant is here as well, Sirron Development, but I will be presenting. They both put their names on the application this time. Basically we're here; this is a lot in an approved subdivision. The subdivision was approved back in 1973 by the Planning Board. This was a buildable lot and apparently it's one of the few left in the subdivision. At some point after the subdivision was approved the Town adopted regulations relative to wetlands. As you can see from the plan, essentially once you take into account the 100' setback from Hook Brook which runs through the eastern portion of the property and you take into account the building setbacks, there is very little in terms of a building envelope left. The reason we're here tonight is looking for a variance from the 100' setback, in this case, from a surface water, Hook Brook to allow a portion of a single family home to be built on this lot. Only a portion of the house will be within the setback. The house itself will be completely on the lot, the majority of the house will be without the wetland setback. There are no other variances being sought here. Essentially this is to allow for a house to be built that is sort of consistent with the character of the neighborhood in terms of size and dimensions. If you look at the very limited area that is here, outside of the 100' area, you'd be left with I believe, I've been told, you're talking about less than 1000 square feet of house. As the Board members know, it's never best to be, whether you're a neighbor or an owner, to be the smallest or the biggest house in the neighborhood. From the perspective of the neighbors, if you have a house that is out of character for the area, that can affect their property values as well.

The one thing I will note is that one of the issues in looking at the minutes from the prior meeting is the notion of whether this lot is a buildable lot and that really isn't the issue. The issue is only the wetlands setback. This subdivision is again done in 73' there is nothing on there to say that the Planning Board chose to say that this was a non-buildable lot, in fact it's larger than some of the other lots in the

neighborhood. The issue of whether it's buildable or not really isn't the issue that's before the Board. Turning to the actual issue, which is the 100' setback from Hook Brook. The first two related issues are the public interest and the spirit of the ordinance basically you can satisfy either by showing that either it doesn't alter the essential character of the area or it doesn't present public health, safety or welfare issues. As you can see from the plan, there is intended to be a house drain with this. In addition there is supposed to be a silt fence. The wetland setback if you look at your ordinance is intended to protect the integrity, in this case of the body of water. This house will be 90 feet from the body of water. It will be behind a silt fence and it will have a house drain. You're not having the issue of erosion into the brook. You also will not have excessive runoff to the brook with the house drain.

I would note that Hook Brook actually continues beyond Douglas Drive and this drainage easement appears to have been intended to allow storm water drain off from Douglas Drive to Hook Brook as it goes to either side of the road. The lot actually to the North of Douglas Drive has a similar easement shown on the subdivision plan. What's being proposed, again, is a single family residence similar size to what's already in the neighborhood. We're not looking to build some monstrosity here, which is 5,000, 4,000 or 3,000 square feet. This is a more modest home, supposed to fit in with the character of the neighborhood.

In terms of public health, safety and welfare, once again, with the proposal here to put a silt fence in between the brook and the house. You have the foundation drain, you're not going to have the issues that the ordinance was designed to essentially prevent, which was destroying the integrity, in this case, of Hook Brook. With respect to those two elements we don't think it either alters the essential character of the neighborhood if you granted a variance or would present an issue of public health, safety or welfare.

With regard to the diminution of surrounding property values we actually think that this will help preserve surrounding property values by allowing a house that is of similar size and character to those that are already in the neighborhood. Again, this isn't a case where somebody is trying to come before you seeking something that is far beyond what is found in the neighborhood. It's a pretty standard house for this neighborhood they're seeking to build so they can sell it. Once again, if you make it too large and it's out of character for the neighborhood that makes it difficult to sell likewise if it's too small if you can't get the variance, it makes it difficult to sell. The proposed use is an one allowed on the property, it's a single family home, so that won't be out of character for the area either.

I. Byrd asked how many bedrooms? D. Muller replied a 3 bedroom. I Byrd asked and the square feet of the house? D. Muller replied give me a sec to calculate 26' x 32' I can. J. Szot asked is it one story or two stories?

N. Viviers of Sirron Development confirmed 26' x 48' split entry. D. Muller said a split entry. B. Petrin said did the footprint grow from the last time? No? B. Chivers said 1864 square feet. D. Muller said I'm looking at the plan I have and it shows 26' x 32' unless you've changed it. I. Byrd said that's not what he said, he said 48'. *There was confusion about the plan that had been presented.* D. Muller reviewed the 26' x 32' plan with Norris Viviers who responded no, this was an old plan. This is a plan that we proposed before. The wrong plan was presented. D. Muller confirmed so 26' x 48'. N Viviers said we had looked at looking at doing a Colonial with a garage. N. Viviers said I don't know where you got this plan from. D. Muller said it was sent to me. N. Viviers said that's the plan on the table but...D. Muller said so 26' x 48' I want to make sure we're clear on the record. N. Viviers said let me give this some thought. This is what the Board has (26' x 32').

D. Muller asked for a moment. It's 25' x 44', I apologize for that. B. Chivers asked again if it's two story. D. Muller responded it's a split level, so you have the basement level and the level above. I. Byrd asked and the basement level is living space or garage? D. Muller replied it would be a combination but it would be mostly living space because with a split level you usually have a family room or something downstairs.

B. Chivers said you keep making reference to maintaining the character of the neighborhood, is that somewhere in the statutes where that's a requirement? D. Muller replied with regard to the public interest and spirit of the ordinance elements for our variance, the Supreme Court has through a number of cases has sort of defined that and what they generally say is that something is only contrary to the spirit of

the ordinance or contrary to the public interest if it unduly conflicts with the basic objectives of the zoning ordinance in question. And they've said there are two tests that you can look at to determine if that's the case or not. The first of those tests is to see whether granting the variance would alter the essential character of the neighborhood. The second of those standards is whether granting the variance would threaten the public health, safety or welfare and that's where it comes from. It comes from New Hampshire Supreme Court cases interpreting the elements in 674:33.

D. Muller continued in terms of the substantial justice element the question here is a balancing test, balancing the private interests versus the public interest here. The public interest that's supposedly at issue here is once again is the integrity of Hook Brook. We think with the proposals being made to put a silt fence and a foundation drain to keep the erosion and runoff to the area at a minimum, the public interest here is limited and by contrast we think the denial of a variance would actually greatly limit the value of this property given the limited building envelope, you can only build a small house that would be smaller than anything else in the neighborhood and would be out of character for the neighborhood. Therefore we think that substantial justice element is met.

Finally with regard to hardship, you have a lot that was created in 1973, it was a building lot. This subdivision has vested in this point in time. It's mostly built out with the exception of this one. The property had a drainage easement along its far eastern boundary which limits the ability to use that side of the property. In addition you have Hook Brook which sort of meanders through the property. This is what causes the issue here with the 100' setback, it gives you a very small...if you're going to satisfy also the rear setback, the side yard setback, take into account the placement of the septic and the well, it leaves you a very limited place to build. They're essentially building in the one area you can. Again, we're not looking for something that is far beyond what is found in the neighborhood in terms of a house. Given that existing topography, I'd also note that there's an existing wood road that leads to this area so there is actually in terms of an ingress, egress, it lends itself to building on this side of the property. Given all those factors and the fact that you can in this particular case use measures to stop any erosion or any drainage into that area beyond what is already going into the area, given those special conditions that there's no substantial relationship between the general purposes of zoning ordinance and their application to this particular property. At the same time, what's being proposed here is a single family home, again a split level with a garage and that is an allowed use in the zoning district. For those general reasons, we think a variance should be granted.

B. Chivers asked what is the correct acreage for this lot? One says 1.07 and one says 1.34. B. Petrin said I believe 1.07 was amended. J. Szot clarified 1.07 was the original house and 1.34 is the lot and they were mixed up in the office. This lot is 1.34. McKinney's old house is the 1.07. B. Chivers said so am I correct in assuming that you can build a house? D. Muller replied you can build a very small house, 500 square feet per floor. B. Chivers said without encroaching on any of the setbacks. D. Muller agreed, without encroaching on any of the setbacks but obviously that is a very small house and limits the market and limits the reasonable expectations one might get with buying a 1.34 acre lot that you can actually build a house of at least a modest size in there as opposed to...

B. Chivers said I think you are correct in your analysis of what the issue is here is the wetland setback, not the condition of the lot, not how steeply sloped it is, and it's desirability as a lot, it's encroachment on the setback. But you said you're going to control the drainage from that house? You can control the siltation but what about the impervious surfaces that are going to result. D. Muller replied the initial silt fence ran along the driveway. With respect to the house itself, putting a house drain in, we can talk about it, if you wanted a drainage ditch along the driveway to capture that water so it doesn't runoff. B. Chivers said my point is that water is eventually going to run down to Hook Brook and then from there it descends through that neighborhood. Last time we had this hearing, the first time, these neighbors turned out and complained about the drainage conditions as they exist now and their position was that this thing is going to make it worse. I. Byrd said due to cutting and clearing to build. D. Muller said the notion here is in terms of building you'll be focusing on the western part of the lot. The eastern part...you look at the front there's a stone wall that goes down. You're not going to be looking to go in there to build. If the concern is with the impervious surface we could talk about or agreeing to essentially a drainage ditch next

to the driveway to capture that runoff. R. Howe said but it still has to run into the brook. D. Muller said no, it will run into the ground. Board disagreed. B. Chivers said not with that steeply sloped soil, if you look at those contours there it won't have much time to run into the ground, it's not a very flat lot, that water's going to run down hill, quickly. I. Byrd said it's 1.34 acres, at the time that that subdivision was approved, what was the legal square footage of a lot, was it 2 acres? D. Muller said it had to be smaller because there are smaller lots in that subdivision that have already been built on.

J. Szot asked Mr. Muller if he was aware of an article in the paper about a Nashua NH subdivision that was like this, an older subdivision and that had not been completed, some houses had been built on it and some were not. Someone wants to come in and finish the subdivision and one of the statements he made before the Planning Board was since this subdivision had been passed there were new laws passed relating to wetlands and he knows that many of these lots now are not buildable because of the wetlands ordinances and was going to change and consolidate some lots because of the wetlands ordinance. I'm bringing this up because this may have been an acceptable place to build in 1972 (*meant 1973*), but with the wetlands ordinance; you could put something in that small part. My concern when I looked at that lot. I was concerned about the steep slopes. There are many old trees, some that are not very healthy and some have to go. Trees soften the rain but when you get those heavy rains, you take down the trees now you've got it pounding on the soil. You disturb that soil because somehow they have to get down that slope to put the well in. The well is going halfway down the slope at least it was on the other plan. The well is down by the silt fence, you have to get the truck in there. You're not only taking out the trees to get in there but you're disturbing that topsoil so when the rain falls like it did tonight, is going to end up in Mrs. Larkin's backyard and Mrs. Ackroyd's back yard. That brook is very narrow and very small and it fills I'm sure quickly. There were some pictures given to us the last time you were here that showed the water, once that brook fills, then it spreads and it's going to be in these people's backyards. So when you talk about the greater good and no harm, what about the people who are down slope from this, Mr. Caron, Mrs. Ackroyd, Mr. Larkin,; these people are all going to be affected by water coming down this slope. I. Byrd and their property values will be diminished as a result because that water will cause problems for them.

D. Muller asked to respond to a portion of the commentary. Number one with the Nashua case, there isn't an opportunity to merge lots here. That isn't present and one of the things you have to look at here, the reason variances came to be in the first place was they were concerned that you could pass regulations that essentially strip a property of all its economic value or substantially of its economic value and that's the whole takings analysis. In fact that was the old gray rock standard for a variance and still exists as an alternative here. If you cannot go in again, the whole notion here, the only proposal that's before you is the portion of the house. We've talked about the driveway and everything like that but the only proposal here and the only setback issue that's called out is the portion of the house. That has a foundation drain. Because otherwise you come to the conclusion that essentially taking sort of the logic that's been presented, this becomes an unbuildable lot. And it becomes an unbuildable lot because of your regulation that was passed after the fact and therefore it becomes a regulatory taking of the property. That's what the variances were put in place to deal with. I understand the notion of the concerns about erosion, about runoff, I think Mr. Viviers is probably going to speak to that in a second but again you have a vested lot and basically what you're saying is if you go and take all those things...even if you satisfied the setback there, you'd still be in the same boat. You're basically saying you put the driveway in, you put anything there and you're going to have the same thing. I'm not sure putting a portion of a house with a house drain 90 feet from that brook, creates anything more than what would be there if you just had a house that just met everything.

R. Howe asked you're looking for a variance from this 100' from the brook. D. Muller agreed, correct. R. Howe continued what if instead of looking for that variance you look for a variance on the side lot and the rear line, could you move that house far enough into the area so the whole corner of the house is out of the poorly drained area. That would mean swinging the septic around a little bit, I still have a problem with the well but maybe it doesn't have to go down there quite so far and maybe the builder can answer that. D. Muller replied part of the consideration with regard to the well is that you have the protective well radius; you have to be so far from the septic. I don't know if the neighbors on that side

would be receptive to having a house closer, I'm not sure. B. Chivers said how much closer would it have to be. R. Howe said if you had a 15 foot setback front (*meant side?*) and back instead of 25, it's hard to tell because this is scaled out at 26' x 32' so I'm assuming this house is going to be 12' longer? J. Szot said we don't have a plan that shows the exact size of the house. We have two different sizes and they've given us a third size. R. Howe said is it something to consider.

Abutter Bob Caron of 108 Douglas Drive said this is a photograph of the last rainstorm we had and little Hook Brook became huge Hook Brook and it shows you that that brook goes from anywhere from 2-3 feet to almost 7 or 8 when it comes through the property.

Abutter Mark Raumikaitis of 34 Douglas Drive said just a clarification of facts. The original proposal which was closed last month showed a house that was 26' x 48' so we know that that one is no longer on the table. The latest drawing we have for this meeting which the abutters were notified about shows 26' x 32' with a side note that 280 square feet of the proposed house will impact the buffer but tonight verbally we've heard it's a different size 26' x 44". So I'm not sure what I'm looking at, which size is it, what size will the Board be considering and I'd like some clarification because the drawing is incorrect or the drawing is correct and what was verbally stated is incorrect so I'm not sure where I'm at. I'd like the facts clarified. B. Petrin said let's confirm that what we're looking at on 10/23/18 is not in keeping with what is being said. Verbally you said 25' x 44'. B. Chivers said and this says 26' x 32'. I. Byrd said we discussed this last time. It's extremely difficult to come to a decision when the figures were so; weren't clear and it's still not clear. What are we looking at and what is being presented? I. Byrd asked Norris Viviers if he was the gentleman that was here last time. N. Viviers agreed, yes I was.

Norris Viviers from Sirron Development said hearing all the concerns about the drainage and the runoff and the creation of impervious surfaces are valid. I've never been in a situation of dealing with that unless doing bigger developments where you're responsible to retain the water on your site and not send it downstream to create more erosion and so forth. I'm not an engineer and looking at the way this was designed and I apologize, I did not review this. I told my staff to send the exact same plans that we sent the first time and how this got here but I'm going to find out tomorrow. I told her to send the same exact plan that we had originally proposed. But also in looking at this, whether it's this plan or the split plan, we can reduce the size of the split, the smallest we can do is about a 44 foot that would fit on this site. But in looking at this and hearing the concerns about the runoff and not wanting to dump more water into Hook Brook, that's the biggest concern you have and it's a valid concern. I think we're going to ask for a continuance for validation for specifically what we're proposing like this gentleman said. I didn't review this and I'm regretting not having reviewed this that's number one. Number two, it also shows a footing drain running down towards Hook Brook which would also just make the problem worse of more water going down to the brook. So I'd like to ask for a continuance so we can consult with the engineer to talk about whether we can retain or put some kind of detention whether we put a berm there where any water that comes off from an impervious surface has to sit there and infiltrate into the water itself. Eventually it will create a wetland over time, I'm not sure how long that takes. The other stipulation would be that the driveway would never be paved because you're just creating more impervious surface and adding to that problem.

B. Petrin asked could you entertain moving the well because it appears that to dig that well you're going to have to get down that slope a bit and I'm not sure how that's going to work. I'm asking for a consideration to get off that slope a bit you might be endearing yourself. N. Viviers replied that's an engineer question because like Attorney Muller said you have to maintain a distance from the septic system, you need that protective radius. It's something we can address with the engineer and there's also the consideration for requesting the variance going more into the side yard if that's a consideration. There's a lot of things to consider. B. Chivers said can you address the gentleman's question what size home are you proposing. N. Viviers replied I did address that. I did not review this and told my staff to send the exact same plan that was sent the first time and how this got here, I don't know. We had proposed a 26' x 48' was the largest but we could scale back to a 44' but we had originally proposed a 26' x 48'.

B. Petrin said so Boyd now for clarity they're considering we may ask for a continuance to make our map match what we're talking about. N. Viviers agreed, right because you got incorrect information as far as the plan and we had an issue last time our plan being too small for you to read, which is understandable. I represented that we submitted what was requested but unfortunately this time what was submitted was the wrong plan.

B. Petrin said we had a brief discussion about move it or tweak it; move the well but have a discussion with your engineer and come up with a best plan and come forth with that and we'll take it from there keeping in mind that the key issue is the wetlands buffer. We can't get too crazy about all the other stuff while they're all valid talking points to some emotional degree or not, the issue at hand is the buffer. D. Muller agreed. N. Viviers added well the buffer and the impervious surfaces and the runoff to the brook is really what we're trying to...*address (unintelligible)*. R. Howe said there's really no place you can put a silt pond of any type here, there just isn't room, I think. N. Viviers said I'm not sure how much runoff you'd have, more of a berm that would capture and keep it from running towards the brook to retain it to a certain point. B. Petrin said not so much retention but detention. We just want to detain that water from running down as opposed to trying to hold it and capture it.

R. Howe said maybe you could swing this well back, diagonally off the back corner of the house. The slope doesn't drop down nearly as steep in back here and require less cutting. I'd need to go back and look at it again but I wonder if you did that if it would help mitigate that. N. Viviers said I think his thinking was to not...to minimize the impact on the neighbor's site without having to do research on where the neighbor's septic system is but if it could be moved back.

I. Byrd said the applicant has already said he wants to come back another time, let's postpone this meeting and give them whatever he needs and I think we ought to do that because all we're doing is talking about things that could happen when we don't really know what we're looking at.

D. Murray commented the first set of plans had a wetlands scientist stamp, Aaron Wechsler, I don't see that on the second set of plans. N. Viviers said it's the same guy but he didn't stamp it because this is a plan we had talked about. We tried to minimize the footprint but we can't come up with a house to put there because if you put that house there, someone's going to want to put a garage so why don't we just go in with a garage to begin with. D. Murray added a significant help to everyone would be a set of plans drawn to scale. Board agreed. D. Murray continued so you can scale it off and see what we're dealing with. Board agreed.

B. Caron asked if the new plan could be made available to the abutters. We were not aware that there was another plan submitted tonight until we got here tonight. A. Bickum said you can come in and look anytime. B. Caron said how will we know when it's available? A. Bickum said you can call and ask and we can also have it out the night of the meeting. B. Petrin said it will be available the night of the meeting but if you need it beforehand you can call the office and see when it's available.

M. Raumikaitis asked will public comments still be open for the continuation. B. Petrin said yes I'm just closing it for this session. We will close it to the public.

R. Howe asked about the setbacks, what's the feeling of the Board in terms of allowing a possible change to the setback. J. Szot said I don't think we can say until we see it and it's not our position or purpose to tell the applicant how to proceed in this. R. Howe said I'm just trying to give them some direction. J. Szot said it's not our job to do that.

### **MOTION:**

I. Byrd **motioned** to continue the hearing to November 27, 2018. J. Szot **seconded**. **All were in agreement. Motion carried (5-0-0)**. B. Petrin said if they can't make next month then can ask for a continuance again. (Note December ZBA meeting falls on December 25<sup>th</sup> so there will be no meeting).

**Other Business:****Mark Raumikaitis new ZBA Alternate:**

B. Petrin formally welcomed and recognized Mark Raumikaitis as a new ZBA Alternate who was sworn in tonight. We look forward to seeing you at meetings in the event one of us cannot sit for any reason. J. Szot said coming to the meetings helps you understand the process. You should have this handbook and a copy of the zoning ordinance. **Board discussed it would be good to have more alternates as we now only have one**, Mark Raumikaitis. It's good to have a full Board for the applicants. Mark Raumikaitis basically said that he plans on being here for the meetings. He's aware of the commitment and wouldn't have signed on if he wasn't committed to coming to the meetings; looking forward to learning more as time goes on. Board discussed alternates asking questions etc. J. Szot said once we close to public comment I don't think the alternates (*in the audience*) can have any input into what we do. You can identify yourself and ask a question as a resident. We would welcome those comments coming to the Board as a resident.

**Zoning Ordinance Recommendations Draft:**

B. Petrin asked if there was action on the draft. B. Chivers said they are going to the Planning Board on October 29<sup>th</sup>. A. Bickum confirmed a ZRRC work session to discuss on Monday, October 29<sup>th</sup>, 2018.

J. Szot said I thought when we talked about this the last time, the thing about trucking was taken out. If we're talking about home service contractors; plumber, electrician, pressure washing...this allows Class 8 vehicles. These are sleeper cabs and flatbed trucks, semi tractor trailers and cement trucks. I don't consider someone who's running a cement business or tractor trailers a home service contractor. I thought it was taken out and now there's a third section that says home service contractor level 3, minimum lot size 5 acres, no more than two Class 8 vehicles permitted. B. Chivers said I'm the Selectman's liaison to the land use office and we drafted these to help with a problem we're having with zoning. We presented that to the Zoning Board out of courtesy. The Zoning Board is not the Planning Board. The Planning Board has jurisdiction over all of these issues that you're referring too and when we presented this to the Planning Board, they had some concerns that we addressed but the Zoning Board is not the Planning Board. If you want your concerns to be addressed, the right place to do it is before the Planning Board at a public hearing. J. Szot said but this came from us. B. Chivers said no it came from the Land Use Office. I. Byrd asked who in the Land Use Office wrote those.

J. Szot said then why was I sent to propose this to the Planning Board, when the other one came from us. This was originally drafted because we had issues and all of a sudden this thing came out and we had concerns about it. It was coming from the Zoning Board and we don't have the right to do this. He doesn't either. It is the job of the Planning Board to do this. I sat on the Planning Board; I worked on this. We had a committee; we wrote this. It is not something Dave should be doing. Dave should say we have an issue with this; it's their job to do it and if they're not doing it then get off their...and do it because that's their job! If they don't want to go to the meetings get off the Board. This should not be here Boyd. B. Chivers replied there are some zoning amendments that are just cleaning up the bumps that we encounter.

J. Szot said the only thing I have an issue with is this thing that allows tractor trailers in a residential area, it doesn't belong. Cement trucks, tractor trailers, buses, they don't belong. I don't care if its 5 acres, they don't belong in residential area. They don't belong. We have commercial areas, if you want to have a trucking business, do it in the commercial area. You have J&R Landscaping, whatever it is, he bought a house on the Old Candia Road and he put his business down there and he's doing it in the commercial area and there are plenty of houses down there that if someone wants to do a trucking business or set up an area for this and allow this but not in a residential area. It's here and it doesn't belong under home service contractors because I'm telling you tractor trailers aren't coming down my road and if my neighbor had tractor trailers, I'd be....There's a house on Baker Road now for sale that has 25 acres. It would fit in this. You get those tractor trailers going down Baker Road, a Class VI road, you

can't stop them from doing it, he's going to destroy that road and every neighbor on that road has to pay to fix it, that's the consequence of this. I. Byrd said that got put in there and the implication is that the ZBA put it in. J. Szot replied and now Boyd's saying no, it came from the Land Use Office. B. Chivers said we presented that to this Board as a courtesy. It didn't come out of this...we started keeping a log of the problems that we had. J. Szot said it originally came from our Board as concerns and suddenly we have people on this Board writing this stuff and we said...I thought we came to consensus last time that we weren't going to have this in here, that that part was going to be taken out. And then it's in here and it doesn't belong and I'm not going to be here on the 29<sup>th</sup> to go and say something, I'm sorry. B. Chivers said there will be hearings after that.

J. Szot said it doesn't belong in a residential area, it shouldn't and it shouldn't be coming from our Board, it's the job of the Planning Board to plan and writing zoning ordinances is not the job of the Building Inspector and it's not the job of the Selectmen's liaison and it's not the job of the Zoning Board. It is the job of the Planning Board, it is their job to write the zoning ordinances. I. Byrd agreed. We sat on the Planning Board and most of the ordinances got written between Judith and myself and a couple of other members and we met once, twice writing, re-writing, re-phrasing and holding public meetings. J. Szot added and we did it as a committee of the Planning Board.

A. Hall of Adams Road and member of the Planning Board said I would like to remind the ZBA that what you're discussing is a work in progress. I appreciate the Board members comments, however I would encourage the ZBA members to attend the Planning Board meeting next week, Zoning Review meeting, in which there will be other things discussed but you can express your feelings at that time. J. Szot said Al I'm in Denver, I won't be here. B. Petrin said I'll try and be there.

**MOTION:**

I. Byrd **motioned** to adjourn at approximately 7:59 pm. B. Chivers **seconded**. **All were in favor. Motion carried (5-0-0)**. Meeting adjourned.

Respectfully submitted from recording,  
Andrea Bickum  
Recording Secretary

Cc: file