



OAK BLUFFS ZONING BOARD OF APPEALS

P.O. BOX 1327, OAK BLUFFS, MA 02557-1327

508 693 – 3554 x 120

Zoning Board of Appeals Minutes of November 17, 2022 Meeting In-Person Meeting

Members present: Llewellyn Rogers (Chair), Andrea Rogers, Doug Pease, Jonathan Holter, Grace Guck, and ZBA Administrator Robert Culbert.

Others in Attendance: Jeremy Coles, Alana Dillon, Jeanette and Jeremy Driessen, Leslie Fitzsimmons, Ronit Goldstein, Dan and Angela Henry, Mark Hurwitz, Woody Mitchell, Alex Rodolakis, Matt Rossi, Mark Saunders, Tracy Smith, and Chuck Sullivan.

Chair Rogers opened the meeting at 6:01pm.

Minutes: Both the September 15 and October 20 minutes were approved. Motion by Doug Pease, seconded by Andrea Rogers. Voting in favor of the motion was Andrea Rogers, Lou Rogers, Doug Pease, and Grace Guck, with Jonathan Holter abstaining, so the motion passed unanimously (4-0).

Next Meeting Date: The ZBA agreed that next meeting will be an in-person meeting held on December 15, 2022.

New Business: There is no new business to report.

RE: East Chop Tennis Club Appeal

East Chop Tennis Club

59 Brewster Avenue Map 2 Parcel 42

The Oak Bluffs Zoning Board of Appeals opened a duly posted In-Person Public Hearing on **Thursday, November 17, 2022 at 6:05pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

A Special Permit within Oak Bluffs Zoning Bylaws 3.4.2 and 3.5.5, or any action related thereto, to build an accessory apartment within the existing building/clubhouse for seasonal living space on a conforming lot zoned R2.

Woody Mitchell, Squash Meadow Construction, Inc., represented the applicants, the East Chop Tennis Club.

The tennis Club is proposing to convert 384 square feet of their existing clubhouse into a seasonal studio apartment for their Tennis Pro. The outside of the building will not change; all the changes will be internal. Photos of the existing building were presented, and the floor plans show which part of the clubhouse will be converted into the apartment.



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As this proposal is a change of use for the existing building, allowing a residential use of the property, they are seeking a Special Permit under Zoning Bylaw Section 3.5.5.

Doug Pease comments that the project is very straight forward., and Andrea Rogers points out that this project will only change 384 square feet of the larger clubhouse building.

Lou Rogers points out that adding a residential unit will convert the clubhouse into a mixed use building, so the Building Inspector may require insulation, a second egress, energy efficient windows, or other structural details. He points out that the plans show that the existing men's bathroom will become part of the proposed private apartment, and that women's bathroom will become a unisex bathroom. Woody Mitchell agrees.

There was no written correspondence regarding this project, and there were no public comments either in favor or opposed to this project.

Jonathan Holter made the following findings. A Special Permit is requested under Zoning Bylaw Section 3.5.5 to build an apartment within the existing footprint of the clubhouse for seasonal living space, the building will become a mixed-use structure on a conforming lot zoned R2, the existing 35,248 sq. ft. lot is conforming. (Req.: 20,000 sq. ft.), the apartment will be within the existing clubhouse, the apartment will be approximately 13x35 feet (384 square feet), no correspondence in favor or opposed, four members visited the site, and this project is not be substantially more detrimental to the neighborhood than the existing clubhouse because there is a lot of space between this project and their nearest neighbors, and it is for workforce housing.

Doug Pease moves that we approve the Special Permit under Zoning Bylaw Section 3.5.5. Grace Guck seconds the motion.

All (Andrea Rogers, Lou Rogers, Doug Pease, Grace Guck, and Jonathan Holter) voted in favor, so the motion passed unanimously (5-0).

RE: Driessen Appeal

Jeanette and Jeremy Driessen

70 Simpson Avenue Map 7 Parcel 185

The Oak Bluffs Zoning Board of Appeals opened a duly posted In-Person Public Hearing on **Thursday, November 17, 2022 at 6:25pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

A Special Permit within Oak Bluffs Zoning Bylaw 3.5.5, or any action related thereto, to construct a non-conforming addition that encroaches two feet into a



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conforming setback on a conforming lot zoned R1.

Jonathan Holter recuses himself from this hearing.

George Crawford is representing Jeanette and Jeremy Driessen. He tells the ZBA that a 14 foot wide single story addition to their house is already under construction without any encroachments into the setbacks. The owners are wondering whether there is any way that the single story addition could be 16 feet wide, which would mean a two foot encroachment into the setbacks. There is a paper road and then open space in the adjacent property.

Lou Rogers says that adding the extra two feet in width would make a conforming structure non-conforming and would require a Variance from the ZBA rather than a Special Permit.

George Crawford then asks the ZBA to withdraw their request for the two-foot addition.

They are also asking for two bumpouts along one side of the addition that would each encroach about eight inches into the setback. **(FOR WHAT? Bay windows??)**

Andrea Rogers makes the following findings. A Special Permit is requested under Zoning Bylaw Section 3.5.5 to expand the existing dwelling, the renovation/addition is already under construction and meets all zoning setbacks, the request for a sixteen foot wide addition that would encroach into the setbacks was withdrawn by the applicants, the height of the proposed addition will be lower than the roofline of the house, the existing 10,010 sq. ft. lot is conforming (Req.: 10,000 sq. ft.), there were six letters in favor and no letters opposing this project, two members visited the site, and this project is not be substantially more detrimental to the neighborhood because the bumpouts are small and will not be noticeable when finished.

Doug Pease moves that we approve the Special Permit under Zoning Bylaw Section 3.5.5 to approve the two bumpouts on the side of the 14 foot wide addition that encroach 8 inches into the setback. Grace Guck seconds the motion.

Andrea Rogers, Lou Rogers, Doug Pease, and Grace Guck all voted in favor, with Jonathan Holter recused, so the motion passed unanimously (4-0).

***RE: NSTAR Electric Company Appeal
d/b/a Eversource Energy
Commonwealth Electric Company
c/o Eversource Energy
0 Eastville Avenue Map 4 Parcel 147.1***



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*The Oak Bluffs Zoning Board of Appeals opened a duly posted In-Person Public Hearing on **Thursday, November 17, 2022 at 6:40pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:*

A Special Permit within Oak Bluffs Zoning Bylaws 3.5.5, 8.1.5.2 and 8.1.8, or any action related thereto, to construct a road and to install electrical equipment within the Floodplain Overlay District on a conforming lot in Residential Zone 1, in order to update the Island's power supply.

Alex Rodolakis presented the application on behalf of Eversource Electric. This project will improve the electrical service throughout the Town.

He points out that only the middle of this property is in the Floodplain, and the only alteration to the floodplain will be to construct a road from Eastville Avenue to the northwestern end of the property. Four pieces of equipment (three transformers and one switch) will be installed at each end of the property, and so will not be in the floodplain. The equipment – similar the boxes that are in other parts of the Town - will be placed on concrete pads, and there will be a small access gate at the Eastville Avenue end of the property.

The Planning Board reviewed this project and approved the clearing of vegetation to construct the access road and to place the equipment. Despite the necessary clearing, all the equipment will be well screened from Eastville Avenue and the abutters. No wastewater will be generated by this project, no lighting will be installed, and all equipment will be installed outside of the floodplain.

The equipment they are installing will not make any noise as they do not include fans or cooling systems.

Lou Rogers asks how they will prevent noise from being generated by the equipment as it gets older. Alex Rodolakis responds that the equipment will be well screened, and Eversource will address future noise if and when that happens.

Andrea Rogers asks whether herbicides will be used on the property. Alex Rodolakis responds that Eversource will implement its current policies regarding vegetation management. Ronit Goldstein points out that no herbicides should be needed since there are no overhead facilities (everything will be within approximately six feet of the ground).

Jonathan Holter points out that Zoning Bylaw 8.1.8.2 requires that an engineer write a letter certifying that this project “will not cause an increase in wave runup, a deflection or channelization of flood waters, or an increase in the velocity of flow.” Alex Rodolakis agrees to provide that letter.



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Lou Rogers asks about the snow storage part of the proposal. Alex Rodolakis responds that there will be a 24x21 foot turnaround that will be where they put the snow that is plowed from the road; snow will not be imported from off site.

This project has not yet been reviewed by the Conservation Commission, but will be presented and reviewed in February 2023.

A letter from Catherine and David Gross, abutters to the Eversource property, suggest a number of concerns they have about this project. Alex Rodolakis spoke with the Gross' yesterday and agreed to do additional screening of the transformers if necessary, but the arborvitae they will be planting will conceal the transformers from other properties and the road. The transformers will be 40 feet from the Gross' property and 40 feet from Eastville Avenue. They will be clearing less than 5,500 square feet for the equipment and the roadway.

There was no other correspondence for this project.

Grace Guck made the following findings. A Special Permit is requested under Zoning Bylaw Sections 3.5.5, 8.1.5.2 and 8.1.8 to construct a road and to install electrical equipment within the Floodplain Overlay District, the electrical equipment will be installed on cement platforms that will be above the expected levels of floodwater, the electrical equipment will be concealed by vegetation, the project was approved by the Planning Board under Zoning Bylaw Section 10.4.8 with special conditions, one letter (from the gross' suggested improvements to the plans (Gross), four members visited the site, the project will need an Order of Conditions from the Conservation Commission, and this project is not be substantially more detrimental to the neighborhood because it will improve the electrical service Island-wide, no equipment will be installed in the floodplain, no wastewater will be generated, and there will be no lighting.

Andrea Rogers moves that we approve the Special Permit under Zoning Bylaw Sections 3.5.5, 8.1.5.2 and 8.1.8 to approve the gravel road and the installation of the electrical equipment with the following five Special Conditions, Eversource will: (1) not use herbicides on the property, (2) address the abutter's concerns, (3) adhere to the Planning Board Decision and Conditions, .(4) get an Order of Conditions from the Conservation Commission, and (5) send the town a letter from a certified engineer stating that this project will not cause an increase in wave runup, a deflection or channelization of flood waters, or an increase in the velocity of flow. Doug Pease seconds the motion.

Andrea Rogers, Lou Rogers, Jonathan Holter, Doug Pease, and Grace Guck all voted in favor so the motion passed unanimously (5-0).

RE: Dillon and Coles Appeal

Alana Dillon and Jeremy Coles



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77 Tuckernuck Avenue Map 11 Parcel 82

The Oak Bluffs Zoning Board of Appeals opened a duly posted In-Person Public Hearing on **Thursday, November 17, 2022 at 7:20pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

A Special Permit within Oak Bluffs Zoning Bylaws 3.4.3 and 3.5.5, or any action related thereto, to demolish an existing garage and to construct a non-conforming accessory apartment on a pre-existing and non-conforming lot in Residential Zone 1.

Jason Forend represented Alana Dillon and Jeremy Coles for this appeal. Dillon and Coles purchased the property on November 20, 2020 with approvals from the Copland District and the Cottage City Historic District. They are proposing to remove the pre-existing non-conforming two car garage and build a 1,000 square foot accessory apartment in a location closer to Tuckernuck Avenue.

Lou Rogers points out two concerns: (1) adding the accessory apartment is a change of use, from non-residential to residential, so they need to comply with all setbacks, (2) they cannot have a free-standing accessory apartment, (3) they must return to the Copeland District for this project, and (4) they need to have occupied the property for five years unless the ZBA specifically waives this requirement.

Jason Forend then asks that this hearing be continued to the December meeting so the applicants can determine how to modify their project to comply with zoning.

Jonathan Holter moves to continue the hearing to December 15, 2022. Doug Pease seconds the motion.

Andrea Rogers, Lou Rogers, Jonathan Holter, Doug Pease, and Grace Guck all voted in favor so the motion passed unanimously (5-0).

RE: Hurwitz Appeal

Mark Hurwitz

34 School Street Map 11 Parcel 82

The Oak Bluffs Zoning Board of Appeals opened a duly posted In-Person Public Hearing on **Thursday, November 17, 2022 at 7:30pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

A Special Permit within Oak Bluffs Zoning Bylaw 3.5.5, or any action related



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thereto, to demolish an existing non-conforming dwelling and to construct a conforming dwelling on a conforming lot in Residential Zone 1.

Tracy Smith is representing Mark Hurwitz. They are seeking to replace one of the houses on this property; the existing house is non-conforming due to setbacks, and the proposed new house conforms to all setbacks. The proposed modular house will have a crawl space, one bedroom, and a storage loft. The new roofline will be 20 feet 5 inches. This property is just outside of the Floodplain Protection Overlay District.

There was no discussion from the ZBA and there is no written correspondence. Rene Balter spoke in favor of this project.

Andrea Rogers made the following findings: a Special Permit is requested under Zoning Bylaw Section 3.5.5 to demolish the existing non-conforming dwelling and to construct a conforming dwelling, the existing 11,326 sq. ft. lot is conforming. (Req.: 10,000 sq. ft.), there are three dwellings on this lot, a non-conforming residence with a 14 foot setback from School Street will be demolished and replaced with a conforming dwelling with a 20 foot setback, the roofline of the proposed dwelling will be 20 feet 5 inches above grade (32 feet maximum), three members visited the site, and this project is an improvement to the neighborhood because it replaces a non-conforming dwelling with a new conforming dwelling.

Jonathan Holter moves to approve the Special Permit under Zoning Bylaw Sections 3.5.5 because it reduces the non-conformity of the lot and a neighbor is in favor of this project. Doug Pease seconds the motion.

Andrea Rogers, Lou Rogers, Jonathan Holter, Doug Pease, and Grace Guck all voted in favor so the motion passed unanimously (5-0).

RE: Parker Appeal

Melanie D. Parker

60 Pennacook Avenue Map 11 Parcel 73

The Oak Bluffs Zoning Board of Appeals opened a duly posted In-Person Public Hearing on **Thursday, November 17, 2022 at 7:40pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

A Special Permit within Oak Bluffs Zoning Bylaw 3.5.5, or any action related thereto, to renovate a pre-existing and non-conforming structure by rebuilding a side entry/mudroom and enlarging a second floor dormer on a pre-existing and non-conforming lot in Residential Zone 1.

Chuck Sullivan represents Melanie Parker.



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This project has been approved by the Cottage City Historic District and will be heard by the Copeland District on Monday December 19. The exterior of the existing house will be modernized with new siding and windows, two dormers will be added that will not change the roofline of the house, and the entryway will be slightly enlarged, and it will be more conforming as it will be two feet from the property line.

Doug Pease thinks this is a fabulous plan
There is no correspondence concerning these changes.

Andrea Rogers makes the following findings: a Special Permit is requested under Zoning Section 3.5.5, the pre-existing lot is zoned R1, the lot is non-conforming with only 2,614 square feet (10,000 required), the existing house is non-conforming with side setback of 0.1 feet, the proposed house will be more conforming with side setback of 0.3 feet, the added dormers will not change the roofline, windows will be replaced with similar-looking windows, rotten wood will be replaced, and these changes have been approved by the Cottage City Historic District.

Doug Pease moves that we approve the Special Permit under Zoning Bylaw Sections 3.5.5 with the Special Condition that this project must be approved by the Copeland District. The proposed structure is more conforming and thus will not be more detrimental to the neighborhood. Andrea Rogers seconds the motion.

Andrea Rogers, Lou Rogers, Jonathan Holter, Doug Pease, and Grace Guck all voted in favor so the motion passed unanimously (5-0).

RE: Saunders Appeal

**Mark and Kathryn Saunders
21 Wayland Avenue Map 8 Parcel 99**

The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued In-Person Public Hearing on **Thursday, November 17, 2022 at 7:49pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

A Special Permit within Oak Bluffs Zoning Bylaws 3.4.2, or any action related thereto, to convert an existing garage into an accessory apartment on a pre-existing non-conforming lot in Residential Zone 2.

Mark and Kathryn Saunders have owned this property since 1990, and his family owned it prior to that.



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The existing garage has never been used, so he would like to convert that to a bedroom, making four bedrooms on the property. The width, height, and exterior of the house is not changing.

Lou Rogers points out that the existing garage is not habitable and will need to meet setbacks to convert it to a residential structure. It will either need to be connected to the existing house or an accessory apartment could be constructed above the garage.

Matt Rossi (Oak Bluffs Building Official) adds that the garage is conforming as a garage, but its use as living space is non-conforming. A Special Permit from the ZBA is required because living space is being created. It can be approved contingent on the house being connected to the detached bedroom.

Grace Guck made the following findings: a Special Permit is requested under Zoning Bylaw Sections 3.4.2, 3.5.5, and 4.4.4 to convert an existing garage into an accessory apartment or detached bedroom on a pre-existing non-conforming lot in Residential Zone 2, the height of the detached bedroom will be approximately 12 feet 4 inches, the existing 5,702 sq. ft. lot is non-conforming. (Req.: 20,000 sq. ft.), the existing residence is not part of this application, there is no correspondence in favor or opposed, four members visited the site, and this project is not be substantially more detrimental to the neighborhood than the existing garage because it has been approved by the Copeland District and the detached bedroom will be less than 400 square feet.

Jonathan Holter moves that we approve the Special Permit under Zoning Bylaw Sections 3.4.2, 3.5.5, and 4.4.4, with the Special Condition that (1) the roofline connecting the house to the detached bedroom be restored, and (2) the Building Official approves the plans. Doug Pease seconds the motion.

Andrea Rogers, Lou Rogers, Jonathan Holter, Doug Pease, and Grace Guck all voted in favor so the motion passed unanimously (5-0).

RE: Henry Appeal

Dan and Angela Henry

Dragonfly MV LLC

115 Seaview Avenue Map 10 Parcel 151

The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued In-Person Public Hearing on **Thursday, November 17, 2022 at 8:05pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

a Variance or Special Permit within Oak Bluffs Zoning Bylaws 4.2.6 and 4.2.3, or any action related thereto, to allow the peak of the tower of the pre-existing non-



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conforming reconstructed house to be 35.25 feet above existing grade on a preexisting non-conforming lot in Residential Zone 2.

Dan Henry starts presenting this appeal by stating that this project has received multiple approvals from the Town: Highway department, Conservation Commission, Fire department, Copland District, and Cottage City Historic District. They are before the ZBA because after the renovations the tower is 35.25 feet tall, higher than the 34 feet prior to the renovations and higher than the town maximum of 32 feet above grade.

Lou Rogers points out that it is not possible to reduce the height of the tower now that the renovations are completed. A Variance from the ZBA would be possible since this increase was not intentional, and it would be a financial hardship to reduce the height of the tower.

It was pointed out that the original tower on the original house built in 1900 was much taller than now.

In last month's hearing the ZBA wondered why this project did not come before them prior to the renovations, but Matt Rossi pointed out that that is not the issue here, the increased height was discovered during an inspection for an occupancy permit after the renovations were completed.

Leslie Fitzsimmons points out that the renovations materially improved the house and the neighborhood, and wants to see this project wrapped up. There was no other correspondence concerning this project.

There was no further discussion.

Jonathan Holter made the following findings: Dan and Angela Henry are seeking a Variance under Zoning Bylaw Sections 4.2.3 and 4.2.6, to allow the non-conforming height of the tower to increase by about 1.25 feet to 35.25 feet, the height of the tower was discovered after the renovations were completed, the existing 3,920 sq. ft. lot located in Residential Zone 2 is non-conforming. (Req.: 20,000 sq. ft.), the completed renovation of the main residence is not part of this application, the renovations did not change the setbacks, and three members visited the site.

Doug Pease moves to approve a Variance under Zoning Sections 4.2.3 and 4.2.6 because the increased height was discovered after the renovations were completed, the project has been reviewed and approved by multiple Town departments, and it would be a financial hardship to reduce the height of the already built tower. Andrea Rogers seconds the motion.

All (Andrea Rogers, Lou Rogers, Doug Pease, Grace Guck, and Jonathan Holter) voted in favor, so the motion passed unanimously (5-0).



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RE: Bradley Appeal

**Melissa Bradley
Black Joy MVY
125 Seaview Avenue,
Map 10, Parcel 162**

The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued Public Hearing on **Thursday, November 17, 2022 at 8:16PM** via an in-person meeting on the application of the referenced petitioners seeking:

a Special Permit from the Oak Bluffs Zoning Bylaws Sections 3.5.5 and 8.1.5 to build a free-standing deck platform in the backyard of a non-conforming lot zoned R2.

No revised plans have been submitted.

Jonathan Holter makes a motion to continue the hearing until December 15, time to be determined. Doug Pease seconds the motion.

All (Andrea Rogers, Grace Guck, Lou Rogers, Doug Pease, and Jonathan Holter) voted in favor, so the motion passed unanimously (5-0).

RE: Island Elderly Housing, Inc. Appeal

**Island Elderly Housing, Inc.
38 Wing Road
Map 17 Parcel 105**

The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued Public Hearing on **Thursday, November 17, 2022, 2022 at 8:17 pm** via an In-Person/Zoom meeting in the Oak Bluffs School on the application of the referenced petitioners seeking:

a Comprehensive Permit within MGL Chapter 40B, or any action related thereto, to allow the demolition of the existing structures and to construct a building containing five units of affordable housing on a conforming lot in Residential Zone 2.

This Martha's Vineyard Commission has approved this Development of Regional Impact with one of the conditions being that the applicant redesign the entire structure for the MVC to review. The applicant has appealed that condition, so the MVC has not yet given final approval for the project.



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Jonathan Holter moves that we continue the hearing to December 15, time to be determined. Doug Pease seconds the motion.

All (Andrea Rogers, Grace guck, Lou Rogers, Doug Pease, and Jonathan Holter) voted in favor, so the motion passed unanimously (5-0).

RE: Chun & Kim Appeal

**Eunu Chun and Lisa H. Kim
7 Arlington Avenue
Map 3 Parcel 15**

The Oak Bluffs Zoning Board of Appeals will open a duly posted and continued Public Hearing on Thursday, November 17, 2022 at 8:18pm via an in-person meeting on the application of the referenced petitioners seeking:

a Special Permit within Zoning Sections 3.5.5 and 4.4.4, or any action related thereto, to renovate a pre-existing and non-conforming dwelling and to convert a pre-existing and non-conforming garage into a detached bedroom on a pre-existing and non-conforming lot in Residential Zone 2.

This applicants have appealed the Martha's Vineyard Commission's denial of this projectas a Development of Regional Impact. The ZBA cannot make a decision until this lawsuit has been resolved.

Jonathan Holter moves that we continue the hearing to December 15, time to be determined. Doug Pease seconds the motion.

All (Andrea Rogers, Grace guck, Lou Rogers, Doug Pease, and Jonathan Holter) voted in favor, so the motion passed unanimously (5-0).

Adjournment.

At 8:20PM, Jonathan Holter made a motion to adjourn the meeting, seconded by Andrea Rogers. All (Andrea Rogers, Lou Rogers, Doug Pease, and Jonathan Holter) voted in favor, so the meeting adjourned (5-0).

Respectfully Submitted,

Robert Culbert

ZBA Administrator

Approved January 19, 2023