

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

DECEMBER 5, 2005

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on **December 5, 2005**, in the Public Meeting Room, Town Hall Annex, 66 Prospect Street, Ridgefield. They are not intended to replace verbatim transcripts of the meeting which may be obtained from the Administrator at cost.

The Chairman called the meeting to order at approximately 7:30 p.m. Sitting on the board for the evening were: Charles Creamer (Chairman), Charles K. Campbell, Jr. (Vice Chairman), Henry Seemann and Glenn Smith. Also present for petitions continued from the November 21, 2005 meeting was alternate Andrew Pisanelli. Alternate Michael Stenko sat for Mr. Odachowski who was not able to be present.

Rotation of alternates: The rotation from the last meeting was: first, Mr. Collins; second, Mr. Stenko; third, Mr. Pisanelli. Mr. Collins was not able to sit; Mr. Stenko sat for Mr. Odachowski. So the rotation for the next meeting will be: first, Mr. Pisanelli; second, Mr. Collins; third, Mr. Stenko.

The first item on the agenda was the election of Chairman and Vice Chairman for a one-year term. On a motion by Mr. Campbell, seconded by Dr. Seemann, and passed unanimously, Charles Creamer was re-elected Chairman. On a motion by Dr. Seemann, seconded by Mr. Smith, and passed unanimously, Charles K. Campbell, Jr. was re-elected Vice Chairman.

The following petitions were continued from the November 21, 2005 meeting. They were heard by Mr. Creamer, Mr. Campbell, Mr. Pisanelli, Dr. Seemann and Mr. Smith.

Appeal No. 05-082 – Petition of Karl Molwitz and Darol Bates

Mr. Molwitz represented the applicants. Board members had visited the property at **165 Peaceable Ridge Road** and reviewed copies of the variance granted in 2002 and the plans approved at that time for an addition which had not subsequently been constructed.

Mr. Campbell noted that this was a really undersized lot, and the addition was basically going up within the footprint.

Dr. Seemann felt the board had already found hardship in 2002 and that hardship still existed.

Mr. Creamer noted that the 2002 variance had approved an addition that went up and also expanded the footprint. Mr. Campbell concurred, noting that the hardship remained the same but the impact of the addition would be lessened.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 05-083 – Petition of Douglas D. and Laurice E. Haynes

Appeal No. 05-084 – Petition of Douglas D. and Laurice E. Haynes

These two appeals continued to be heard concurrently. Attorney Robert Jewell and Architect Jeff Mose continued to represent the applicants who were also present. All board members had visited the property at **114 Main Street**.

Mr. Mose gave the board a corrected FAR and coverage calculation sheet, noting that this now matched the amended plans presented to the board at the last hearing.

Mr. Campbell expressed surprise that CLP could place such a large electrical meter stand so visibly on a historic property. Mr. Jewell noted that the owners had little choice, but had wanted to run the lines underground to conform to the character of the historic building. The proposed well house would camouflage the meter. Mr. Haynes added that CLP wanted the meter close to the pole from which the house received service. Dr. Seemann noted if electrical lines were to run a certain distance from a pole, then a transformer would be needed. This might be the reason for the location of the meter.

Mr. Jewell was troubled that the well house would be considered a structure under zoning when the meter it would shield was not. He reported that the ZEO felt the roof on the well house made it a structure under the zoning regulations, but the ZEO perhaps would not consider it a structure if it had a lattice top.

Mr. Creamer considered the well house in character with other such structures in the neighborhood, such as the one on the adjoining Keeler Tavern property.

In terms of the changes to the main house, Mr. Jewell felt the bulk impact of the house would be diminished. Mr. Mose noted that the subterranean structures would emulate those of the adjoining Keeler Tavern and would remove the height differential between the two houses.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 05-085 – Petition of Steven J. Wagner and Jennifer S. Purinton

Attorney Robert Jewell continued to represent the applicants. Board members had visited the property at **25 Wilton Road West**.

Mr. Creamer noted that the proposed addition was 46 ft. from the front lot line, but there was an additional 15 ft. to the traveled portion of the road. Mr. Campbell added that the house was lower than the road, with considerable evergreen plantings, and thus would not be visible.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 05-086 – Petition of David and Deidre Gutter

David Gutter represented the applicants. An amended legal notice for this application had been published to include the proposed bay window. Board members had visited the property at **10 Kiah Brook Lane** and had no additional questions of Mr. Gutter.

Mr. Creamer felt that multiple zoning changes had created the hardship on the lot, and noted that up to July 2004, the applicant would have been able to construct the porch and bay window as of right.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 05-087– Petition of Charles Levesque, Jr., contract purchaser

Mr. Levesque was present with his contractor, Philip Smith. All board members had visited the site at **8 Ramapoo Road** and had few additional questions or comments.

In response to a question from Dr. Seemann, Mr. Levesque confirmed that he was merely raising the roofline and bridging one small area, and that the increase in FAR had been caused by the additional usable space created.

Mr. Creamer noted that all other homes in the immediate area consisted a two-storeys. Mr. Campbell concurred that the proposal would be in keeping with the neighborhood.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

The following new petitions were heard by Mr. Creamer, Mr. Campbell, Dr. Seemann, Mr. Smith and Mr. Stenko.

Appeal No. 05-089 – Petition of Patrick Luke and Katherine R. Daigle

Mr. and Mrs. Daigle explained that they wished to add a room over an existing garage on their property at **239 Peaceable Street**. The house had been constructed in 1900, and when zoning was introduced in 1946, the area was zoned one-acre. The house met all the zoning regulations at that time. Between 1966 and 1972, the area was upzoned to two-acres, which made the front setback nonconforming. However, the house still met all the other new zoning regulations.

The room over the garage would be within the existing footprint, and would require raising the roof only 18 inches. Dormers would be added for headroom. The addition would be 42 ft. from the front lot line.

Letters from the closest neighbors were received in support of the application. No-one appeared to speak for or against the petition. Board members did not feel they needed to visit the property and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 05-090 – Petition of Deborah S. Nilson

Ms. Nilson explained that the front of her house at **12 North Street** consisted of two-storeys, but the back one-third was only a single storey. She wished to make the rear portion also two-storey. As she had not believed she needed a variance or permit because the addition was within the existing footprint, she had started work on the addition. Subsequently she had received a Cease and Desist Order which she had obeyed.

Ms. Nilson noted that the house had been constructed in 1907 and the floor joists over the kitchen were old and dangerous. She was raising the roof over the kitchen, which would allow her to have a master bath and closet on the second floor. The existing house did not meet the setbacks, and her addition would not encroach any farther than the existing house.

Mr. Campbell asked about the overhang shown on the cross section presented with the plans. Ms. Nilson stated that the overhang already existed on the first floor, and it would just be raised.

In response to questions from Dr. Seemann, Ms. Nilson confirmed that the house would retain the same footprint and coverage and would meet the required FAR.

No-one appeared to speak for or against the petition. Board members did not feel they needed to visit the property and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 05-091 – Petition of Fred Butters

Mr. Butters explained that he wished to have a storage shed on his property at **35 Mimosa Court** that would encroach into the setback area. His property had difficult topography, with steep slopes, and the proposed location was the only one practical. From the back of his driveway to his deck, there was a 30 ft. drop; at the front, there was a 10-15 ft. hill.

No-one appeared to speak for or against the petition. Board members wished to visit the site and the hearing was continued to January 9, 2006. Mr. Butters granted an extension of the time allowed to close the hearing.

Appeal No. 05-092 – Petition of D. R. Nagaraj

Mrs. Nagaraj and her contractor, represented the applicant. They explained that the board had granted a setback variance to the Nagaraj property at **580 Barrack Hill Road** in 2004. The property had severe topographical restraints which the board had recognized, and the survey at that time had been prepared during the winter. The addition had been constructed exactly as approved by the board, but the as-built survey showed a minor discrepancy in the side setback distance of approximately one foot.

Mr. Creamer remembered how difficult the lot was, and other board members concurred.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 05-093 – Petition of Patrick Brown and Mary Gillespie

Attorney Robert Jewell and Architect John Doyle of DCA Architects represented the applicants. Mr. Brown was also present. The application concerned proposed additions to the Brown/Gillespie home at **15 Greenfield Avenue**.

Mr. Jewell explained that the property consisted of .233 acres in the R20 zone. The property was part of the oldest subdivision in town, dating from the turn of the last century. The house itself had been constructed in 1910. When zoning was enacted in 1946, the area was zoned R3 which required 7,500 sq. ft. lots. The house met the zoning requirements at that time, and continued to meet them through various changes in 1950 and 1964. However, in 1966, the entire area was upzoned to R20 when the entire area had been fully built, making the area nonconforming. A “drop-down” regulation was subsequently enacted to give some relief to such nonconforming properties, but this had been eliminated in July, 2004.

Mr. Jewell indicated that hardship arose from the fact that the house long predated zoning, and from the change of zone in 1966, the enactment of a coverage regulation in the 1990s, and a FAR regulation in 2000. He felt the additions were a reasonable use of the property, and were necessary to adapt a 1910 house to modern requirements.

Mr. Doyle reviewed the proposed additions. He noted that most of the house was already in the setback area, and the width of the lot was only 60 ft. He was proposing a small single-storey addition to the existing kitchen, and a two-storey addition to the rear of the house, with an additional second-storey addition over a small section of the first floor. Mr. Doyle also reviewed the elevations, noting that he had changed a gable to break up the appearance and make it appear smaller.

Mr. Campbell noted that there was a proposed 50% increase in the FAR, which represented a substantial addition. Dr. Seemann added that the additions would not meet the zoning requirements even if the “drop-down” provision were still in effect. Mr. Doyle responded that a 14 ft. by 18 ft. room would be added on the first floor, together with a 4 ft. extension of the kitchen. A 28 ft. by 16 ft. master suite would be added on the second floor. Mr. Jewell felt all the lots in the area were essentially R10 lots; the R10 zone permitted a 25% FAR.

Dr. Seemann felt the hardship claimed was not unique to this property, but applied to the entire neighborhood. Relief should be sought from the Planning and Zoning Commission. Mr. Jewell did not feel this was a situation similar to that of the Turner Hill subdivision which had appealed to the P&ZC for regulation changes. There was precedent in the area; 33 variances had been granted on Greenfield, Bryon and Fairview. Mr. Jewell felt the applicants should not be denied relief because other people were similarly affected.

Mr. Creamer asked why the applicants could not ask the P&ZC to rezone the area R10. Mr. Jewell did not feel it would help this application as the house did not meet either the R10 or R7.5 regulations.

Mr. Campbell noted that a ZBA should grant the minimum necessary to provide relief. He questioned whether it was reasonable to expect an existing nonconforming house to be increased by 50% and thus become that much more nonconforming.

Mr. Jewell advised that the neighbors had submitted letters of support to the board.

Mr. Creamer asked if the house were functional. Mr. Brown said that it was but it had great limitations. It was adequate for a couple, or for a couple with one child. However, he now had a family of 5 which the house could not accommodate.

Mr. Jewell added that the modern trend was to bigger homes. There were differences between families in 1910 and those in 2005. This was a societal change, not one personal to this family. This house was opposite the St. Mary's School complex, in a mixed area with most houses on small lots.

John Boscia of 11 Greenfield Avenue spoke in favor of the additions.

Letters of support were received from Pollack at 17 Greenfield, Barricelli at 14 Greenfield, Boscia at 11 Greenfield, and Briody at 18 Fairview.

Board members wished to visit the site and the hearing was continued to January 9, 2005.

The board voted the following actions:

PETITION OF KARL MOLWITZ AND DAROL BATES
PROPERTY LOCATED AT 165 PEACEABLE RIDGE
APPEAL NO. 05-082

REQUESTED: variances of Sections 401.0E(1), coverage, 401.0F, FAR, and 401.0G, setbacks, to allow the construction of an addition that does not meet the lot coverage, FAR and setback requirements; for property in the RAAA zone located at **165 Peaceable Ridge Road.**

DATES OF HEARINGS: November 21 and December 5, 2005

DATE OF DECISION: December 5, 2005

VOTED: To Grant, with Condition, variances of Sections 401.0E(1), coverage, 401.0F, FAR, and 401.0G, setbacks, to allow the construction of an addition that does not meet the lot coverage, FAR and setback requirements; for property in the RAAA zone located at **165 Peaceable Ridge Road.**

VOTE: To Grant: 5 To Deny: 0

In favor Opposed
Campbell, Creamer, Pisanelli, -0-
Smith, Seemann

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variances shall apply only to the existing house. The additions to the existing house shall be constructed exactly as shown on plans and drawings presented to the board, including but not limited to the height, FAR, coverage and setback calculations which are part of the application. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. The addition proposed in this appeal will replace the addition approved in ZBA variance #02-062 which was not constructed. The same hardships found in ZBA #02-062 continue to apply in this petition, particularly as the impact of the addition currently requested will be less than the one already approved.
2. The proposal is in harmony with the general scheme of development in the area and will have no negative impact on the surrounding properties.

PETITION OF DOUGLAS D. AND LAURICE E. HAYNES
PROPERTY LOCATED AT 114 MAIN STREET
APPEAL NO. 05-083

REQUESTED: variances of Sections 403.0E(1), lot coverage, and 403.0F, FAR, to allow the construction of an addition that will not meet the lot coverage and FAR regulations; for property in the RA zone located at **114 Main Street.**

DATES OF HEARINGS: November 21 and December 5, 2005

DATE OF DECISION: December 5, 2005

VOTED: To Grant, with Condition, variances of Sections 403.0E(1), lot coverage, and 403.0F, FAR, to allow the construction of an addition that will not meet the lot coverage and FAR regulations; for property in the RA zone located at **114 Main Street.**

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Campbell, Creamer, Pisanelli, Smith, Seemann	-0-

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variances shall apply only to the existing house. The additions to the existing house shall be constructed exactly as shown on plans and drawings presented to the board, including but not limited to the height, FAR, coverage and setback calculations which are part of the application. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. The house was constructed in 1740, long before zoning was enacted in Ridgefield. The enactment of the zoning ordinance, combined with multiple subsequent changes to the ordinance, represents an unusual hardship that justifies the grant of the variance in this case.
2. This is a highly visible historic structure on Ridgefield's Main Street. The changes relate to removing an addition and detached garage which considerably post date the original structure, and constructing additions that will restore the historic building and be in harmony with the neighboring properties. As the gross bulk of the house and its visual impact are being reduced significantly, the changes satisfy the spirit of the regulations.
3. The primary reason that a variance is needed is the construction of a subterranean garage with patio above. The technical and literal interpretations of the zoning regulations with respect to this subterranean structure also represent a hardship in this case that justifies the grant of the variances requested.
4. The proposal is in harmony with the adjacent historic Keeler Tavern and other surrounding homes. It is not contrary to the public health, safety and welfare.

PETITION OF DOUGLAS D. AND LAURICE E. HAYNES
PROPERTY LOCATED AT 114 MAIN STREET
APPEAL NO. 05-084

REQUESTED: for variances of Sections 403.0E(1), lot coverage, and 403.0G, setbacks, to allow the construction of a well house that will not meet the lot coverage and setback regulations; for property in the RA zone located at **114 Main Street.**

DATES OF HEARINGS: November 21 and December 5, 2005

DATE OF DECISION: December 5, 2005

VOTED: To Grant, with Condition, variances of Sections 403.0E(1), lot coverage, and 403.0G, setbacks, to allow the construction of a well house that will not meet the lot coverage and setback regulations; for property in the RA zone located at **114 Main Street.**

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Campbell, Creamer, Pisanelli, Smith, Seemann	-0-

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted: The well house shall be constructed exactly as shown on plans and drawings presented to the board.

The board voted this action for the following reasons:

1. The placement and height of the electrical meter by Connecticut Light and Power was beyond the control of the applicant, and the well house is needed in order to protect the historical integrity of the house. This represents an unusual hardship that justifies the grant of the variances requested in this case.

2. The well house is in harmony with similar structures on adjoining and nearby properties and will have no detrimental impact on the neighborhood. It is not contrary to the public health, safety or welfare.

PETITION OF STEVEN J. WAGNER AND JENNIFER S. PURINTON
PROPERTY LOCATED AT 25 WILTON ROAD WEST
APPEAL NO. 05-085

REQUESTED: a variance of Section 402.0G, setbacks, to allow a covered porch addition closer than permitted to the front lot line; for property in the RAA zone located at **25 Wilton Road West.**

DATES OF HEARINGS: November 21 and December 5, 2005

DATE OF DECISION: December 5, 2005

VOTED: To Grant, with Condition, a variance of Section 402.0G, setbacks, to allow a covered porch addition closer than permitted to the front lot line; for property in the RAA zone located at **25 Wilton Road West.**

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Campbell, Creamer, Pisanelli, Smith, Seemann	-0-

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variances shall apply only to the existing house. The additions to the existing house shall be constructed exactly as shown on plans and drawings presented to the board, including but not limited to the height, FAR, coverage and setback calculations which are part of the application. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. The location of the house on this undersized parcel of property represents an unusual hardship that justifies the grant of the variance requested in this case. It was noted that the applicant could make no changes to the front of the house without a variance.
2. Although the addition will be 46 ft. from the front lot line rather than the required 50 ft., it is actually much farther from the traveled portion of the road because of the wide right of way in that location.. In addition, the topography of the property and the existing plantings mitigate any impact.
3. The proposal is in harmony with the general scheme of development in the area and will not impact the public health, safety or welfare.

PETITION OF DAVID AND DEIDRE GUTTER
PROPERTY LOCATED AT 10 KIAHS BROOK LANE
APPEAL NO. 05-086

REQUESTED: a variance of Section 402.0G, setbacks, to allow the construction of a front porch closer than permitted to the front lot line; for property in the RAA zone located at **10 Kiahs Brook Lane.**

DATES OF HEARINGS: November 21 and December 5, 2005

DATE OF DECISION: December 5, 2005

VOTED: To Grant, with Condition, a variance of Section 402.0G, setbacks, to allow the construction of a front porch and bay window closer than permitted to the front lot line; for property in the RAA zone located at **10 Kiahs Brook Lane.**

VOTE: To Grant: 5 To Deny: 0
In favor Opposed
Campbell, Creamer, Pisanelli, -0-
Smith, Seemann

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variances shall apply only to the existing house. The porch and bay window shall be constructed exactly as shown on plans and drawings presented to the board, including but not limited to the FAR, coverage and setback calculations which are part of the application. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. This house was constructed when the property was zoned RA. The change of zone to RAA inflicted an unusual hardship on this property by making it nonconforming as to setbacks. This justifies the grant of the variance requested in this case.
2. The additions are modest and add no substantial bulk to the house. They meet the setback requirements of the RA zone, and the FAR and coverage of the underlying RAA zone.
3. As all other lots in the immediate vicinity are similarly sized with similar setbacks, the proposal is in harmony with the general scheme of development. It will have no negative impact on the public health, safety or welfare.

PETITION OF CHARLES LEVESQUE, JR., CONTRACT PURCHASER
PROPERTY LOCATED AT 8 RAMAPOO ROAD
APPEAL NO. 05-087

REQUESTED: variances of Sections 404.0F, FAR, and 404.0G, setbacks, to allow the construction of a second floor addition that will not meet the FAR and setback regulations; for property in the R20 zone located at **8 Ramapoo Road.**

DATES OF HEARINGS: November 21 and December 5, 2005

DATE OF DECISION: December 5, 2005

VOTED: To Grant, with Condition, variances of Sections 404.0F, FAR, and 404.0G, setbacks, to allow the construction of a second floor addition that will not meet the FAR and setback regulations; for property in the R20 zone located at **8 Ramapoo Road.**

VOTE: To Grant: 5 To Deny: 0

In favor
Campbell, Creamer, Pisanelli,
Smith, Seemann

Opposed
-0-

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variances shall apply only to the existing house. The additions to the existing house shall be constructed exactly as shown on plans and drawings presented to the board, including but not limited to the height, FAR, coverage and setback calculations which are part of the application. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. The size and shape of the lot, combined with changes in the zoning ordinance as they apply to this property, have resulted in an unusual hardship that justifies the grant of the variances requested in this case. The addition consists of a change in the roofline without additional encroachment into the setback area.
2. The proposal is in harmony with the general scheme of development in the area and is not contrary to the public health, safety or welfare.

PETITION OF PATRICK LUKE AND KATHERINE R. DAIGLE
PROPERTY LOCATED AT 239 PEACEABLE STREET
APPEAL NO. 05-089

REQUESTED: a variance of Section 402.0G, setbacks, to allow an addition closer than permitted to the lot line; for property in the RAA zone located at **239 Peaceable Street.**

DATE OF HEARING: December 5, 2005

DATE OF DECISION: December 5, 2005

VOTED: To Grant, with Condition, a variance of Section 402.0G, setbacks, to allow an addition closer than permitted to the lot line; for property in the RAA zone located at **239 Peaceable Street.**

VOTE: To Grant: 5 To Deny: 0

In favor
Campbell, Creamer, Smith
Seemann, Stenko

Opposed
-0-

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variances shall apply only to the existing house. The additions to the existing house shall be constructed exactly as shown on plans and drawings presented to the board, including but not limited to the height, FAR, coverage and setback calculations which are part of the application. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. The house on this property was constructed in 1900, long before zoning in Ridgefield. It was made nonconforming as to setbacks by the change in zone to RAA in the late 1960s and the subsequent elimination of the ‘drop-down’ provision in 2004. As the proposal is merely to raise the roofline by 18-inches within the existing footprint, the change in zoning represents an unusual hardship on this property that justifies the grant of the variance requested in this case.
2. The location of the house on the lot exacerbates the hardship.
3. The proposal is in harmony with the general scheme of development in the area and is not contrary to the public health, safety or welfare.

PETITION OF DEBORAH S. NILSON
PROPERTY LOCATED AT 12 NORTH STREET
APPEAL NO. 05-090

REQUESTED: a variance of Section 404.0G, setbacks, to allow an addition closer than permitted to the lot line; for property in the R20 zone located at **12 North Street.**

DATE OF HEARING: December 5, 2005
DATE OF DECISION: December 5, 2005

VOTED: To Grant, with Condition, a variance of Section 404.0G, setbacks, to allow an addition closer than permitted to the lot line; for property in the R20 zone located at **12 North Street.**

VOTE:	To Grant:	5	To Deny:	0
	<u>In favor</u>		<u>Opposed</u>	
	Campbell, Creamer, Smith, Seemann, Stenko		-0-	

CONDITION:
This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variances shall apply only to the existing house. The additions to the existing house shall be constructed exactly as shown on plans and drawings presented to the board, including but not limited to the height, FAR, coverage and setback calculations which are part of the application. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. The house was vested on this property prior to zoning and was made nonconforming as to bulk requirements as a result of the enactment of the zoning ordinance in 1946 and subsequent changes. As the proposed addition is within the existing footprint of the house, will not increase the encroachment into the setback area, and meets the FAR and lot coverage requirements, the changes to the zoning ordinance represent an unusual hardship that justifies the grant of the variance requested in this case.
2. The proposal is in harmony with the general scheme of development in the area and is not contrary to the public health, safety or welfare.

PETITION OF D. R. NAGARAJ
PROPERTY LOCATED AT 580 BARRACK HILL ROAD
APPEAL NO. 05-092

REQUESTED: a variance of Section 402.0G, setbacks, to allow an addition to remain closer than permitted to the lot line by ZBA Variance No. 04-052; for property in the RAA zone located at **580 Barrack Hill Road.**

DATE OF HEARING: December 5, 2005

DATE OF DECISION: December 5, 2005

VOTED: To Grant a variance of Section 402.0G, setbacks, to allow an addition to remain closer than permitted to the lot line by ZBA Variance No. 04-052; for property in the RAA zone located at **580 Barrack Hill Road.**

VOTE: To Grant: 5 To Deny: 0

In favor Opposed
Campbell, Creamer, Smith, -0-
Seemann, Stenko

The board voted this action for the following reasons:

1. The applicant has constructed an addition as approved in ZBA Variance #04-052, but the as-built survey shows a minor discrepancy in the setback distance of the addition from the side lot line. It would be a hardship to require an existing structure approved by the board to be torn down because of a minor distance error on a lot with such difficult topography.
2. The same hardships that applied in ZBA #04-052 continue to apply in this present petitions. No additional construction has been requested or approved in this petition.

As there was no further business before the board, the Chairman adjourned the hearing at approximately 10:00 pm.

Respectfully submitted,

Marjorie Tippet
Administrator
