

Call to Order: Chairman Morton called the meeting to order at 7:00 P.M. He congratulated Jill Newick who was sworn in as Co-Chair and Ralph Estes who was nominated again and sworn in as member of the Board.

Present: Chair Morton, Edna Mosher, Jill Newick, Vincent Frank, Richard Ford and Ralph Estes were present.

Minutes: Edna Mosher moved and Richard Ford seconded approval of the minutes. Motion carried.

Correspondence: There was no correspondence.

Public Hearings:

30 Fox Road LLC is seeking a variance from Article VI of the Zoning Ordinance in order to permit a loading dock, dumpster and associated crosswalk to be built ten feet from side lot line and 24 feet from the rear lot line. Attorney Bernie Pilech spoke on behalf of the company. With him was Corey Colwell from Ames MSC, the engineer who has done up the site plan and Richard Dawes from Curtain Shops from Maine, the new applicant who plans to locate in the building with Chucky Cheese Attorney Pilech advised the Board the building would house two operations. The new applicant would locate of the right side of the building facing the Spaulding Turnpike. The Applicant is seeking dimensional variances to construct a loading dock and place a dumpster and an access way along the side of the building. They plan to do some beautification of the building. Because this is a dimensional variance the applicant must satisfy the standards set forth in Vocia versus the City of Portsmouth. This requires applicant to show that the area variance and the expansion of the non-conforming structure is necessary to enable the applicant the proposed use of the property. Property has special conditions. The first is its unique shape. There is access off Fox Run but there is no access from Spaulding Turnpike. Abuttor is the church. The second part the applicant has to demonstrate there is no other reasonable feasible alternative from that which they are proposing. Because the building houses two operations, which cuts the building in half and requires that the applicant be on that side of the building. Therefore there is no other reasonable alternative which thus causes a hardship. So those are part of the hardship test. Beyond the hardship test are they going to cause any diminishment in value? They don't believe they will affect the church. There is a natural growth of trees that would buffer that area. Feel the variance will not be contrary to the public interest. The curtain shop has done research and there is a demand for a curtain shop in this area and therefore would benefit the public. Will not require any additional services. Will substantial justice be done by granting the variances? They believe it will. Take the balancing test and they don't see any betterment to the public in denying this variance. Feel the hardship on the owner would outweigh any benefit to the public in denying this variance. Applicant does not

(1)

think this is contrary to the spirit and the intent of the ordinance. When an ordinance is

established for a setback it is to allow for the access of emergency vehicles, to provide adequate light and air and to prevent overcrowding of the land. They are requesting use of a very small parcel of land to provide for loading dock, dumpster and access. Chair asked if Board hadn't already granted this variance? Mr. Colwell agreed that they had presented a similar request with a slightly different sized loading dock that was not tucked in the back. Major difference, this loading dock is slightly smaller but the need for the dumpster adjacent to the loading dock brings it closer to the property line. But there is very little difference from the first request. Applicant is willing to rescind original request which has not been acted upon. Ms. Mosher had a question regarding traffic flow and what kind of trailers would be coming through. Mr. Dawes of the Curtain Shop stated the Portland store has typically more traffic than a furniture store but less than a retail store and he expects this store would be similar. Most deliveries come through UPS and FedEx. They do receive a tractor trailer shipment once a day or at least every other day. Mr. Ford asked what did the store provide besides curtains. Applicant stated they basically sell curtains and home furnishings, bedspreads, etc. Primarily the focus is window treatments and curtains. Applicant will occupy the area previously held by the bowling center. They plan to move the entrance toward the center of the building. Ms. Mosher asked about competition with Country Curtains. Applicant stated they were actually good friends with them, but yes, they would be selling similar items. Chair Morton stated the church had been notified and were not here, so he assumed they had no objections. Hearing was closed to the public. Estes felt the Board had already voted on this before and it was almost the same. Estes moved, Ford seconded that the request be approved. Attorney Pilech will send a letter to Tom Morgan to rescind the first request. Motion carried.

Philip Winn , 241 Nimble Hill Rd., Newington requested a variance to remove a 12' X 16' shed off the house. Basically the only storage he has is for his furnace and water heater. His son wants his 12' X 16' shed. He wants to replace with a 26' X 30' one-story, two-car garage. There is another building currently serving as a garage that is ready to fall down. He would like to tear down this building once he built the other free standing garage. He then wants to get everything out of his old garage and tear it down before it falls down. He plans to have a monolithic slab for the free standing garage. He has no storage right now except for his front porch. He doesn't dare put anything more in his current garage because of its shape. He would like to have a steeper roof so he can have a storage area up over the garage, but that would be up to the Board to approve. There was a question regarding the driveway and how he would get to the garage. He can't change the driveway. Chair Morton asked if he would consider putting nearer the house? Then he wouldn't need a variance. It was pointed out that his home is currently on a non-conforming lot , so he would need a variance. Mr. Bean and Steve Sabine are neighbors. Chair assumes they were notified of the hearing. Mosher asked if he would want to attach to the house. Applicant stated he would not because there is ledge, etc. He was also concerned about where his water line runs. Morton asked if this would be a two-door garage and applicant said yes. He eventually wants to have siding

put on to match the house. Chair closed Public Hearing. Estes felt the Board and applicant had covered everything and understood what the applicant wanted to do. He

asked if there was a motion from the Board? Estes said he was unclear what the dimensions were going to be and he felt the Board should know. Mosher agreed. There was discussion regarding the dimensions and why he decided to do what he did. Mosher asked if he knew where his property line ran and he stated he did. There was discussion regarding line and where he should put his garage. The members then went over criteria. And motion was carried.

Motion to adjourn was made by Richard Ford, Seconded by Edna Mosher, motion carried.

Respectfully submitted,

Sandra Sweeney