

Final



WEARE ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
August 3, 2021

**PRESENT:** JACK DEARBORN, CHAIRMAN; MICHAEL MEYER, VICE CHAIRMAN; BOBBI-JO PLAMONDON, MEMBER; MARC MORETTE, MEMBER; MALCOLM WRIGHT, MEMBER; NAOMI BOLTON, INTERIM LAND USE COORDINATOR

**GUESTS:** Laura Spector-Morgan, Esquire; Roxanne Quirk; Kreg Jones; Travis Corcoran; Frank Campana; Tom Page; Jordan Estrada

Chairman Dearborn called the meeting to order at 7:30 pm.

**I. INTRODUCTION/ADMINISTRATIVE ITEMS:**

Chairman Dearborn stated there are three cases before the Board:

Continued Case #13-2020: Gill & Shelly Duquette (owner); Travis Corcoran (appellant) 271 Quaker Street, Tax Map 404, Lot 84, Residential Zone Request for Rehearing: Travis Corcoran requests that the ZBA rehear the variance application for construction of a garage within the required setbacks. NOTE: The ZBA will take no input on this item.

Continued Case #10-2021: Jordan Estrada (applicant); Louis Page (Owner): Thomas Page (appellant) thru Attorney Jeremy D. Eggleton Bart Clough Road, Tax Map 409, Lot 20, Rural Agricultural Zone Request for Rehearing: Thomas Page, through his Attorney Jeremy Eggleton request that the ZBA rehear the variance application to build a new home on a private roadway. NOTE: The ZBA will take no input on this item.

Case #14-2021: Kreg & Danielle Jones (owner) 39 Concord Stage Road, Tax Map 201, Lot 27, Rural Agricultural Zone Variance – Article 18, Section 18.2.3 Applicant is seeking a variance to construct a garage that would be no closer than 3’5” from the rear boundary and 14’10” from the side boundary.

**II. PUBLIC HEARING**

**A. Continued Case #13-2020:** Gill & Shelly Duquette (owner); Travis Corcoran (appellant) 271 Quaker Street, Tax Map 404, Lot 84, Residential Zone Request for Rehearing: Travis Corcoran requests that the ZBA rehear the variance application for construction of a garage within the required setbacks. NOTE: The ZBA will take no input on this item.

The Chair began with Continued Case #13-2020, stating at the Board's last meeting their decision was suspended. Town Counsel drafted a decision with the Board, explaining the reasoning in granting the variance based on the Board's discussion. Allowing the Board to make any changes to the draft.

The Chair stated to be clear this is not a rehearing. This is a reconsideration of their decision. Board members attending to this case introduced themselves: Marc Morette, Bobbi-Jo Plamondon, Vice Chairman Michael Meyer, and Malcolm Wright. All members for all three cases before the Board.

Chairman Dearborn began by reading as follows:

CLARIFIED AND EXPANDED DECISION  
271 Quaker Street

Gil and Shelly Duquette seek two setback variances to allow a garage to be built no closer than 15 feet to the side property line where 25 feet are required and no closer than 30 feet to the front property line where 50 is required. Though irrelevant to the Board's inquiry, it is worth noting that the garage has already been constructed pursuant to a building permit issued by the Town of Weare, Hillsborough County Superior Court later found to be wrongfully issued. Following the decision, the Duquettes filed an application for instant variances.

On May 4, 2021, this Board granted the requested variances. Travis Corcoran sought a rehearing, and this Board, recognizing that our decision may not have been as explanatory as it should have been, suspended that decision. This Clarified and Expanded Decision is intended to explain the Board's reasoning in granting the variance.

It is important to note that the only issue before the Board is whether the garage may be built in that location. The Board has no jurisdiction over the appearance of the garage or the alleged drainage problems created by the construction of the garage that do not relate to the garage's proximity on the property line.

**Point 1. Granting the Variances Would Not Be Contrary to the Public Interest and Would Not Violate the Spirit of the Ordinance:**

Expanded Discussion

The criteria that the granting of the variance would not be contrary to the public interest is related to the requirement that the variance must be consistent with the spirit of the ordinance. To be contrary with the public interest the variance must "unduly, and in a marked degree" conflict with the ordinance such that it violates the ordinance's "basic zoning objectives." There are two inquiries a Board should make in reaching a decision regarding these criteria.

- 1.) Whether it would "alter the essential character of the locality."
- 2.) Whether granting the variance would threaten the public health, safety or welfare.

The Board concludes based on the evidence before it that the proposed variances would be not contrary to the spirit of the ordinance and the public interest. As an initial matter, the purposed setbacks generally prevent overcrowding, preventing overbuilding, and preventing safety issues are met even if the variances are granted. Substantial setbacks are being maintained so emergency vehicles may access this and abutting properties and the property is not being overcrowded or overbuilt by the addition of the garage. The abutter directly across the street from the Duquettes had no objection to the variance, though the side abutter, Travis Corcoran, did object.

Mr. Corcoran claimed that the essential character of the neighborhood is altered with the addition of what he characterizes as a "steel industrial building," and that all other barns on Quaker Street meet the frontage setback. As noted, the Board has no jurisdiction over the material on which the garage is constructed; the Board notes that while other accessory buildings may be set back from the road, many houses on Quaker Street are located in or within this front setback. Citing Bacon v. Enfield, Mr. Corcoran also argues that the Board "has to" consider the potential cumulative impact of granting many such variances. As the initial matter, Bacon allows, but does not require, the Board to consider the cumulative

impacts for granting many similar variances. Second, that portion of the Bacon decision was not joined by a majority of the Supreme Court, therefore it is persuasive, not binding, authority.

Attorney Laura Spector-Morgan prompted the Board for discussion.

Marc Morette stated many variances as such have been granted. He would grant this variance on other applications.

Bobbi-Jo Plamondon stated there are many types of garages, barns and homes on the road. Many that are very close. The Board has no jurisdiction over the material. The location where the Duquettes want their garage fits the relaxed setbacks allowed. She agrees with the statements in the draft decision.

Chairman Dearborn agreed with the comments and their decision. He understands it is emotional for the side abutter, but the neighbor directly across the street has no issues with it.

Vice Chairman Meyer stated, specifically, it is not contrary to the public interest or interfere with the road or emergency vehicles. He stated this property is warranted to be granted the variance.

Malcolm Wright stated as the lone dissenter, this brief is misleading. The wording refers to the Board having made a decision, but by a vote of four; this is not a unanimous Board. He is not comfortable with the inaccuracy.

Attorney Laura Spector-Morgan offered to make changes. Malcolm declines and declares his no vote was because the hardship was not met. Setbacks are for safety, when violated they encroach on the safety issues. Though the brief was written well, it missed the point his vote was no.

Attorney Laura Spector-Morgan responded the brief could be altered to include that language. It is a valid point.

Malcolm continued the draft decision is more of a legal argument than a clarification.

Attorney Laura Spector-Morgan stated the decision can be amended to include the *by a vote of 4 -1 granted the requested variances*. The Board agreed to the change. Malcolm thanked the Chairman.

## **Point 2. Granting the Variances Would Do Substantial Justice:**

### Expanded Discussion

The two critical inquiries in determining whether the variance would do substantial justice are:

"1.) whether the granting of the general public by denying the variance request outweighs any loss to the individual.

2.) whether the proposed development is consistent with the area's present use."

As set forth above, the Board finds that the proposed setbacks are consistent with the area's present use. Moreover, there is no gain to the general public by denying the variance, because the purposes of setbacks are met by the proposed variance. The loss to the individuals, meaning the applicant, on the other hand, would be the inability to have a garage on their property, which is an entirely reasonable and permitted use on the property.

Bobbi-Jo Plamondon concurs; having a garage is a reasonable and permitted use. No gain to the general public in denying the garage.

Chairman Dearborn stated our zoning has no restriction on the size of the garage.

Marc Morette stated the landowner has a right to build.

Vice Chairman Meyer stated he agrees with the comments in the decision.

Malcolm Wright clarified although there are no size restrictions, garages are a reasonable accepted use, but setbacks create a situation. Setbacks limit size, not codified; not the Board's jurisdiction, but granting a variance to relax a setback granted a variance for an oversized building. This demonstrates there was no hardship. A smaller garage would have fit without encroaching on the setback. This option was not unreasonable.

### **Point 3. Granting The Variances Will Not Diminish Surrounding Property Values:**

#### **Expanded Discussion**

Again, the Board's jurisdiction here is limited to the setback reductions; not the style of the garage. Board members are entitled to rely on their personal knowledge and experience in concluding that a garage 10 feet closer to a sideline and 20 feet closer to the front line than is permitted will not diminish the values of surrounding properties.

Though Mr. Corcoran submitted a letter from an appraiser opining on the surrounding property values would be diminished, that conclusion was based upon what the appraiser considered to be the "low impact commercial use" of the garage; not upon the incursion in the setbacks. Therefore, the Board gives the opinion no weight.

However, Mr. Corcoran argues that his property value is diminished as a result of increased water flow on his property from "four design decisions: the impermeable roof, the ground between the structure and [his] property line which Mr. Duquette contoured away from his structure and towards [Corcoran's] property line, the lack of French drains, the impermeable perimeter foundation." None of these allegations relate to the setbacks, therefore, the Board cannot and does not consider them.

Marc Morette stated parked vehicles could have drained even more towards Mr. Corcoran's property.

Bobbi-Jo Plamondon stated because the Board cannot consider it she has nothing to add.

Chairman Dearborn agreed.

Malcolm Wright stated he has nothing to add.

Vice Chairman Meyer stated he cannot imagine a case where a well-constructed building would diminish values vs. leaving things outside. The building allows for equipment to be put away keeping the property clean.

### **Point 4. Unnecessary Hardship Will Result from the Denial of the Variance:**

#### ***a. There Are Special Conditions of the Property That Distinguish it from Other Properties in the Area***

#### **Expanded Discussion**

The starting point of an unnecessary hardship analysis is whether there is anything unique to the property that distinguishes it from other properties in the area and make it uniquely burdened by the zoning restriction. Here, the property is 1.6 acres and slopes rather steeply towards the rear of the property (west). At least two abutters noted that there is nowhere else on the property to put the garage, and the Board, has taken a site visit, concurs with these opinions. Other locations would require extensive fill and or tree removal to accommodate the construction of the garage.

Mr. Corcoran argues the Duquettes have testified that there are other (conforming) places on the property to locate the garage; however, those locations would require removing a propane tank, having the well be in the middle of the doorway of the garage, and moving power lines. While those spots may be hypothetical possible locations, they are not reasonably possible locations in light of the existing conditions of the property.

*b. No Fair and Substantial Relationship Exists Between the General Public Purposes of the Ordinance Provisions and the Specific Application of Those Provisions to the Property*

Expanded Discussion

The general public purposes of setback ordinances are to prevent overcrowding, prevent overbuilding, and prevent safety issues. As set forth above, there is no relationship between these purposes and the strict application of the setback requirements to this property.

*c. The Proposed Use Is Reasonable*

Expanded Discussion

A garage serving a single family home is a permitted and reasonable use. To the extent that Mr. Corcoran disagrees with this conclusion, his arguments are based on case law from before 2010, which is not applicable in light of the legislative changes to RSA 674:33 in 2010.

Marc Morette had nothing to add.

Bobbi-Jo Plamondon stated she did attend the site walk with Mr. Corcoran. A tape measure was used for the Board to have a bearing in the general sense of the area and buildings not to supersede or replace any submitted survey. The area was level and it made the most sense for the location of the garage. It fit the setbacks the Board allows.

Chairman Dearborn stated there is a drop off to the west backside of the house where the cut/fill was placed for the house. At the right side behind the house, you would have to go over the septic system and dog kennel. The further back of the property you go, the less flat the property is.

Bobbi-Jo Plamondon added a financial burden is something this Board can consider.

Marc Morette agreed.

Vice Chairman Meyer and Malcolm Wright had nothing more to add.

The Chair continued reading as follows:

**Conclusion**

Finding that all of the variance criteria are met for both the front and side setback variances requested, the board therefore grants the variances with the following conditions:

- 1.) The garage shall be constructed no closer than 15 feet to the side property line and no closer than 30 feet to the front property line.
- 2.) Evergreen plantings shall be installed no more than 8 feet apart on the Duquesttes' property, half way between the garage and the property line.

The Chair asked for a motion to accept the Board's reconsideration of their decision. Attorney Laura Spector-Morgan suggested to adopt the decision as read.

Malcolm Wright then spoke. He apologized if he came across "snappish earlier" and suggested the language of the draft decision change. Where it references *this Board* change it to *a majority of this Board*.

Attorney Laura Spector-Morgan responded absolutely. The Board replied affirmatively.

**Marc Morette moved, Bobbi-Jo Plamondon seconded to accept the Clarified and Explained Decision as amended.** Discussion: Chairman Dearborn stated the conditions still stand. The Board had no further comment.  
**Passed 5-0-0**

Attorney Laura Spector-Morgan expressed a revised decision will be set out tomorrow for signatures.  
The public hearing closed at 7:56pm.

**B. Continued Case #10-2021:** Jordan Estrada (applicant); Louis Page (Owner): Thomas Page (appellant) thru Attorney Jeremy D. Eggleton Bart Clough Road, Tax Map 409, Lot 20, Rural Agricultural Zone Request for Rehearing: Thomas Page, through his Attorney Jeremy Eggleton request that the ZBA rehear the variance application to build a new home on a private roadway. NOTE: The ZBA will take no input on this item.

The Chair began with Continued Case #10-2021; stating the Board had suspended their decision for allowance of a draft decision explaining the reasoning for granting the variance. This draft decision written by Town Counsel was done so with the Board's appropriate edited considerations.

Chairman Dearborn began by reading as follows:

CLARIFIED AND EXPANDED DECISION  
Bart Clough Road  
Map 409, Lot 20

Jordan Estrada seeks two variances to allow construction of a single family home on a 24+ acre nonconforming lot without frontage on a Class V or better road.

On May 4, 2021, this Board granted the requested variances. Through counsel, Thomas Page sought a rehearing and this Board recognizing that our decision may not have been as explanatory as it should have been suspended that decision. This Clarified and Expanded Decision is intended to explain the Board's reasoning in granting the variances.

**Point 1. Granting the Variances Would Not Be Contrary to the Public Interest and Would Not Violate the Spirit of the Ordinance:**

Expanded Discussion

The criteria that the grant of the variance will not be contrary to the public interest is related to the requirement that the variance be consistent with the spirit of the ordinance. To be contrary to the public interest the variance must violate "unduly, and in a marked degree" conflict with the ordinance such that it violates the "basic zoning objectives." There are two inquiries a Board should make in reaching a decision regarding these criteria:

- 1.) Whether it would "alter the essential character of the locality."
- 2.) Whether granting the variance would threaten the public health, safety or welfare.

The Board concludes based on the evidence before it that the proposed variances would be not contrary to the spirit of the ordinance and the public interest. The existing private drive is wide, well constructed, well drained, hard packed and well maintained. It is in better condition than many of the Class V dirt gravel grade roads in town. There is therefore no public health, safety or welfare threat from the grant of the variances. Moreover, the three other lots accessed by the private road are all developed with houses or seasonal homes. Lot 18 has a house with a set of lean-tos, a home business that utilizes a 10 wheeler and a low bed. Lot 19 has a manufactured home (small trailer) on it. Lot 20 has nothing. Lot 21 has a house and an accessory dwelling unit, along with eight sheds. The Estrada lot, to which he is applying to be the owner of, is the only lot served by the road, which is not presently developed.



Marc Morette stated it is a nice road.

Bobbi-Jo Plamondon agreed stating the road condition is as written, all other lots already have something on it.

Chairman Dearborn stated during the months of March and January similar Class V roads usually have the top two inches thaw with a frozen base. Presents slippery mud until it drains. This road was well done, good job constructing and maintaining this roadway.

Vice Chairman Meyer stated this private road is in excellent condition. The character of locality is four lots and three are developed.

Malcolm Wright had nothing to add.

## **Point 2. Granting the Variances Would Do Substantial Justice:**

### **Expanded Discussion**

The two critical inquiries in determining whether a variance would do substantial justice are:

“1. Whether the gain to the general public by denying the variance request outweighs any loss to the individual and 2. Whether the proposed development is consistent with the area’s present use.”

As set forth above, the Board finds that the development of the lot with a single family home is consistent with the area’s use. Moreover, there is no gain to the general public by denying the variance request, because the purposes of the frontage requirement are met by the proposed variances. There is safe and same access to the property, which is sufficient for the owners, visitors and first responders to reach the property. The loss to the individual, on the other hand, would be the inability to develop the property with an entirely reasonable and permitted use of the property.

Chairman Dearborn added with 24 acres there is room for septic and the signing of a house. It is a valuable place; we should allow more than just Lady Slippers, Trillium plants and Ferns to be growing there.

Marc Morette stated the area was designed for homes, a good use of the property.

Bobbie-Jo Plamondon, Vice Chairman Meyer and Malcolm Wright had nothing more to add.

## **Point 3. Granting the Variance Will Not Diminish Surrounding Property Values:**

### **Expanded Discussion**

Board members are entitled to rely on their personal knowledge and experience in concluding that building a single-family home on a 24-acre parcel of property served by a very good private road will not diminish the values of surrounding properties.

The Board unanimously agreed there is nothing more to add.

## **Point 4. Unnecessary Hardship Will Result from the Denial of the Variance:**

*a. There Are Special Conditions of the Property That Distinguish it from Other Properties in the Area*

### **Expanded Discussion**

The starting point of an unnecessary hardship analysis is whether there is anything unique about the property, which distinguishes it from other properties in the area and make it uniquely burdened by the zoning restriction. Here, the property is unique because it is a nonconforming lot, created prior to zoning, and is the only property on that road which is not developed with a residential use. Two lots are residential use and one with an accessory dwelling unit. Another lot with a manufactured trailer and storage shed. In 1997 when Mr. Page’s Lot

21 was built, as shown on the tax card, and Lot 18 was built in 2006, done so with a variance. Also, Lot 21 with the ADU should have had a Special Exception for the building permit.

*b. No Fair and Substantial Relationship Exists Between the General Public Purpose of the Ordinance Provisions and the Specific Application of Those Provisions to the Property*

Expanded Discussion

The general public purposes of frontage ordinances are to allow for safe access to the property by the owners, their visitors, and first responders. As set forth above, there is no relationship between these purposes and the frontage requirements to this property given the existing condition of the private road.

*c. The Proposed Use is Reasonable*

Expanded Discussion

A single family home is a permitted and reasonable use.

The Board unanimously agreed there is nothing more to add.

The Chair continued reading as follows:

**Conclusion (verbatim from May 4th)**

Finding that all of the variance criteria are met for variances requested, the Board therefore grants the variances with the following conditions:

1.) The applicant shall be required to post the necessary signs at the transition from a Class V to Private Road in accordance with the Town of Weare Sign Policy and be consistent with NH RSA 674:41, I (d) - Private Road.

Required Sign Wording Policy:

This road has not been accepted by the Town of Weare or it consists of a Class V or Private Road, which the Town has no duty to maintain. The Town assumes no responsibility for maintenance including snow removal, nor any liability resulting from the use of a street. RSA 674:41.

2.) The applicant shall be required to complete a Town of Weare Liability Disclaimer and file the Liability Disclaimer at the Hillsborough County Registry of Deeds, and be consistent with NH RSA 674:41, I (d) - Private Road.

3.) The applicant shall take the necessary actions to be in practical compliance with the Town of Weare Planning Board Subdivision Ordinance, Article 36. The Town of Weare Public Works Director shall be the authority for interpreting the "Practical" implementation of this requirement/condition.

4.) The applicant shall be required to take the necessary actions to comply with the E911 signage requirement for proper residence location identification to support emergency vehicle for life and safety responses.

5.) In an appropriate location(s) on the Private Road, implementing a widening of the Private Road for a minimum of 20 feet wide by 50 feet long so two emergency (life and safety) vehicles can pass safely. Culverts may be located at appropriate location to permit seasonal runoff associated with the Private Road. Appropriate gravel material shall be applied, as required, for an all-weather gravel surface from Bart Clough Road to the Lot #20. The Town of Weare Public Works Director shall determine the "Practical" implementation of this condition.

The Chair expounded on the conditions:

1. Anyone buying the Estrada lot in the future will find the Liability Disclaimer at the Hillsborough County Registry of Deeds preventing anyone from claiming they have rights to a maintained road.

2. The reason for posting the sign is to give notice to all who enter they are leaving a Class V Road to a Private Road/Class VI Road.

3. Even though it is an excellent road, we want to be consistent with decisions with E911 signage, alerting emergency personal who will be looking for the property.

4. The width of the Private Road in one section to be 20' wide and 50' long to allow two emergency vehicles to pass one another.

The Chair asked the Board for further discussion. Being none, he entertained a motion.



**Marc Morette moved, Bobbi-Jo Plamondon seconded to accept the Clarified and Explained Decision as amended.** Discussion: being none. **Passed 5-0-0**

**C. Case #14-2021:** Kreg & Danielle Jones (owner) 39 Concord Stage Road, Tax Map 201, Lot 27, Rural Agricultural Zone Variance – Article 18, Section 18.2.3 Applicant is seeking a variance to construct a garage that would be no closer than 3’5” from the rear boundary and 14’10” from the side boundary.

The Chair read through the application and noted the documents included.

The Chair read the following abutter’s letters:

To Whom It May Concern,

7.6.21

Our neighbors, Kreg and Danielle Jones, at 39 Concord Stage Road would like to build a garage that is set near the rear boundary of their property. We are fine with this as we will not be able to see it at all in the summer, and it will make very little difference to our view in the winter.

Respectfully,  
Edmond Quirk  
27 Concord Stage Road

Dear City Zoning Board,

May 1, 2021

I am writing this letter on behalf of Kreg and Danielle Jones at 39 Concord Stage Road. They would like to build a garage on the back part of their property that would need a variance. As their immediate neighbor, I have no problem with this. Please grant them the variance.

Regards,  
Kurt P. Neeb  
47 Concord Stage Road

**Malcolm Wright moved, Vice Chairman Meyer seconded to accept Case # 14-2021 as complete.** The Chair asked for a discussion, there was none. **Passed 5-0-0**

The Chair asked the Board if they had any questions of the applicant. There was none.

The Chair asked the applicant to present and read the five points of hardship. The proposed single car garage is 14’x22’ attached to the home with a storage/mudroom on one side and a lean-to 10’x22’ on the other.

Danielle Jones began with the five points of hardship:

Case #14-2021

**1. The Variance will not be contrary to the public interest:** *The proposed garage will in no way alter the essential character of the neighborhood. If anything, it should increase the property value of our home and subsequently the neighbor’s properties as well.*

**2. Please describe how the spirit of the ordinance is observed:** *The spirit of the ordinance is to have buildings 25’ from the property line, thus maintain 50’ between buildings. The garage would be 240’ from the Hadley/Quirk residence and 175’ from the Neebs. We are not interfering with other homes or access.*

**3. Please describe how substantial justice is done; benefits to the applicant must not be outweighed but harm to the general public:** *Substantial justice is met because we are turning on abandoned building into our home that*

*will be safe, well maintained and architecturally pleasing. This is a much better investment for neighbors and community as a whole.*

**4. Please describe how the values of surrounding properties are not diminished:** *While our garage will be close to the neighbor's property line, Kurt Neeb and Hadley/Quirk, their homes are very distant from the garage location and screened by trees and our home. It does not hurt their views and therefore is in line with the spirit of the ordinance. Please see the letters of support from our neighbors.*

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;**

**A. Please describe the special conditions of the property that distinguish it from other properties in the area, explain any details of the property, structure, that are different from surrounding properties such as slopes and wetlands:** *Because the building was originally a school, very little land was deeded for its use. Subsequent additions (early 1900's) pushed up to the property lines on the .48-acre parcel. The surrounding properties are 7.57 acres and 8.5 acres, Esther Hadley Trust/Roxanne Quirk and Neeb.*

**i. Owing to the special conditions identified above, please indicate how no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property:** *Because the school was built in the setback, it is necessary to build the garage connection in the setback to connect the buildings and so it doesn't obstruct the view of the historic building.*

**ii. Owing to the special conditions identified above, please indicate how the proposed use is a reasonable one. Explain how the special conditions of the property and zoning restriction interferes with the reasonable use of the property:** *By building the garage 3'5" from the rear boundary and 14'10" from the side boundary it allows us to maintain the historic view of the original school without in any way harming our neighbors. The rear edge of the garage would not be as close as the school is built. It is 2'4" away from the property line.*

**Or (this is filled out if you cannot meet 5Ai and 5Aii)**

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

**The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.**

**B. Please describe the special conditions of the property that distinguish it from other properties in the area;** *The North Weare School was built in 1856. We are making substantial efforts to keep the character of the building and property historic, while restoring it and maintaining it.*

**ii. Owing to the special conditions identified above, please indicate how the proposed use is a reasonable one. Explain how the special conditions of the property and zoning restriction interferes with the reasonable use of the property:** *By setting the garage back it will ensure that it does not intrude on the views of the school from the road or the view of the landscape from the inside windows.*

Chairman Dearborn clarified the applicant is looking to be no closer than 10' from the sideline. He asked the applicant if she precisely knows what is needed in the rear line. Kreg Jones responded they had the property surveyed.

Chairman Dearborn asked what is the number you want as to know closer than. Kreg Jones replied 3'6" on the rear property line and 14'10" on the west sideline. Chairman Dearborn suggests no closer than 3' on the rear and 14' on the side.

The Chair closed the public hearing at 8:27pm.

The Chair asked approving abutters to speak. Roxanne Quirk stated she has no issues.  
The Chair asked for other approving abutters to speak. There was none.  
The Chair asked disapproving abutters to speak. There was none.  
The Chair asked the public at large to speak. There was none.  
The Chair asked other boards to speak. There was none.

The Chair asked the applicant to rebut. Kreg Jones stated it is a very unique property, known as the Grange. A historic property they are looking to maintain the appearance as a whole, taking great care to replicate the exterior exactly as it should be. Many visitors stop by in appreciation for what they are doing.

The Chair asked for a second round of abutters, public at large and other boards. There was none.  
The Chair closed the public hearing at 8:30pm, the Board to deliberate on the five points of hardship.  
The Chair asked for a motion to accept for point one.

Case #14 -2021

Non-Public: Board Deliberation

**Point 1: Vice Chairman Meyer moved, Marc Morette seconded to accept point one of the five points of hardship for Case #14 -2021.** Discussion: Chairman Dearborn stated looking at the layout of the lot, septic on the right, it is the only place for the garage. Marc Morette agreed stating being a historic building it is a nice place for the garage. Vice Chairman Meyer agreed putting a garage elsewhere would take away from the historic nature. It is considered a landmark in Weare. Bobbi-Jo Plamondon stated placing the garage anywhere else would affect the character. Malcolm Wright agreed with Vice Chairman Meyer, the aesthetics of the property is important.

**Passed 5-0-0**

**Point 2: Vice Chairman Meyer moved, Marc Morette seconded to accept point two.** Discussion: Chairman Dearborn stated this property was designed before zoning, future use not anticipated. The Board concurred.

**Passed 5-0-0**

**Point 3: Vice Chairman Meyer moved, Marc Morette seconded to accept point three.** Discussion: Chairman Dearborn stated everyone should have a garage. The Board agreed.

**Passed 5-0-0**

**Point 4: Vice Chairman Meyer moved, Marc Morette seconded to accept point four.** Discussion: Chairman Dearborn stated the historic nature is an overriding issue. Marc Morette added they are taking great care. Bobbi-Jo Plamondon stated in no way could it diminish the property.

**Passed 5-0-0**

**Point 5: Vice Chairman Meyer moved, Marc Morette seconded to accept point five in its entirety.** Discussion: Chairman Dearborn stated with the hardship, it is a very small lot .48 acres making it a special condition of the property. Along with the septic system location. Bobbi-Jo Plamondon stated both abutting properties are already developed. Chairman Dearborn was about to start the voting when Town Administrator Bolton asserted what about the conditions. Chairman Dearborn thanked Town Administrator Bolton and requested a re-vote on Point 5.

**Vice Chairman Meyer moved, Marc Morette seconded to accept point five in its entirety with the condition that the garage be no closer than 14' from the sideline and 3' from the rear property line.**

Discussion: being none.

**Passed 5-0-0**

### **III. MINUTES:**

July 13, 2021 Minutes: Marc Morette moved, Malcolm Wright seconded to accept the minutes of July 13th, as written, passed 4-0-1 Bobbi-Jo Plamondon abstained.

### **IV. NEXT MEETING:**

September 7, 2021

Being that there was no more business to come before the Board, Marc Morette moved, Malcolm Wright seconded to adjourn the meeting at 8:42 pm., passed 5-0-0.

### **ADJOURNMENT**

A True Record.

*Karen Nelson*

Karen Nelson transcribed from  
You Tube recording & TA Bolton notes