



*Town of Plaistow*  
**ZONING BOARD OF ADJUSTMENT**  
145 Main Street - Plaistow, NH 03865

**ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
February 27, 2020**

The meeting was called to order at 6:30 p.m.

**Roll Call:** Peter Bealo, *Chair*  
Dan Lloyd, *Vice Chair, excused*  
John Blinn  
Jonathan Gifford  
Gary Ingham  
Ethan Conley

It was noted for the record that Jim Unger was observing the meeting. Mr. Unger is interested in becoming an alternate member of the Board.

★ *E. Conley was appointed as a voting member for the meeting.*

**Review/Approval of Minutes**

★ *G. Ingham moves, second by J. Gifford, to approve the minutes from the January 2, 2020 meeting. There was no discussion on the motion. The vote was 3-0-2 (Blinn, Conley abstaining).*

It was noted that there were five (5) voting members for this meeting.

**PUBLIC HEARING:**

**#20-01:** A request from FDPC Realty, LLC (Free Dog) for a variance from Article IV, §220-21A.(1) & (2) to permit elevated dog runs (structures) to be built within the 25 foot no-cut, no disturb wetland buffer. The property is located at 118 Sweet Hill Rd, Tax Map 69, Lot 38 in the ICR District. The applicant is the property owner of record.

**#20-02:** A request from FDPC Realty, LLC (Free Dog) for a variance from Article IV, §220-21B.(1) & (2) to permit elevated dog runs (structures) to be built within the 50 foot, no construction, wetland buffer. The property is located at 118 Sweet Hill Rd, Tax Map 69, Lot 38 in the ICR District. The applicant is the property owner of record.

**#20-03:** A request from FDPC Realty, LLC (Free Dog) for a variance from Article V, §220-32I to permit elevated dog runs (structures) and a portion of the enclosed dog room to be 22 feet from the front property line, where 50 feet is the minimum

**required. The property is located at 118 Sweet Hill Rd, Tax Map 69, Lot 38 in the ICR District. The applicant is the property owner of record.**

Charlie Zilch, SEC & Associates; Jennifer Lee and Cindy Stein, owners of FDPC Realty, LLC and Freedog were present for the application.

C. Zilch offered that the explanation of the variance requests would be similar in all three (3) applications. He noted that this was one of the most unique proposals he had seen to try and mitigate impacts to wetland buffers.

C. Zilch noted the following regarding the application:

- 118 Sweet Hill Rd is a 2.9AC parcel, with 453' frontage on Sweet Hill Rd, and 306' frontage on Newton Road/Route 108, in the Integrated Commercial-Residential (ICR) District
- The current use is as a dog daycare, kenneling business
- In 2009 the property was converted from a single-family dwelling to a 3000 SF office, living and boarding facility
- There are several ground level dog runs located outside the facility
- The property is serviced by on-site well and septic
- Parking is located on the Sweet Hill Road side of the property
- Stormwater flow is collected and directed to a detention basin adjacent to the building
- The applicants have another facility on Garden Road, which they would like to close with the expansion of this location
- The proposed plan offers a unique solution to space and topographical constraints on this site by elevating the dog runs on the left and rear sides of the current building
- The support posts would be the only impacts to the terrain
- The space under the dog runs would be left in its natural state

C. Zilch showed building plans and architectural renderings of the proposed elevated dog runs.

J. Lee noted that there would be a six (6) high slatted fence around each run that would allow air flow, but would shield the dogs from things that would stimulate them, causing a barking issue.

C. Zilch indicated where the property lines and the wetland areas are located on the property. He noted that the existing building was currently located within the property setbacks, including the front setback.

C. Zilch offered that they had been to the Plaistow Conservation Commission (ConCom) and had addressed all their questions and incorporated them into the plan. He added that Mike Dorman, Zoning Official, had determined the elevated dog runs to be structures, which necessitated the need for the variances.

P. Bealo asked what the runs would be made of.

C. Zilch responded that they would be wood construction.

P. Bealo inquired how deep the posts needed to be set to be stable.

C. Zilch offered that the runs were not that heavy as they would not have a roof.

J. Gifford asked if they would be built on sonar tubes, they reply was yes.

E. Conley asked what kind of flooring would be used.

J. Lee explained that there would be partial wooden areas, and they are still exploring whether turf or pea stone will be used on the rest. She added that whatever alternative they chose would be to make waste collection and removal easier.

J. Gifford suggested that if one of the runs was cut back to twenty (20) feet it could negate the need for that variance request.

J. Lee offered that the footprint matters in their efforts to control the behavior of the dogs. She added that they worked on the space considerations for a long time.

C. Stein noted that perhaps smaller dogs could be exclusive to that run if they were required to make it shorter.

There was additional discussion regarding ways to avoid the intrusion into the twenty-five (25) foot “no disturb” wetland buffer. It was suggested that it would only need a single sonar tube/post to be pulled back and the run could be cantilevered out.

There was discussion about the distance to the abutting property to the north. It was noted that the distance to the property line was approximately 125 feet, and an additional 25 feet to the house on that property. It was also noted that the distance was well wooded.

J. Lee explained that most of the activity in the yard itself is during the business day, adding there is no activity on the weekends.

J. Blinn asked about the filtration system proposed for the runoff.

C. Zilch gave a detailed explanation of the drainage system, noting how the runoff would be collected and treated by the system instead of sheet-flowing directly to the wetlands. He added that the system was sized to meet all New Hampshire Department of Environmental Services (NHDES) requirements.

G. Ingham offered, regardless of how the Board votes on these matters at this meeting that Ms. Lee and Ms. Stein are to be commended for the business that they operate.

C. Zilch offered that follow responses to the criteria for the granting of the variances:

These responses are for both wetlands buffers requests:

- The proposed variance will not be contrary to the Public Interest because:
  - It allows Freedog full productive use of the property by allowing the expansion of the business necessary to close the business location on Garden Road and combine the two
  - The dog runs would be wood-frame construction elevated by posts and tied into the existing building. Each run would be surrounded by a six (6) foot high slatted fence, and the floor is covered in pea stone. The run will be partially shaded by an awning attached to the building.
  - A gutter drainage system will direct stormwater runoff from the exposed deck to a stone infiltration trench system located below.
  - Fecal matter from the dogs is collected several times a day and is stored in enclosed containers on site. The waste is then picked up twice a week by a company, K-9 Custodian, who dispose of the waste at an approved facility.
  - Urine from the dogs mostly evaporates off of the pea stone. Freedog also applies a spray-on bio degradable agent, clean break, designed to dissolve and break down the urine. These measures ensure water quality is maintained within the wetland buffer.
  - To answer the question about the increase in dogs and the potential noise, the dogs will be enclosed by solid fencing thereby reducing distraction and the potential for barking. Additionally, this is a proposal to increase the day care facility and not the boarding. Meaning that the increase in dogs onsite will only occur during normal business hours.
  - All considered, the nature of the additions and their location, do not negatively affect the general health, welfare and safety of the general public.
- The Spirit and Intent of the ordinance is preserved because:
  - The intent of the ordinance is to protect and buffer wetlands from site uses that may adversely affect the wetland complex.
  - The wetlands for which we are seeking the variance, is a poorly drained wetland located at the rear of the building. This wetland is partially buffered by lawn space and wooded area.
  - The proposal is to construct elevated platforms above grade that would preserve green space below the structures.
  - The owners could construct ground level fenced in areas for the dogs within this area, but within a short time the groundcover would be adversely affected.

- Ground level yard space is more difficult to maintain the dog waste than it would be with this proposal.
  - The elevated dog runs would maintain green space as well as provide better control over waste. Therefore, the spirit and intent of the ordinance, protection of the wetlands, will be maintained by granting of the variance.
- There will be Substantial Justice in granting the variance by allowing Freedog the most cost-effective means of achieving their goals with the least amount of disturbance to the site or disruption to the business. As demonstrated, there will be no adverse effect to the neighboring property owners as well. By granting the variance and allowing construction in an area that will retain ground cover as required, it will allow the owners to remain at this established site where they can continue with this well received business.
- The Values of Surrounding Properties will not be diminished because
- Granting the request would allow for an expansion of an existing business as allowed in this zone. The structures are designed to not only consider any potential impact to the wetland buffers but also to consider any potential impact to surrounding properties and their owners as well.
  - The structures will be surrounded by a 6' tall privacy fence and only operated during normal business hours. Lighting will only be needed during the shorter seasons and will be shielded and directed within each run.
  - All waste will be monitored and disposed of as necessary.
  - In all, this would negate any impact to the wetlands and the adjacent neighbors that would diminish surrounding property values.

P. Bealo questioned if by “shielded” it was meant that the lighting would be full cut off. It was confirmed that it would be.

- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because this site, though large in size, is bisected by this wetland complex. When applying the wetland setbacks only the area in which the addition is proposed allows for the greatest level of compliance to the setback requirements. There are no other reasonable alternative locations that would fully comply with wetland or property line setbacks. In addition, construction within those areas would require much greater site disturbance, increased costs and no appreciable gain in respects to wetland protection. Denial would be an unnecessary hardship due to the uniqueness of the building and yard space location in relation to the wetlands and lack of reasonable alternative location.

C. Zilch offered the following responses to the criteria with reference to the third request, which is for the front set back of thirty-five (35) feet.

- The proposed variance will not be contrary to the Public Interest because:

- By granting the variance it will allow Freedog the full productive use of the property by allowing the expansion necessary to combine the two businesses.
  - The structures proposed are elevated dog runs.
  - A portion of two of the runs and a small portion of the enclosed dog room is proposed within the 50' front setback to Route 108.
  - The areas within the setback are elevated and allow for ground cover to remain. Neither of the proposed structures creates any sort of visual obstruction or hazard to the travelers of Route 108.
  - The closest point is approximately 42' from the traveled way. As noted the structures are fenced and thereby eliminate visual distraction from the dog and/or driver.
  - A natural buffer will remain between the roadway and the proposed structure.
  - The nature of the additions and their location, do not negatively affect the general health, welfare and safety of the general public.
- The Spirit and Intent of the ordinance is preserved because:
- The intent of the ordinance is to protect and buffer traveled ways and maintain a uniform setback from buildings to the right of way.
  - The proposed elevated dog runs attached to an existing building.
  - These dog runs provide outdoor space for the animal as would a ground level penned in area, but in a better controlled environment.
  - The structures are proposed to be constructed on the frontage side that is not encumbered by access or parking.
  - A sufficient buffer will remain, thereby the spirit and intent of the ordinance will be maintained by granting of the variance.
- There is Substantial Justice in granting the variance because:
- Freedog will be allowed the most cost-effective means of achieving their goals with the least amount of disturbance to the site or disruption to the business.
  - There will be no adverse effect to the neighboring property owners or vehicular traffic on Route 108.
  - By granting the variance and allowing construction in an area that will retain ground cover and a natural buffer.
  - The owners will be allowed to remain at this established site where they can continue with this well received business.
- The Values of Surrounding Properties will not be diminished because:
- Granting the request would allow for an expansion of an existing business as allowed in this zone.
  - The structures are designed to not only consider any potential impact within the frontage setback but also to consider any potential impact to surrounding properties and their owners as well.

- As noted, these structures will be surrounded by a 6' tall privacy fence and only operated during normal business hours. Lighting will only be needed during the shorter seasons and will be shielded and directed within each run.
  - In all, this would negate any impact within the frontage setback and any impact to the adjacent neighbors that would diminish surrounding property values.
- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because:
- This site, though large in size, is limited by setbacks from both wetlands and frontage setbacks.
  - When applying the frontage setbacks only the area in which the addition is proposed allows for the greatest level of compliance to the setback requirements.
  - There are no other reasonable alternative locations that would fully comply with the property line setbacks. In addition, construction within those areas would require much greater site disturbance, increased costs and no appreciable gain in respects to buffering.
  - Denial would be an unnecessary hardship due to the uniqueness of the building and yard space location in relation to the setbacks and lack of reasonable alternative location.

P. Bealo asked if the Board had any additional questions, there were none.

P. Bealo asked if there was anyone speaking in favor of the application. A letter of support from the ConCom was read into the record.

P. Bealo asked if there was anyone speaking on opposition to the application. There was no one.

C. Zilch noted that should their variance applications be granted the applicant would still have to make application to the Planning Board to amend the site plan.

The public hearing was closed.

## **DELIBERATIONS**

**#20-01: A request from FDPC Realty, LLC (Free Dog) for a variance from Article IV, §220-21A.(1) & (2) to permit elevated dog runs (structures) to be built within the 25 foot no-cut, no disturb wetland buffer. The property is located at 118 Sweet Hill Rd, Tax Map 69, Lot 38 in the ICR District. The applicant is the property owner of record.**

***★ G. Ingham moved, second by E. Conley, to grant the application for a variance from Article IV, §220-21 A.(1) & (2) to allow a structure (elevated dog run) to be built within***

***the 25-foot no disturb wetlands buffer on the property located at 118 Sweet Hill Rd, Tax Map 69, Lot 38.***

The Board reviewed the criteria for the granting of a variance with the following findings:

- The proposed use is not contrary to the Public Interest because it offers the productive use of the property with minimal impact to the wetlands buffer.

E. Conley offered that there was only one (1) post proposed to be in the no-disturb buffer.

J. Gifford noted concern over the precedent that was being set by allowing the post in the no-disturb buffer. He offered there wasn't past precedent for it and he was concerned that others would be lining up for the same request.

P. Bealo added that while the Board's decisions cannot by law be considered precedent-setting, there is the emotional perception of precedent.

J. Gifford reminded that the applicant was not totally opposed to one short run that could bring them out of the no-disturb buffer.

- The Spirit and Intent of the Ordinance are preserved because the elevated runs minimize the impact to the wetlands buffer

J. Gifford offered that if the runs were on the ground there would be the issues of fences in the buffer and more run off. He reiterated that he thought the desired use could be achieved by moving the post in.

G. Ingham suggested that they could have an engineer look at moving the post in a little.

J. Gifford added that his only concern was for the 25-foot no-disturb area.

- There would be Substantial Justice in the granting of the variance because there isn't a loss to the Town and this would be a cost-effective means of allowing the expansion of the business.
- There would be no diminishment of Surrounding Property Values
  - The closest residential abutter's property line is 125 feet away, and the house is even farther
  - Across the street is Brandy Brow Auto Salvage and would not experience any adverse-impact to their property values
- Literal enforcement of the provisions of the ordinance would cause an Unnecessary Hardship because
  - This is a complex, weird lot from a wetlands perspective



- While it is nearly a three (3) acre lot, there is very little of it that is usable because of the wetlands

There was discussion about whether or not moving the post would cure the need for a variance from the 25-foot no-disturb buffer. There was discussion about denying the variance, which would necessitate the applicant's engineers to move the support post back out of the no-disturb buffer. It was unclear if the just the post or the run itself was considered the structure that was intruding into the buffer. It was suggested that moving the post be a condition of any approval. It was suggested that the Board re-open the public hearing to see if the applicant, who had spoken directly with the Zoning Officer, could offer some clarity.

**★ G. Ingham withdrew his motion to grant. E. Conley withdrew his second of that motion.**

**★ P. Bealo re-opened the Public Hearing (Note: there were no abutters in the gallery for the initial public hearing, therefore no one had left during deliberations).**

C. Zilch offered that M. Dorman had determined that not only was the post considered a structure, but so was the elevated run itself, even though there was no contact with the ground. He added that applicant would be satisfied with a conditional approval the required the support post/sonar tube to be moved back out of the 25-foot no-disturb buffer.

**★ G. Ingham moved, second by E. Conley, to grant the application for a variance from Article IV, §220-21 A.(1) & (2) to allow a structure (elevated dog run) to be built within the 25-foot no disturb wetlands buffer on the property located at 118 Sweet Hill Rd, Tax Map 69, Lot 38 with the following condition:**

- **The support post must be relocated to be out of the 25-foot, no-disturb buffer. The elevated run may be cantilevered out, into the 25-foot, no-disturb buffer.**

**There was no additional discussion on the motion. The vote was 5-0-0 U/A.**

**#20-02: A request from FDPC Realty, LLC (Free Dog) for a variance from Article IV, §220-21B.(1) & (2) to permit elevated dog runs (structures) to be built within the 50 foot, no construction, wetland buffer. The property is located at 118 Sweet Hill Rd, Tax Map 69, Lot 38 in the ICR District. The applicant is the property owner of record.**

**★ G. Ingham moved, second by J. Gifford, to grant the application for a variance from Article IV, §220-21 B.(1) & (2) to allow a structure (elevated dog run) to be built within the 50-foot no construction wetlands buffer on the property located at 118 Sweet Hill Rd, Tax Map 69, Lot 38.**

P. Bealo offered, unlike the 25-foot, no-disturb buffer, there has been precedent set by this Board for the granting of variances in the no-construction buffer.

J. Blinn reminded that the overhang (deck run) doesn't touch the ground.

P. Bealo offered that it was still determined to be a structure per M. Dorman.

The Board reviewed the variance criteria with the following findings:

- Granting the variance is not contrary to the Public Interest because it is a good use of the land. The proposed elevated dog runs are a creative way to preserve the natural surroundings while allowing the owners full productive use of the land
- The Spirit and Intent of the Ordinance are preserved because there is limited impact to the buffer area with just the support posts
- There is Substantial Justice in granting the variance, because there is no loss or gain to the public, but there would be a loss to the applicant with a denial
- There is no diminishment of Surrounding Property Values, as closest residential abutter is more than 125 feet away and the salvage yard is across the street.
- Literal enforcement of the ordinance would result in an Unnecessary Hardship because while it is true, this is a large lot, much of it is unusable without impacting the wetlands buffers.

*There was no additional discussion on the motion. The vote was 5-0-0 U/A.*

**#20-03: A request from FDPC Realty, LLC (Free Dog) for a variance from Article V, §220-32I to permit elevated dog runs (structures) and a portion of the enclosed dog room to be 22 feet from the front property line, where 50 feet is the minimum required. The property is located at 118 Sweet Hill Rd, Tax Map 69, Lot 38 in the ICR District. The applicant is the property owner of record.**

**★ G. Ingham moved, second by J. Blinn, to grant the application for a variance from Article V, §220-32I to allow a structure (elevated dog run) and a portion of the enclosed dog room to be built within the 50-foot front property setback requirement for the property located at 118 Sweet Hill Rd, Tax Map 69, Lot 38.**

P. Bealo offered, while it's true the ordinances treat a corner parcel as having two (2) fronts, he didn't agree it should be as such.,

J. Blinn added the frontage should be where your front door is located.

J. Gifford also noted that there was an industrial use across the street and the use on this property was still a fair distance from the road.

The Board reviewed the variance criteria with the following findings:

- Granting the variance would not be contrary to the Public Interest because there is no loss to the public in this case

- The Spirit and Intent of the ordinance are preserved because the structures will be set far enough back as to not obscure any traffic site lines and there will still be a natural buffer
- There is Substantial Justice in granting the variance because saying no to the business would not only be a loss to the applicant, but a loss to the general public
- There would be no change to the Surrounding Property Values by granting the variance, the use is a permitted use and of no impact to any of the surrounding properties
- Owing to the fact this is an unusual lot, denying the variance would be an Unnecessary Hardship to the applicant.

*There was no additional discussion on the motion. The vote was 5-0-0 U/A.*

### **PUBLIC HEARING:**

**#20-04: A request from Shelby Mustang Realty Trust, c/o Joseph Poist, for a for a variance from Article IV, §220-21A.(1) & (2) to permit a garage to be built within the 25 foot no-cut, no disturb wetland buffer. The property is located at 21 Sequoia Ln, Tax Map 63, Lot 70 in the LDR District. The applicant is the property owner of record.**

**#20-05: A request from Shelby Mustang Realty Trust, c/o Joseph Poist, for a for a variance from Article IV, §220-21.B.(1) & (2) and C.(1) & (2) to permit a garage to be built within the 50 and 75 foot, no construction, wetland buffers. The property is located at 21 Sequoia Ln, Tax Map 63, Lot70 in the LDR District. The applicant is the property owner of record.**

Charlie Zilch, SEC & Associates was present for the application.

C. Zilch noted the answers for both requests were essentially the same and offered the following in support of his variance requests:

- The parcel is .53AC with 150' of frontage on Sequoia Lane, located in the Low Density Residential (LDR) district
- The parcel was created as part of a 1967 subdivision
- The three-bedroom single-family dwelling was constructed in 1989
- The property is serviced by an on-site well and septic
- There is a driveway located to the left of the house, looking at it from the street
- There is a substantial wetland complex to the left side that consists of a mix of poorly and very poorly drained soils, but mostly very poorly drained
- There are wetlands that run under Sequoia Lane
- The proposal is for a 24' X 24' two-car garage constructed on the existing pavement and twenty-three (23) feet from the poorly drained soils
- Some pavement will be removed to install an infiltration trench to capture water from the roof drains of the new garage and from the existing pavement

- The plan includes a four (4) foot wide walkway from the back of the garage towards the house

G. Ingham questioned if the existing house was within the wetlands setback. It was confirmed that it was.

C. Zilch noted that the infiltration trench would offer a slight decrease in the untreated runoff of the current conditions.

There was discussion about the roof gutters and the roofline of the proposed garage, showing which way water would flow.

P. Bealo noted that it was a tight lot.

C. Zilch explained that the garage could be built without any need to cut trees.

J. Gifford offered that if they were to build a 24' X 22' garage they wouldn't need a variance for the 25-foot no-disturb buffer.

It was noted that they would still need a variance for the 50' and 75' no-construction buffer.

J. Gifford offered that precedent had already been set by the house being in the buffers.

P. Bealo added they would be hard pressed to find a location for even a shed that didn't require a variance.

J. Gifford noted the improvement to the drainage with the infiltration trench to collect and treat runoff.

There was discussion about the infiltration trench and other erosion control features. It was also noted that this proposal had been reviewed by ConCom without objection.

- The proposed variance will not be contrary to the Public Interest because:
  - Granting the variance will allow Mr. Poist the full productive use of the property by allowing expansion within areas already utilized as driveway/parking space.
  - This area is the most practical location when considering the location of the existing driveway and dwelling as well as the limited buildable space on this lot of record.
  - This will not be contrary to the public interest because the adjacent wetlands will not be directly impacted and the existing wooded and lawn space will remain undisturbed. In addition, Mr. Poist will install a stone infiltration trench that will capture stormwater runoff from the proposed garage and infiltrate it into the ground rather than as a sheet flow directly to the wetlands as in the current situation.

- The Spirit and Intent of the ordinance is preserved because:
  - The intent of the ordinance is to protect and buffer wetlands from site uses that may adversely affect the wetland complex.
  - The wetlands for which the variance is sought, is a mix of poorly drained and very poorly drained forested wetlands that are located within an undisturbed and established limited buffer.
  - There will be no need to impact (cut and remove additional trees) within the established buffer to construct the proposed garage.
  - The proposed use, residential garage space, will not add additional impact to the wetlands and in fact could potentially reduce impact by storing vehicles within an enclosed space.
  
- There is Substantial Justice in granting the variance because:
  - There will be substantial justice in granting the variance by allowing Mr. Poist the most cost-effective means of achieving his goals with the least amount of disturbance to the site or disruption to his property and surrounding properties.
  - Granting the variance and allowing construction in an area that lacks buffering by its historic use more significant impacts are avoided elsewhere on the lot where wetland buffers are currently established.
  
- The Values of Surrounding Properties will not be diminished because:
  - Granting the request would allow for construction of an attached garage in support of the residential use.
  - The garage will be constructed entirely within the existing paved parking area.
  - This addition of a garage is to a home constructed 31 years ago on a lot created 53 years ago when there was little consideration given to wetland buffers.
  
- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because:
  - This site is limited in size and further restricted by the wetland complex partially located within the lot.
  - The proposed location of the garage makes the most sense to be where the paved driveway currently exists and allows for the garage to be attached to the existing dwelling.
  - No other reasonable alternative siting area exists on the lot where a free-standing garage can be located that meets the wetland buffer requirements as well as the required front and rear setbacks.
  - Denial would be an unnecessary hardship due to the uniqueness of the building and yard space location in relation to the wetlands and lack of a reasonable alternative location.

P. Bealo asked if there were any questions from the Board. There were none. He asked if there was anyone speaking in favor of the application. A letter of support from ConCom was read for the record.

P. Bealo asked if there was anyone speaking in opposition to the request for a variance. There was no one and the public hearing was closed.

### **DELIBERATIONS:**

**#20-04: A request from Shelby Mustang Realty Trust, c/o Joseph Poist, for a for a variance from Article IV, §220-21A.(1) & (2) to permit a garage to be built within the 25 foot no-cut, no disturb wetland buffer. The property is located at 21 Sequoia Ln, Tax Map 63, Lot 70 in the LDR District. The applicant is the property owner of record.**

***★ G. Ingham moved, second by J. Gifford, to grant the application for a variance from Article IV, §220-21 A.(1) & (2) to allow a residential garage to be built within the 25-foot no disturb wetlands buffer on the property located at 21 Sequoia Lane, Tax Map 63, Lot 70.***

The Board reviewed the criteria for the granting of a variance with the following findings:

- Granting the variance is not contrary to the Public Interest, it may actually be in the public's interest by allowing the homeowner to put their vehicle in an enclosed structure and prevent accidental oil, salt and fluid spills into the wetlands. The addition of the infiltration trench is in the public's interest
- The Spirit and Intent of the Ordinance are preserved with the protection of the wetlands buffer offered by the addition of the infiltration trench

J. Gifford offered that if this garage wasn't proposed to go on an existing paved area he would have an issue with the variance for the no-disturb buffer. But the infiltration trench in this case will be fixing an existing problem and treat the runoff.

- There is Substantial Justice in the granting of the variance as there is no loss to the public to do so. The infiltration trench offers a gain to the public
- No surrounding Property Values will be Diminished by the granting of the variance. The homeowner's property values will most likely increase, and a residential garage is not likely to adversely impact other residential parcels
- Literal enforcement of the ordinance would result in Unnecessary Hardship as this is a small lot with a large percentage of the lot included in the wetlands buffer

E. Conley noted that the garage and infiltration trench will improve the current situation.

***There was no additional discussion on the motion. The vote was 5-0-0 U/A***

**#20-05: A request from Shelby Mustang Realty Trust, c/o Joseph Poist, for a for a variance from Article IV, §220-21.B.(1) & (2) and C.(1) & (2) to permit a garage to be built within the 50 and 75 foot, no construction, wetland buffers. The property is located at 21 Sequoia Ln, Tax Map 63, Lot70 in the LDR District. The applicant is the property owner of record.**

***★ E. Conley moved, second by J. Blinn, to grant the application for a variance from Article IV, §220-21 B.(1) & (2) and C.(1) & (2) to allow a residential garage to be built within the 50-foot and 75-foot no construction wetlands buffer on the property located at 21 Sequoia Lane, Tax Map 63, Lot 70.***

***The Board noted that all the same criteria from the first application equally applied to the second one as well.***

***There was no additional discussion on the motion. The vote was 5-0-0 U/A.***

### **Other Business**

It was noted that there was a “Save The Date” flyer in the member folders for the Annual Spring Planning & Zoning Conference hosted by the Office of Strategic Initiatives (OSI). D. Voss will let members know when registration opens.

There was no additional business before the Board and the meeting was adjourned at 7:53 p.m.

Respectfully Submitted:

Dee Voss  
Administrative Assistant