

Town of Barnstable
Zoning Board of Appeals
Minutes
May 20, 2009

A regularly scheduled and duly posted Public Hearing for the Town of Barnstable Zoning Board of Appeals was held on Wednesday May 20, 2009 at 7:00 PM at the Town of Barnstable, Town Hall, 367 Main Street, Hyannis, MA. A quorum was met. Also present were Art Traczyk – Regulatory Review Design Planner and Carol Puckett – Administrative Assistant.

Laura Shufelt	Present
James McGillen	Present
Michael Hersey	Present
Craig Larson	Absent
William Newton	Present
Alex Rodolakis	Absent
Nikolas Atsalis	Absent
Brian Florence	Present
George Zevitas	Present

Laura Shufelt opens the hearing at 7:05 PM. She informs the public that they are going into Executive Session and then will be hearing 2009-006 which they are expecting to be continued, Kohler, EAC Disposal and Baker.

***Motion to go into Executive Session for purposes of litigation.
Seconded***

Vote:

AYE: George Zevitas, Brian Florence, Michael Hersey, James McGillen, William Newton, Laura Shufelt

NAY: None

Since the Selectman's Conference room is occupied, they clear the hearing room to have the Executive Session.

Laura Shufelt makes a motion to go back into regular session.

Motion to come back into session.

Back in session at 7:24 PM.

Vote:

AYE: George Zevitas, Brian Florence, Michael Hersey, James McGillen, William Newton, Laura Shufelt

NAY: None

Laura Shufelt then indicates that they will be approving minutes from December 10, 2008, January 14, 2009, January 28th, February 11, March 25th, April 1st and April 15th.

Motion to approve minutes

Seconded

Minutes approved

James McGillen clarifies that he will only be voting on the December minutes as he was not present for the other hearing.

All in favor

Laura Shufelt then calls the Fireman appeal and indicates that there is a letter that was submitted from Eliza Cox, Esq asking for a continuance to June 17th at 7:00 PM.

Appeal No. 2009-006 - Continued

Fireman

Appeal of the Building Commissioner

Opened February 11, 2009, continued to March 25, 2009 and to May 20, 2009, at request of the applicant. No Members Assigned - No Testimony Taken

On May 7, 2009 Town Council voted to amend Section 240-91.H Developed Lot Protection; Demolition and Rebuilding on Nonconforming Lots. That amendment should address the issues in this appeal. That amendment is to take effect June 8, 2009. A copy of Town Council Item 2009-099 and its rationale is enclosed.

Paul and Phyllis Fireman have appealed the Building Commissioner's letter of November 19, 2008 pursuant to Section 240-125(B)(1)(a), Appeals from Administrative Official. The letter expresses the Commissioner's opinion that 92 South Bay Road, Osterville, Mass., constitutes a single lot and that the demolition of the dwelling on the property and construction of two new dwellings on that property is not allowed under the zoning ordinance. The appellant is requesting that the Zoning Board of Appeals overturn the Building Commissioner's November 19, 2008 letter and find that no zoning relief is required to allow for the construction of two dwelling on the 92 South Bay Road lot. The property is addressed as 92 South Bay Road, Osterville, MA and is shown on Assessor's Map 093 as parcel 042-001. It is in a Residential F-1 Zoning District and the Resource Protection Overlay District.

Laura Shufelt moves to continue this to June 17, 2009 at 7:00 PM

Seconded

All in favor.

CONTINUED TO JUNE 17, 2009 at 7:00 PM

At 7:27, Laura calls the Kohler appeal. She reads it into the record.

Appeal No. 2009-004 – Continued

Kohler

Appeal of Building Commissioner & Seeks

Enforcement

Opened January 28, 2009, continued April 1, 2009 and to May 20, 2009.

This Appeal was continued for additional information and input from the Town Attorney's Office and Building Commissioner.

Members Previously Assigned: William H. Newton, Michael T. Hersey, Alex Rodolakis, Brian Florence, Laura F. Shufelt - Associates Members
Present: Nikolas J. Atsalis, George T. Zevitas

Updated Materials Enclosed:

- April 2, 2009 Staff Letter to Ruth Weil/Charles McLaughlin Town Attorneys
- April 3, 2009 Staff Letter to Martin MacNeely COMM Fire Department
- April 3, 2009 Staff Letter to Tomas Perry, Building Commissioner
- April 13, 2009 Staff Letter to Attorney Charles M. Sabatt
- April 24, 2009 Transmittal Letter from Francis J. Hurley
- April 27, 2009 Staff Letter to Gannon & Hurley on process
- Copy of a May 8, 2009 Letter to Building Commissioner Perry from Francis J. Hurley
- May 11, 2009 Response Letter from Martin MacNeely COMM Fire Department
- Copy of May 12, 2009 e-mail correspondence from Gary Lopez to Thomas McKean Health Director

Peter and Rose Kohler have appealed the decision of the Building Commissioner issued September 22, 2008 regarding EAC Disposal d/b/a Cape Resources Company. The appellants are appealing the Building Commissioner's determination that no enforcement action is needed with respects to the activities being carried on by Cape Resources Company at 280 Old Falmouth Road, Marstons Mills, MA. The property at issue is shown on Assessor's Map 100 as parcel 008. The appeal is being made pursuant to MGL Chapter 40A, Section 15 and is seeking the enforcement of the terms and conditions of the Zoning Board of Appeals Decision issued in Appeal No. 1996-014. The subject property is in a Residence F Zoning District and a GP Groundwater Protection Overlay District.

Laura Shufelt indicates that Alex Rodolakis is not here tonight and that George Zevitas will be replacing him tonight as one of the Board Members hearing this appeal.

Members assigned tonight: William Newton, Michael Hersey, George Zevitas, Brian Florence, Laura. Shufelt

Mr. John Flynn is here representing the Kohler's. He indicates that he will defer comments until after Tom Perry speaks.

Tom Perry, Building Commissioner, indicates that it is an ongoing battle with him since 2002. He indicates since then there have been many meetings with neighbors and EAC. In those years he feels that they have come into compliance. In reference to the hours of operation he found no violations and never found violations with regards to the height of the piles. He indicates that the chipper building location, which is not in compliance, is being worked on in site plan to straighten that situation out. He indicates that the chipper building location has been there before he became Building Commissioner. For years they asked the complainants for proof that the odors and dust were from EAC or the landfill and has never been proven that they are coming from EAC. He indicates that the fire road is presently not in accordance to plan but that in case of emergency they feel they have adequate access to the site.

William Newton indicates that there was an allegation that he authorized beyond his authority.

Tom Perry indicates that activities were going on before he was the Building Commissioner and that the operation is better today than it was in the past.

James McGillen asks when the last a complaint was received.

Tom Perry indicates two weeks ago was the latest regarding the delivery of mulch but that the business is permitted to do that. He indicates that it is allowed under the original variance.

James McGillen asks before the complaint about the mulch, when was the latest complaint.

Tom Perry indicates that his standard way of ending a letter is to indicate that the complainant has the right to appeal this decision and is standard practice.

William Newton clarifies that it was not until now that they appealed.

Mr. Flynn redirects his comments to Mr. Perry's comments and the presentation of what was suppose to be there and what is that is not in compliance. Also, there is a summarized list in the memo by the Kohler's and neighbors. He indicates that the plan EAC submitted was one way but didn't build it that way. When they submitted these requests to Mr. Perry, first, they were looking for a finding of a violation and to revoke under the ZBA, but, in any event Mr. Perry has the obligation to enforce the zoning codes which includes the ZBA's decision, secondly, they were seeking relief. Mr. Flynn then reads part of Tom Perry's deposition. He also reads part of the letter from Fire Department about access to the fire road dated May 11, 2009. He comments that when the Board issues a plan, does it have to be that way or can Mr. Perry allow it to exist or does he have an obligation to go in and look and comply? He will get a copy of Mr. Perry's deposition where he admits that they were in violation.

William Newton indicates that from Mr. Perry's letter there has been many meetings and asks why they haven't they chosen to do this until now?

Mr. Flynn indicates that all those meetings were taken place based on the presumption that it was built right and that an as-built plan was never done. During the course of the litigation against EAC, they had the opportunity to have aerial photos taken and when Mr. Hurley and he compared the photos to the plans, it was not built the way they said they were going to build it. He indicates they met with Town Council and the Planning Board on a number of occasion prior to filing mitigation and asked make them to build it the way they were suppose to and they will go away (he indicates that he didn't actually say the words "will go away" that and comments that he would like to take that back) build it and they didn't get anywhere. He indicates that letters had been sent to Mr. Perry at times when they saw things and to show when they did not do things right. He indicates that their case they filed with the State was dismissed at the current action was premature as it was governed by zoning enforcement bylaws. He then reads

MGL Chapter 40A Section 8. He indicates that in the action which is in appeal on the EAC case, the jury did find that a public nuisance existed but did not award any damages because the Zoning Board had first ruling on it.

Charlie McLaughlin, from the Town Attorney's office, indicates that the law is clear that the Building Commissioner does not have authority to revoke and as to the question of what his options are at that point, the litigation is demonstrated and that this project has taken an extraordinary amount of time. First the judge did determine that this complaint that was filed against the town sounded in the nature of zoning, not tort, and as a result as a failure to appeal to this Board as they could've done all along, One of the critical issues they involved themselves in litigation was as to whether or not any literal noncompliance, if that equates to a violation, whether or not it is a material violation that warrants litigation to shut the project down. He thinks that the Board faces that question and thinks it appropriate.

William Newton indicates that the contention was that there was a design for that development and that it was never built according to the plans and asks for certification to insure it was done according to plan and what do they know about that aspect of it.

Charlie McLaughlin indicates that the Town Attorney's office never had. the benefit of the as-built either from EAC or the Kohler's and their attorney but had evidence presented of aerials from the Kohler's.

Tom Perry indicates that the location of anything didn't come up until 2007, the building was not where it should be and the bin was turned 90 degrees as it was because of the way the operation worked. As to The reports of fires, they haven't had one in 8 years and it was only during one summer and they had DEP with them. He believes that there hasn't been any complaints of fire since 2001 and had fire watches.

Laura Shufelt asks about an engineered site plan and asks if it was ever done or that Mr. Perry has never seen it. Tom Perry indicates that he never saw it. Laura asks if it was EAC'S obligation to get it done and whose obligation for oversight is it.

Charlie McLaughlin answers that it is up to the Building Commissioner.

Tom Perry indicates that typically he requires an engineer's letter, they go out and check it and before it could either be occupied or put into operation.

Tom Perry and the Board discuss the yellow hatch area and the berms.

Laura Shufelt clarifies that Mr. Perry has no as-builts.

Brian Florence comments that he doesn't think it would be inappropriate for an as-built and it would not be appropriate to uphold the Building Commissioner about standardized information that this site is causing the problem as to noise, dust and smoke coming from this site.

Attorney Sabatt speaks and thinks that he heard Mr. Flynn say that the jury found that this was a public nuisance and indicates that they did not find it was a public nuisance, nor did they find it a private nuisance. He indicates that in the trial where the Kohler's were seeking damages from EAC that the court make a ruling that they could not do in the absence of an adjudicated zoning violation and they were precluded from doing that. When they sued the Town of Barnstable also seeking money damages, the court advised them that they hadn't exhausted their administrative remedies and in they didn't follow the proper steps. He indicates that they want the Board to make a finding that there is a violation so that they can take this and proceed against EAC for money damages. He indicates that earlier, Mr. Flynn indicated that the statement about him taking back the words "will go away" was because they won't go away. What they want are money damages. He indicates that they are complaining about is the location of a building on a 22 acre site that is further away from them than it should be. The purpose of the building was to deaden the sound of the grinding machine in use at that time and has accomplished that purpose and was further away from the Kohler's. He talks about the central berm and the fire road which have served their purpose. He indicates that this site is always open to be viewed and inspected and is inspected annually by OSHA and has gotten a sharp designation

Brian Florence asks if his clients would be able to provide for a certified as-built. Attorney Sabatt indicates that he will consult with his clients and if the Building Commissioner asks that they will comply with that request.

The Board discusses.

Charlie McLaughlin indicates that time is clicking and they have until June 29th.

Mr. Flynn rebuts and talks about a landscaping plan in 1996 and a letter regarding this from the previous Building Commissioner at that time, Mr. Crossen. He will get a copy of the letter. Mr. Sabatt indicates that they admit that the building is about 60 or 70 feet south from where it should be and that the plan they filed with respect to the modification does show existing conditions on it.

Laura Shufelt asks if there is anyone from the public who would like to speak.

Terry Maloney who is a direct abutter to Cape Resources speaks. He indicates that several times they have had managers that were trying to be helpful but that the company isn't willing to spend the money to do the things that need doing to back the manager up. He indicates that they have installed better back up beepers that are less noisy. He indicates that recently he heard the noise level rise, he walked by and the misters were not working. He indicates that there was a bulldozer which makes more noise than the other machines.

Kathy Maloney speaks and indicates that there is a constant noise and dust. In 1996 those conditions were allowed to let them operate in a residential zone without being out of character. Over the weekend the noise was very loud and they can't plan gatherings on Saturdays is because of the dust and noise.

Peter Kohler speaks and indicates that it is upsetting to be here 13 years after this has begun. He can't enjoy his yard on Saturdays. He shows a picture from 1994 and a picture from 2009. He believes that on Route 28 there is a 100 foot buffer and the machines are parked there. There are 29 stipulations in that variance and it is the Building Commissioner's responsibility to make it comply. The noise and dust is always there. The machinery is the problem, the piles which don't have a cover. He doesn't know why that isn't enforced. The berm wasn't done for 11 years. The plan that the previous Board put in place did not get put in place for 11 years.

Brian Florence asks Mr. Kohler questions regarding the site plan.

The Board discusses.

Brian Florence makes a motion to have an as-built.

Seconded.

Charlie McLaughlin asks for clarification on the motion as he is not sure that the Town is in a position or should be put to that expense.

Brian Florence moves to compel the Building Commissioner to request of the property owner a certified as-built showing that the site is built in accordance with the plans submitted at the time of the variance.

Seconded

Art Traczyk explains that the Board also has the ability to hire an outside consultant.

The Board discusses.

Mr. Flynn indicates that they are willing to extend the time limits.

Vote:

AYE: George Zevitas, Brian Florence, Michael Hersey, William Newton, Laura Shufelt

NAY: None

Motion to continue to July 8, 2009 AT 7:00 pm

Seconded.

Vote:

AYE: George Zevitas, Brian Florence, Michael Hersey, William Newton, Laura Shufelt

NAY: None

Charlie McLaughlin reminds the Board that there is an agreement of time on the record and to get an extension of time from the applicant.

Laura Shufelt clarifies that Mr. Flynn is offering more information from neighbors regarding noise and dust.

Brian Florence asks if it is certified.

Mr. Flynn indicates that is circumstantial but that they have had an engineering firm that did studies on Kohler's property and can get that information to the board.

CONTINUED TO JULY 8, 2009 at 7:00 PM

Laura Shufelt calls a 5 minute recess.

Back in session at 9:06 PM. Laura Shufelt then calls the EAC Disposal appeal and reads it into the record.

Appeal No. 2009-025 - Continued

**EAC Disposal, Inc.
Modification of Variance No. 1996-14**

Opened April 1, 2009, continued to May 20, 2009.

Members previously assigned: William H. Newton, Michael T. Hersey, Alex Rodolakis, Brian Florence, Laura F. Shufelt - Associates Members
Present: Nikolas J. Atsalis, George T. Zevitas

EAC Disposal, Inc., d/b/a Cape Resources Company has applied for a Modification of Variance No. 1996-14. The modification is sought to allow for revisions to the site that include a new wood processor and staging area, alteration to interior site circulation, and additions and alterations to screening berms and landscape. The property is addressed 280 Old Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 100 as parcel 008. The lot is in a Residence F Zoning District.

Attorney Charles Sabatt is asking for a continuance as they are re-thinking the design of the plan regarding the wood processor and staging area.

Laura Shufelt asks about August 5th.

Mr. Sabatt concurs with that date and will sign an extension at the next meeting.

Motion to move to August 5, 2009 at 7pm

Seconded

All in favor.

CONTINUED TO AUGUST 5, 2009 at 7:00 PM

Laura Shufelt then calls the Baker appeal. She indicates that they are reopening this appeal and reads it into the record.

Appeal Nos. 2009-023 & 024 - Continued Baker

Opened April 1, 2009, continued to May 20, 2009.

Continued to allow for the review of standing issues.

Members previously assigned: William H. Newton, Michael T. Hersey, Alex Rodolakis, George T. Zevitas, Laura F. Shufelt - Associate Member Present: Brian Florence

Appeal No. 2009-023 Bulk Variance for Merged Lots

Newton S. Baker Jr., and David R. Baker, acting in behalf of Ester S. Baker, have applied for a Variance to Section 240.13.E, Bulk Regulations and Section 240-36 Resource Protection Overlay District, Minimum Lot Area. The applicants seek to unmerge an undersized vacant lot of 35,000 sq.ft., from an abutting developed lot and to develop the lot with a single-family dwelling. The two undersized abutting lots having merged due to common ownership. The vacant lot is addressed 22 Curry Lane, Osterville, MA and the developed lot is addressed 44 Curry Lane, Osterville, MA. They are shown on Assessor's Map 142 as parcels 152 and 072. The lots are in a Residence C Zoning District and a Resource Protection Overlay District.

Appeal No. 2009-024 Special Permit Section 240.91.F, Nonconforming Lots

Newton S. Baker Jr., and David R. Baker, acting in behalf of Ester S. Baker, have petitioned for a Special Permit pursuant to Section 240.91.F, Nonconforming Lots, Merged Lots. The applicants seek to unmerge an undersized vacant lot of 35,000 sq.ft., from an abutting developed lot and to develop the lot with a single-family dwelling. The vacant lot is addressed 22 Curry Lane, Osterville, MA and is shown on Assessor's Map 142 as parcel 152. The vacant lot is addressed 22 Curry Lane, Osterville, MA and the developed lot is addressed 44 Curry Lane, Osterville, MA. They are shown on Assessor's Map 142 as parcels 152 and 072. The lots are in a Residence C Zoning District and a Resource Protection Overlay District.

Laura Shufelt indicates that they are reconstituting the Board.

Members assigned tonight: Brian Florence, Michael Hersey, James McGillen, William Newton, Laura Shufelt

Attorney Albert Schulz is representing the Baker's. He gives a summary of the relief being requested. He indicates that the applicants are the residuary legatees of the will of their mother, Esther Baker. In 1967 the lots were created by the land court plan and gives dimensions of the lots. He indicates that neither lots are near wetlands nor within any well head protection district and that the undeveloped lot is the only one is Oyster Hills. In 1990 they merged as they did not build or transfer ownership. He gives the 3 tests of a variance. He gives a definition of topography and that it includes the physical features of the lot. The location of that lot is a topographical feature and is unique to any in the subdivision. That results in a side yard that is almost an acre in area and under the Marshlian case it would not be economically feasible for this portion of the lot to be built for regular appurtenances that might be built on a large lot of this size such as a swimming pool or tennis court. None of those lots in the subdivision have a swimming pool or tennis court. This portion of the lot is relegated to open space. The literal enforcement of the ordinance of the combined lot would involve a substantial hardship, financial detriment to the applicants. The vacant lot is assessed and has been as a buildable lot. The applicants are willing to limit the construction on Lot 72 to 3 bedrooms, conform to Title 5 without variance, limit it to gross living area 3000 square feet, a shed limited to 120 square feet and will landscape on the perimeter, especially on the side of the yard to where the abutter, who is here tonight to object, lives. They would be happy that this will be full build out. .

Laura Shufelt asks Attorney Schulz if he has seen the correspondence about the special permit and variance from the Town Attorney. Mr. Schulz indicates that he has read it.

Art Traczyk hands Attorney Schulz a letter dated today regarding variances.

Attorney Schulz indicates that the position of the existing building on the lot relative to the side line creates a topographical condition.

Laura Shufelt asks if there is anyone from the public who would like to speak either in favor or in opposition.

Attorney Michael Ford speaks and indicates that he is here representing Jeff Eshbaugh. He indicates that his client's family owns the property which immediately abuts the subject lot and that the Jeff Eshbaugh has owned the property since 2001 which he rents occasionally during the summer. He indicates that the Eshbaugh's were under the impression that this lot had merged and become unbuildable. He indicates that they were to take it out of common ownership and that the Town gave them 5 years to do something and it appeared to his client that it merged and treated it as open space. Since 1990, it has merged and since then there has been another zoning change to make it 2 acre zoning in this area and that it still doesn't meet the new zoning requirement of 2 acres. He indicates that his clients believe that construction of a house on this parcel will contribute to traffic congestion and noise. Attorney Ford indicates that the 3 prong test is conjunctive and you have to meet all 3 requirements of it. He respectfully disagrees with Attorney Schulz that this creates a topographical condition. With respect to the shape, the shape of this lot is similar to other lots in the neighborhood and there is nothing unique about it. Shape has no nexus with the application of the bylaw to generate hardship. He talks about the *Ellis v. Town of Barnstable* case which summarizes that the merger was a conveyancing error. He would suggest that when you can't meet the test you can't grant the variance. He asks that there are no variance conditions on this lot and that the variance be denied.

Laura Shufelt asks if there is anyone from the public

Newton Baker Jr., speaks and looks at the aerial view and indicates that it does show Mr. Eshbaugh's lot set back on Ancient Way. From the time that his mother and father purchased the lots they have paid taxes as a buildable lot and were one of the first families in Oyster Hills. It is one of the largest lots in Oyster Hills and there is room to construct a home. He wants to be able to sell the lot like his parents bought many years ago. He indicates that putting the lots in separate ownership had been overlooked. It is the last lot in the neighborhood and asks the Board to let this variance go through.

Laura Shufelt indicates that there is one letter from Nancy Wilder Boudreau and reads it into the record.

Newton Baker indicates that Nancy moved in after his mother and father moved in and that there is an email from David Stepanis who had driven them to medical appointments. He indicates that the email indicates that his mother had said that the lot had always belonged to her boys.

William Newton would like to hear the case regarding the special permit.

Attorney Schulz gives the argument for the special permit. He indicates that he had read Town Attorney Weil's letter and suggests that is not the only interpretation and thinks that they have to look at all the words in the statute. They had two lots and are not asking for any more lots and this is his interpretation. He suggests that this is the section of the bylaw for people like the Baker's who failed to transfer their property in separate ownership.

William Newton talks about Weil's letter regarding adjusting the lot lines.

Attorney Schulz doesn't see that as the intent in the statute.

James McGillen gives his reason why he doesn't think this meets the standards.

Attorney Schulz doesn't think that the Ellis case is applicable.

Attorney Ford comments that where you have lots that have merged but to redraw the lot line you need a variance. He suggests that when a bylaw or ordinance is ambiguous and its taken away a right of a property owner then the cases seem to suggest that you interpret it favorably to the property owner who is losing the rights, but in this case, this is not a section that takes away rights but this is a grandfathering clause that purports to give rights to a limited class of lots. He doesn't believe special permit relief is available in this particular case for those reasons.

Newton Baker Jr., speaks again and indicates that his dad bought one lot first and then 5 years after that bought the other one and has paid taxes for many years separately as a buildable lot.

The Board discusses.

Brian Florence does negative findings:

In the matter of Newton S. Baker Jr., and David R. Baker, acting in behalf of Ester S. Baker relative to variance to Section 240-13(E) Bulk Regulations and Section 240-36 Resource Protection Overlay District Minimum Lot Coverage he would find that the unmerging of the lot would not be in keeping with the intent of the bylaw and further that the petitioner has not demonstrated unique hardship based on shape, topography or soil conditions. Also, the unmerging of the lots would create a nuisance and congestion to the neighborhood.

Vote:

AYE: Brian Florence, Michael Hersey, James McGillen, Laura Shufelt

NAY: William Newton

Brian Florence makes a motion:

In the matter of Newton S. Baker Jr., and David R. Baker, acting in behalf of Ester S. Baker he would vote to deny the variance for the reasons set forth in his findings.

Seconded.

Vote:

AYE: Brian Florence, Michael Hersey, James McGillen, Laura Shufelt

NAY: William Newton

VARIANCE DENIED

James McGillen comments that it seems to him that Mrs. Baker, wanted to keep this as long as they possibly could. Had she created this in a trust or separate portion, he doesn't want anyone to be concerned that it might have separated the title. He talks about the Serena case and separation would not have necessarily protected the two Baker brothers.

James McGillen does findings on the special permit.

On Appeal No. 2009-024, Special Permit Request Section 240.91.F, Nonconforming Lots. This is an application to unmerge an undersized vacant lot of 35,000 square feet from an abutting developed lot and to develop the lot with a single family dwelling. The vacant lot is addressed 22 Curry Lane, Osterville, MA and is shown on Assessor's Map 142 as parcel 152. Additionally the statute cited dates categorically that there is no additional buildable lot to be generated under this section.

Vote:

AYE: Brian Florence, Michael Hersey, James McGillen, Laura Shufelt

NAY: William Newton

James McGillen makes a motion to deny this special permit.

Seconded

Vote:

AYE; Brian Florence, Michael Hersey, James McGillen, Laura Shufelt

NAY: William Newton

SPECIAL PERMIT DENIED

Laura Shufelt indicates to the Board that the next meeting is June 10th.

Motion to adjourn

Seconded

Vote:

All in Favor

Meeting adjourned at 10:13 PM

