



Stratham Zoning Board of Adjustment Meeting Minutes
August 4, 2026
Stratham Municipal Center
Time: 7:00 pm

Members Present: Drew Pierce, Chair
Brent Eastwood, Vice Chair
Lucy Cushman, Member
Donna Jensen, Member

Staff Present: Vanessa Price, Director of Planning and Building

1) CALL TO ORDER/ROLL CALL/SEATING OF ALTERNATES

Mr. Pierce called the meeting to order at 7:08 pm and took roll call. Mr. Pierce stated for the record that there are four members present and have no alternates to seat. The Board will continue with a four-member board.

2) PLEDGE OF ALLEGIANCE

3) APPROVAL OF MINUTES

A. Meeting minutes from July 7, 2026.

Mr. Eastwood made a motion to approve the July 7, 2026, meeting minutes as written. Ms. Cushman seconded the motion. All voted in favor; motion passed 4-0.

4) PUBLIC HEARING (OLD BUSINESS)

Case #692: Cates Living Trust, Richard W. & Lynn A. Cates (Owner), request for a variance from Section 4.2 Table of Dimensional Requirements for continuous frontage for 37.5' of frontage for each new lot, where 200' is required for each new lot; and 75' currently exists for Lot 8. The location is 130 Winnicutt Road, Tax Map 14, Lot 8, in the Residential Agricultural Zoning District.

Mr. Pierce read the case file and asked the applicant to present.

Kevin Baum, from Hoefle, Phoenix, Gormley & Roberts LLC, is representing the owners, Cates Living Trust, Richard W. & Lynn A. Cates. Mr. Baum explained that the owners are requesting a variance from the frontage requirements to allow subdivision of their existing 9.28-acre property. The property is located in the Residential Agricultural (RA) Zoning District, which requires a minimum lot size of two acres. He explained that the owners propose to subdivide the property into two lots, allowing them to downsize from their existing home while remaining in Stratham by constructing a new home on the newly created lot where they can age in place.

Mr. Baum stated that the owners explored other development options, including a conventional subdivision with a new road. Based on the size of the parcel, he explained that the property could

potentially accommodate more than four lots by acreage, and the owners considered a three-lot subdivision. However, they chose not to pursue that option because their goal is to remain on the property while preserving the largely wooded rear portion of the parcel. He stated that the proposal allows the owners to make reasonable use of the property while maintaining its existing character.

Mr. Baum explained that the property is an existing nonconforming "pork chop" lot with only 75 feet of frontage. The proposal would continue to utilize the existing driveway and curb cut, with the frontage divided equally between the two proposed lots, resulting in 37.5 feet of frontage for each lot. The existing shared driveway would continue to serve both lots. He stated that the existing curb cut onto Winnicutt Road would remain unchanged, although the use of the driveway would be modified to serve two residences. He noted that approval from the New Hampshire Department of Transportation (NHDOT) would be required and that the proposal would be reviewed as part of that process. Mr. Baum explained that no changes to the roadway are proposed and that the driveway would generally remain in its current location. He added that the owners anticipate improving the existing driveway as part of the project to accommodate construction and to satisfy any conditions imposed by the Planning Board or Fire Department related to life safety. Mr. Baum informed the Board that the proposal had undergone a preliminary review by the Planning Board. He stated that the Planning Board's primary concern involved ensuring that emergency vehicle access and turnaround requirements were adequately addressed. He explained that the owners subsequently met with the Fire Department, which did not identify any significant concerns. While an initial turnaround area had been considered, discussions with the Fire Department indicated that emergency response could instead be accommodated by staging apparatus at the end of the driveway and extending hose lines to the proposed residence, with water supplied by tanker operations. Mr. Baum acknowledged that these operational details were beyond the scope of the variance request but wished to demonstrate that emergency access issues had been evaluated and would continue to be reviewed. He explained that, if the requested variance is granted, the owners would return to the Planning Board to seek subdivision approval, where additional review by the Fire Department would occur. Mr. Baum also addressed a comment in the staff memorandum regarding compliance with Section 4.3(H) of the Zoning Ordinance. He explained that the owners are not seeking relief from that provision and intend to modify the proposed lot configuration as necessary to comply with the ordinance. Accordingly, he stated that the only relief requested from the Zoning Board is a variance from the frontage requirement to allow both proposed lots to utilize the existing frontage, curb cut, and shared driveway.

Mr. Baum described the variance criteria for the case file into the record.

Mr. Baum explained that the first step in reviewing the variance criteria is to consider the public interest and the spirit of the ordinance. He stated that the New Hampshire Supreme Court has indicated these two factors should be considered together under the same standard of review. The Court's test, he explained, is whether the requested variance would alter the essential character of the neighborhood or threaten the public health, safety, or welfare.

Mr. Baum stated that neither concern is at issue in this case. He explained that the property is an irregularly shaped "pork chop" lot that has existed in its current configuration for many years and will remain so regardless of whether the variance is granted. The primary difference, he said, is that one additional home would utilize the existing driveway. Given that the parcel exceeds nine acres, he believed the impact would be negligible.

He further noted that the proposed lot is consistent with the surrounding neighborhood. Referring to the tax map submitted with the application, he stated that there are several similarly shaped lots with insufficient frontage in the area. As a result, he argued that the proposal would not alter the essential character of the neighborhood. He emphasized that the parcel is large for the area and that many nearby properties already share a similar configuration.

Mr. Baum contrasted the proposal with a conventional subdivision, which he stated is not the owner's preferred option. A conventional subdivision, he explained, would require construction of a new road that would technically satisfy the frontage requirements but would create additional lots, increase development, and have a greater impact on the neighborhood. By comparison, the current proposal places the new home as close to the existing driveway as possible while preserving the wooded rear portion of the property. He stated that this level of preservation would not occur under a conventional subdivision. Regarding public health, safety, and welfare, Mr. Baum stated that there would be no change to the existing access onto Winnicutt Road. The same curb cut would continue to serve the property, with the only change being one additional residence. He noted that the parcel could potentially accommodate up to four homes under a conventional subdivision and that, at a minimum, three homes could reasonably exist. He stated that adequate emergency access is available, the sight lines would remain unchanged, and the proposal would continue to be reviewed by the Planning Board and Fire Department. For these reasons, he concluded that the proposal poses no threat to the public health, safety, or welfare.

Mr. Baum next addressed the criterion of substantial justice, explaining that it requires balancing the loss to the owner if the variance is denied against any benefit to the public. He stated that he did not believe there would be any meaningful public benefit from denying the request. The parcel is substantially larger than the minimum lot size requirement, and the proposal preserves much of the property, particularly the wooded rear portion. He stated that the development represents only a modest use of the land while maintaining the existing residential character of the neighborhood and remaining consistent with other similarly configured lots in the area. Conversely, Mr. Baum stated that denial of the variance would impose a significant hardship on the owners. Without the requested relief, they would either be unable to develop a parcel that is more than four times the required minimum lot size or would be forced to sell the property and relocate from the community. He explained that their objective throughout the application process has been to remain on the property.

Mr. Baum addressed the criterion regarding property values. He stated that there is no evidence that the proposal would diminish surrounding property values. The project includes construction of a new code-compliant home and replacement of the existing driveway, both of which he believes would enhance the subject property and likely have a positive effect on nearby properties. He further noted that the proposal preserves the wooded rear portion of the parcel, maintaining a natural buffer for adjacent properties. In his opinion, there is no basis to conclude that the addition of one home on a parcel with sufficient area for additional development would result in any diminution of property values.

He then addressed the hardship criterion, explaining that it consists of three components. First, he stated that special conditions exist that distinguish the property from others in the area. He noted that the parcel is an existing nonconforming "pork chop" lot, and its overall configuration will remain unchanged regardless of whether the variance is granted. He added that even if a conventional subdivision with a new road were pursued, the overall character of the property would remain substantially the same. Mr. Baum further explained that the parcel is significantly larger than most properties in the area and contains a substantial wooded area to the rear. He also noted that the property contains no wetlands, a condition that was confirmed during the preliminary Planning Board review. As a result, he stated that the parcel is fully developable. However, rather than maximizing development potential, the owners are proposing a plan that creates only two lots while preserving much of the wooded rear portion of the property. For these reasons, he concluded that special conditions exist which distinguish the parcel from others in the neighborhood.

Mr. Baum next addressed whether there is a fair and substantial relationship between the general purpose of the frontage requirement and its application to this property. He stated that frontage requirements are intended to provide adequate separation between lots and maintain safe sight distances. In his opinion, neither objective would be adversely affected by the proposal. He explained that the overall configuration of the property would remain unchanged whether it contained one lot with one residence or two lots with

147 two residences. The proposal would continue to utilize the existing curb cut and shared driveway,
148 resulting in no change to existing sight distances. He further stated that the proposal would maintain
149 separation from neighboring properties because no structures are proposed within the frontage area along
150 Winnicutt Road. The only noticeable change, he said, would be the addition of one residence and a
151 minimal increase in traffic, which he believed would not be significant to neighboring properties. Baum
152 added that safe ingress and egress would continue to be reviewed as part of the Planning Board's
153 subdivision review process if the variance is granted. He noted that the project will require an amendment
154 to the existing New Hampshire Department of Transportation (NHDOT) driveway permit due to the use
155 change and that the Fire Department has already reviewed the proposal and will have additional
156 opportunities to provide comments during the Planning Board review process. Based on these factors, Mr.
157 Baum concluded that there is no fair and substantial relationship between the application of the frontage
158 requirement to this property and the ordinance's general purposes of providing separation between lots
159 and preserving sight distance. Finally, Mr. Baum addressed the requirement that the proposed use be
160 reasonable. He stated that the New Hampshire Supreme Court has held that a use permitted within the
161 zoning district is generally presumed to be reasonable. He explained that the proposal involves creating
162 one additional residential lot and constructing a second single-family residence within a residential zoning
163 district. Other than the requested frontage relief, the proposal complies with all applicable dimensional
164 requirements, including setbacks.

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166 Mr. Baum concluded that the proposed use is reasonable, that the hardship criterion has been satisfied,
167 and that all of the required variance criteria have been met. He requested that the Board approve the
168 application and stated that he would be happy to answer any questions from the Board.

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170 Mr. Pierce asked the Board if there were any questions for the applicant.

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172 Ms. Cushman asked if a shared driveway agreement was written up.

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174 Mr. Baum stated that they intend to have one and would be happy to make it a condition. He explained
175 the Cates have been very clear that they want a clear, strong shared driveway agreement to avoid any
176 issues. Mr. Baum stated that he didn't want to spend their money on legal fees until they knew this project
177 was moving forward. He also stated that he would anticipate the planning board would have the same
178 condition.

179
180 Ms. Cushman stated that shared driveways are notoriously contentious about parking and who plows and
181 who pays and who maybe doesn't pay, and it all needs to be documented and recorded.

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183 Mr. Baum is in agreement and stated that is the intent.

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185 Ms. Cushman stated that there are several pork chop lots in this neighborhood, and her concern is if the
186 Board approves one, they are opening the door to approve many more. She inquired of staff whether pork
187 chop lots are no longer allowed.

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189 Ms. Price stated they are not in the zoning ordinance.

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191 Ms. Cushman believes that pork chops are no longer allowed because a pork chop is a terrible idea for a
192 lot of reasons. She also explained that she located a recorded plan for the property description of 1973,
193 which states a 75-foot right-of-way to serve a single-family residence only; and if in 1973 they thought
194 this was good for one house. She stated that she is not interested in opening a Pandora's box for all the
195 other pork chop lots in Stratham, because there are quite a few. She stated that she personally lives on
196 Winnicutt Road, and at Acorn School, and the sight distance is terrible. She explained that Winnicutt
197 Road goes up a slight slope just beyond this before you get to Hume's Court turnoff, and she would be

very surprised if DOT thought it was a good idea, and doesn't know their criteria, but would be surprised if they didn't have an issue with it.

Mr. Baum stated he would like to address her comments. Mr. Baum responded that both the courts and the New Hampshire Office of Planning and Development have consistently stated that each variance application must be evaluated on its own merits and does not establish precedent for future applications. He stated that, in his opinion, this property is distinguishable from others due to its size and unique characteristics. Mr. Baum acknowledged that the recorded plan references a right-of-way serving a single-family residence but noted that circumstances and community needs change over time. He explained that the property's zoning permits a minimum lot size of two acres, reflecting an expectation that additional residential development may be appropriate on parcels of this size. Addressing the concern regarding sight distance, Mr. Baum stated that the existing conditions are what they are and emphasized that the proposal will be thoroughly reviewed by both the Planning Board and the New Hampshire Department of Transportation (NHDOT). He added that the alternative would be to construct a new subdivision road, which would allow additional development and could result in greater impacts than the proposal currently before the Board.

Ms. Cushman stated her concern that her interpretation was that Mr. Baum was attempting to threaten with a subdivision.

Mr. Baum clarified that he was not attempting to threaten or pressure the Board by discussing the possibility of a larger subdivision. Rather, he stated that he was trying to be candid regarding the owners' circumstances and the alternatives they had considered. He explained that the Cates wish to downsize while remaining on their property and explored the possibility of a conventional subdivision before deciding against it. He emphasized that a larger subdivision remains a realistic development option under the zoning regulations, but it is not the owners' preferred approach. Instead, they seek to create only one additional lot so they can remain in the community while preserving much of the property. Mr. Baum stated that he believed it was appropriate for the Board to consider this alternative when evaluating the current request. Addressing concerns about traffic and sight distance, Mr. Baum stated that the addition of one residence would likely generate only a minimal increase in vehicle trips, which he did not believe would have a significant impact on traffic or public safety. He acknowledged that the adequacy of the sight distance would ultimately be determined by the New Hampshire Department of Transportation (NHDOT), but stated that the existing conditions would remain essentially unchanged and that the addition of one residence would not, in his opinion, create any meaningful threat to the public health, safety, or welfare. Mr. Baum concluded by reiterating that his discussion of a conventional subdivision was intended only to provide context regarding the owners' decision-making process and not as a threat or attempt to influence the Board's deliberations.

Mr. Pierce asked if there were other questions from the Board. He stated he had a few to ask. The first question was if there may be any other relief you would need from the zoning board, based on the current plan.

Mr. Baum answered he didn't believe so.

Mr. Pierce asked when the home was originally built.

Mr. Eastwood answered 1979.

Mr. Pierce asked if a driveway was permitted with the construction of the house.

Ms. Price answered that it is on a state road, so she believes that would have complied with the DOT

standards at that time. She addressed the Board that stating DOT would ensure there is a proper permit in place for the property.

Mr. Pierce asked, in relation to the driveway that currently exists, whether it's going to stay in the same location and stay the same characteristics and quality.

Mr. Baum answered that was correct; the cut of the driveway wouldn't change. The expectation is that the driveway will be replaced and modified to the extent it may be needed or requested by planning or fire. The intent is to keep generally the same path.

Ms. Cushman asked how long the current driveway is.

Mr. Baum answered 600 feet.

Ms. Cushman stated concern that the fire hose wouldn't reach the home.

Mr. Baum clarified that the 75-foot by 75-foot building envelope shown on the plan is intended only to demonstrate compliance with the Zoning Ordinance requirement and does not represent the proposed location of the residence. He explained that the new home is intended to be constructed as close to the front of the property as practical, outside of the required building envelope, in order to reduce the length of the driveway and minimize disturbance to the remainder of the lot. Mr. Baum acknowledged concerns regarding the use of a shared driveway and stated that the owners are committed to establishing a comprehensive recorded driveway maintenance agreement. He noted that the owners will also be using the driveway and therefore have a shared interest in ensuring it is properly maintained, and the improvements are intended to enhance access, improve the appearance of the property, and benefit both the existing and future homeowners. Mr. Baum stated that they would have no objection to making a recorded shared driveway maintenance agreement as a condition of approval, noting that they anticipate the Planning Board would require such an agreement during the subdivision review process.

Mr. Pierce stated that these cases are not precedent-setting.

Ms. Cushman stated that she was concerned about the potential precedent of approving the application. She noted that neighboring properties, including the adjacent parcel and the Acorn School property, are also "pork chop" lots that could potentially seek similar relief. In her opinion, approval of the requested variance could encourage future applicants to argue that their properties are comparable and should receive the same consideration. Ms. Cushman expressed her concerns about Winnicutt Road and how it has changed over the years, specifically to traffic. She expressed concern that this could result in additional shared driveways along the roadway. She also disagreed with the characterization that one additional residence would generate only a minimal increase in traffic, stating that a new home would likely result in at least two, and possibly three or four, vehicles associated with the property.

Ms. Cushman clarified that her comments were not intended as a personal criticism of the owners. She stated that she understood and appreciated their desire to remain in Stratham, noting that she has lived in the community for many years herself. However, in her opinion, the proposal does not represent sound planning or an appropriate use of the property.

Mr. Baum acknowledged her concerns and understood her point. However, he believes it is a reasonable use for a nine-acre lot that allows people to make reasonable use of their property and for the owners to remain in place.

Mr. Pierce stated, without objection, he would like to open up the hearing to public comment and hear from neighbors, butters, and anyone wishing to speak on the application one at a time.

Ms. Price asked if there was a motion to open public comment.

Mr. Pierce answered without objection and took a vote to open public session. All voted in favor; motion passed 4-0.

Matthew Malone, 122 Winnicutt Road, explained he is here to defend the pork chop lot as he lives on a pork chop lot. He explained that he had spoken with the owners and met with them to discuss their plans. He acknowledged that, upon first learning of the proposal, he was very concerned about its potential impact on his property. Mr. Malone stated that, after meeting with the Cates, he understood that the proposed house would not be located where he had initially believed, as shown on the plan in a box, and that much of the existing wooded area behind his home would remain undisturbed. He noted that the owners indicated the house would be constructed farther from the neighboring properties than depicted on the conceptual plan. Mr. Malone stated that his concerns are to where the new house would be located. He stated that he had also spoken with several land use attorneys and understood that the conceptual building location shown on the plan may not ultimately be the location where a house could be constructed. As a result, he felt that the proposal was incomplete because he doesn't know the final house location, buffering, and screening between properties had not yet been determined. He stated that, if additional information were provided showing the proposed house location and adequate buffering to protect neighboring properties, he would be supportive of the proposal. However, based on the information currently available, he believed there was still uncertainty of where the final house would be. Mr. Malone submitted photographs to the Board identifying the location of his home, the subject property, the existing septic system, and the wooded area separating the properties. He explained that the tree cover was less dense than it appeared from the plans and that the amount of existing screening between the properties was more limited than some might assume. Mr. Malone also shared his experience of purchasing his property approximately ten years earlier after moving from Greenland. He explained that he had intentionally sought a property with greater privacy after living in a densely developed neighborhood. He recalled that, upon driving down the shared driveway to his home, the wooded setting and lack of visible neighboring houses made the property feel like an oasis. He stated that he purchased the property primarily because of the lot, its wooded setting, and the surrounding privacy rather than the house itself. He concluded by stating that the prospect of additional development on the neighboring property would be personally upsetting because of the potential impact on that privacy. However, he emphasized that he did not believe the owners intended to negatively affect the neighboring properties and understood their desire to remain on the land. Mr. Malone explained that the layout of his home and it was designed to take advantage of the wooded area on the neighboring property. He stated that both his bedroom and living room face toward the subject property with the expectation that the area would remain wooded. He added that, when purchasing his home, he conducted due diligence by reviewing the surrounding properties and concluded that the likelihood of additional residential development on the adjacent parcels was low due to frontage and other development constraints. He stated that preserving the privacy afforded by the surrounding wooded area was one of the primary reasons he chose to move to Stratham after previously living in a more densely developed neighborhood in Greenland. Although he commutes to Portsmouth for work, he said the privacy and rural character of his property made the commute worthwhile. He noted that he does not use curtains or window shades because of the level of privacy currently provided by the surrounding landscape. Mr. Malone stated that he could support the owners' proposal if a more complete development plan were available showing the exact location of the proposed house, the landscaping, buffering, and other measures intended to protect neighboring properties. In his opinion, such information could result in a solution that benefits both the owners and the abutters by allowing the owners to build while minimizing impacts on adjacent properties. However, he stated that, based on the information currently before the Board, he did not yet have sufficient assurance regarding those details. He expressed the opinion that frontage requirements serve not only public safety purposes, such as emergency access, but also help preserve the character of Stratham by limiting the placement of homes behind existing

residences. He emphasized that he was not questioning the owners' intentions and had no reason to doubt their representations. Rather, his concern was the lack of a finalized plan demonstrating how neighboring properties would be protected. He concluded by thanking the Board for the opportunity to speak.

Jennie Ann Plean, 126 Winnicutt Road, explained to the Board that she did a lot of research regarding this request. Section 4.2 of the Stratham Zoning Ordinance: The minimum continuous road frontage requirements are 200 feet for the residential agricultural district. This requirement is designed to preserve the area's rural spacing; granting a 37.5-foot frontage where 200 feet is required alters the essential character of the neighborhood. She explained that allowing a 37-and-a-half-foot frontage is essentially an 81 percent deletion of that standard rule, which the property is already legally non-conforming for a single lot. The Cates are asking to split the lot, creating two lots that fall drastically below the minimum standards of Stratham's 200-foot frontage. This standard preserves neighborhood character, ensures emergency access safety, and controls density. An 81 percent reduction down to 37 and a half feet creates an unsafe, congested bottleneck, which, in her opinion, is in violation of Section 4.2. Ms. Olean stated that forcing another lot on a flagpole lot or a pork chop lot configuration inserts an intrusive driveway and subsequent backyard construction directly adjacent to our property lines; the resulting loss of privacy, headlight glare, and stormwater runoff shifts will negatively impact surrounding home values. The property has had a functional primary home on it since 1979. The request for a variance to squeeze a second house under the lot is not a hardship imposed by the land. Winnicutt Road consists primarily of single-family homes with large, spacious lot layouts. The 200-foot rule exists for safety, privacy, density control, and emergency vehicles. Squeezing two lots into 37 and a half feet of frontage for each defeats the safety and spacing goals written in the local code. The letter all about is received by the Cates, written on June 6 of this year, stated that "Unfortunately, our house is older and larger than we need, and it is a lot to maintain. We would like to downsize without leaving Stratham, but building lots are hard to come by and very expensive." Ms. Olean stated that according to public records, they purchased this home for a little over \$422,000, and it's currently valued at over one million. If they sell, they certainly have more than enough money to buy or build anywhere they choose without causing the disruption they are asking for by this variance. I am perceiving this as an owner's desire to maximize profits by subdividing a lot that was never meant to be subdivided. They knew this when they purchased the lot; forcing a second house directly into a backyard of a pole lot fundamentally violates the master layout of the neighborhood. These plans, if approved, would set a dangerous precedent for our neighborhood. I am opposed to the proposed development. I have to say no variance should be granted. I have lived on Winnicutt for 35 years. I've lost pets to cars driving over that hill. My house is right there, right underneath that hill. I have to look five times before I pull out of my driveway to go to work. And this road, Winnicott, has become a transition between Hampton and Exeter. The traffic is unbelievable. The house that they want to sell that they're living in now is a four-bedroom house, multiple baths. It's a large property. If you think that only two cars are going to end up living in that property, that is not going to be the case. Normally, there are other people that live there. I don't know. I just feel that Winnicott Road is so overcrowded right now. We have another 47-lot proposed subdivision down the street on 90 Winnicutt. That's going to add to more traffic. I hear that you're saying that it's only one house, but this is going to have a direct impact to myself to all the abutters. I see the lights of this house of their house at night. I hear the noise, the tractor going back and forth. I just don't want to subject myself to another property back there. That was the reason why I moved from Hampton to Stratham 35 years ago. I love the quietness. I love the property, and I just enjoy looking at the field behind me, and I don't want to subject myself or any of the others to construction of a new home. When this home was redesigned and redeveloped before it was purchased, months of noise and vehicles and carpenters, and it was just ridiculous. Seven days a week, seven to seven. I called the town. I said, "Is there any rule to stop them from doing this seven days a week? I was told no. She stated she is not willing to expose myself to that kind of environment again. She concluded by thanking the Board for the opportunity to speak.

David Moisan, 6 Barnes Drive, stated that [Winnicutt] is a busy road, and we all know what happened to

Terry Barnes on that road. He asked the Board if they have received anything from a builder about putting a road into this particular area. He also inquired about whether the setbacks are all in line for septic and wells

Ms. Price stated that a road has not been presented to the Planning Board, but the applicant could better answer those questions.

Mr. Baum addressed the board for Mr. Moisan's comments. He responded that the preliminary design work had been prepared for a potential three-lot subdivision, including proposed septic systems and water service, and indicated that the concept appeared feasible. He clarified, however, that the work was only preliminary and that no formal engineering or permitting beyond the initial concept had been completed.

Mr. Moisan stated that he had conducted some research on the property and noted that financial considerations had been mentioned several times during the discussion. He acknowledged the owners' desire to remain in Stratham, commenting that it is a wonderful community and noting that he had lived there for 38 years. He also observed that there are significantly fewer undeveloped lots remaining in Town than there were when he first moved to Stratham. He further stated that, based on his understanding of the property's value, which he believed to be in excess of \$900,000, he found it difficult to conclude that the owners lacked other options to achieve their objectives.

Tim Mason, 110 Winnicott Road, stated he has nothing against the neighbors. He discussed that he previously looked at purchasing that property and he spent quite a bit of money on engineering to do a subdivision. Based on that work, he believed the property could potentially have supported three lots under the regulations in effect at that time. However, he stated that, under the current two-acre zoning requirements, he was uncertain whether even that level of development would still be feasible. Mr. Mason also noted that he previously served as Chair of the Planning Board and had reviewed numerous "pork chop" lots during his tenure. He stated that, in his experience, such lots were often created to allow a landowner to retain a house lot while conveying the remaining acreage to a family member, such as a son or daughter. He explained that he was uncertain how many of the existing "pork chop" lots in Stratham were originally created but did not believe the intent of those subdivisions was to later divide the frontage again into additional "pork chop" lots. In his opinion, if the owners wish to further develop the property, they should pursue a conventional subdivision rather than subdividing an existing "pork chop" lot. He expressed concern that approving this request could encourage similar applications, resulting in additional shared driveways and back-lot development throughout the Town. Mr. Mason also questioned comments regarding fire department access. He stated that he did not believe the Fire Department would respond to a structure fire by parking apparatus on the roadway and extending several hundred feet of hose to reach a residence. He suggested that such a scenario was unrealistic and expressed concern about emergency access to homes served by long shared driveways. Mason further stated that he believes there are other options available to the owners, including constructing an accessory dwelling unit (ADU), retaining ownership of the property, or renting the existing home. He added that, in his opinion, the State's recent ADU legislation is too restrictive because the maximum allowable size is not sufficient to meet many homeowners' needs. He noted that he had previously constructed an ADU and believed that the current size limitations, particularly when garages and covered porches are included in the calculation, make ADUs less practical than intended. Mr. Mason concluded by reiterating that his opposition was directed at the proposed subdivision of an existing "pork chop" lot rather than at the owners themselves. He stated that, in his opinion, if additional development is appropriate, it should occur through a conventional subdivision process.

Mr. Pierce asked if there was additional public comment.

Mr. Baum asked the Board if he could respond to the public comments.

453
454 Mr. Pierce answered yes.
455

456 Mr. Baum acknowledged the concerns expressed by neighboring property owners regarding the proximity
457 of a new residence to existing homes. He stated that the owners have committed to preserving the wooded
458 area at the rear of the property and do not intend to remove that portion of the woodland. He explained
459 that the application has not yet progressed to the stage where detailed site design, landscaping, or house
460 placement has been finalized, as those matters would be addressed during the subdivision review process
461 by the Planning Board. He added that the owners intend to locate the new residence toward the front of
462 the property and would be willing to preserve the existing stone wall and the wooded area behind it. Mr.
463 Baum also noted that, regardless of the requested frontage variance, the existing lot could accommodate a
464 new residence anywhere on the property provided it complies with applicable setback requirements. He
465 explained that the relief requested pertains only to frontage and does not alter the locations where a
466 residence could otherwise be constructed on the existing lot. Addressing concerns regarding public safety,
467 privacy, neighborhood density, and emergency access, Mr. Baum stated that the requested frontage
468 variance does not directly affect those issues. He reiterated that the proposal has been reviewed by the
469 Fire Department and will continue to undergo review by the Fire Department, the New Hampshire
470 Department of Transportation (NHDOT), and the Planning Board as part of the subdivision approval
471 process. He further stated that the requested frontage relief applies only to the frontage along Winnicutt
472 Road and does not affect privacy or the permissible building area on the existing lot. Mr. Baum also
473 responded to comments suggesting that the owners should pursue a conventional subdivision if they wish
474 to develop the property. He stated that the owners intentionally chose not to pursue that option because it
475 would have a substantially greater impact on the neighborhood. In his opinion, a conventional subdivision
476 would require construction of a new road, additional clearing of the wooded area, and additional
477 residential lots, resulting in greater traffic and more significant changes to the character of the property.
478 He explained that the owners' objective is to avoid those impacts while allowing one additional residence
479 on the property. In closing, Mr. Baum emphasized that the property consists of more than nine acres in a
480 zoning district with a minimum lot size of two acres. He stated that the proposal would create two lots of
481 approximately four acres each, with both lots substantially exceeding the minimum lot area required by
482 the Zoning Ordinance. In his opinion, the proposal represents a reasonable use of the property. Mr. Baum
483 concluded by thanking the Board for its consideration.
484

485 Ms. Price addressed the Board that her office had received public comment in support of the project and
486 read the email into the record. On Tuesday, July 7, our department received this email at 5:06 p.m. from a
487 property owner. It says, "My name is Jim Perrin, and I own the property at 132 Winnicott Road. I'm just
488 letting you know that I'm in favor of the petition of Rick and Lynn Cates at 130 Winnicott Road. Thank
489 you, Jim Perin."
490

491 **Mr. Pierce stated he would like to take a vote to close public session. All voted in favor; motion**
492 **passed 4-0.**
493

494 Ms. Cushman noted that the only abutter who spoke in support of the application owned a "pork
495 chop" lot, and that, in her opinion, could also potentially be subdivided. She stated that this
496 observation was relevant to the discussion regarding potential precedent of approving these types
497 of requests. Ms. Cushman further stated that Stratham is a small community and acknowledged
498 that some of the speakers appeared to know one another. She clarified that, other than knowing
499 Tim Mason, there had been no discussions with the owners, abutters, or other participants
500 regarding the application outside of the public hearing. Ms. Cushman commended the
501 neighboring property owners who had researched the property's history and stated that, through
502 that research, they had located the recorded 1973 subdivision plan. She noted that the plan

identifies the 75-foot right-of-way as serving a single-family residence and stated that, in her opinion, purchasers of neighboring properties could reasonably rely on the restrictions shown on a recorded plan. Ms. Cushman stated that she believes the Board has a responsibility to maintain the integrity of prior Planning Board approvals and recognized that neighboring property owners may have purchased their homes with the understanding that the property would remain as shown on the recorded plan. She added that she believes prospective property owners should research surrounding properties before purchasing, noting that neighboring land may have future development potential. In this instance, however, she stated that she believed the neighboring property owners had exercised that diligence and purchased their properties in good faith based on the recorded plan. Ms. Cushman concluded by stating that, based on these considerations, she intended to vote against the requested variance.

Ms. Price asked the Board if she could comment on the recorded 1973 plan. She stated that she also spoke with town legal counsel. She explained that the note on the plan does not prohibit further subdivision. It's more about saying that 75 foot right of way to serve the serve a single-family resident only. It could be interpreted as a restriction, but it doesn't prohibit subdivision under the law. That, in her opinion, it's saying it should be for residential use.

Mr. Eastwood stated it doesn't say residences; it says residence.

Mr. Pierce stated he thought that could have been the intent of the right-of-way.

Ms. Cushman stated that it says to serve a single 75-foot right-of-way to serve a single-family residence only.

Mr. Pierce's interpretation is that the intent could have been to build a single-family residence, and someone said that's all that driveway is serving.

Ms. Cushman clarified that she was on a prior planning board before and that the original intent behind the creation of "pork chop" lots. She explained that, at the time, a property owner might have a 20-acre parcel with only 200 feet of frontage. Without constructing a subdivision road, the owner would otherwise be limited to a single lot. Therefore, she explained, the planning board allowed pork chop lots- a one-time only, no further subdivision allowed- and that was the intent of the zoning at that time.

Ms. Cushman acknowledged that others may have a different interpretation but stated that she was present when those policies were adopted and believed that this was the Planning Board's intent at the time. She further concluded by stating that stated that "pork chop" lots were a bad idea, and the Town no longer allows them to be created.

Mr. Eastwood wanted to clarify whether pork chop lots are no longer in the Zoning Ordinance.

Ms. Price answered that the voters of the Town voted to take it out of the Ordinance. The relief the applicant is seeking today is from a dimensional requirement.

Mr. Eastwood stated that they would be creating a second pork chop lot, another non-conforming lot; that is the variance request we are looking at tonight.

Ms. Price answered that the lot currently stands as a non-conforming lot of record.

Mr. Eastwood stated that he had an issue with that, as he hasn't heard enough compelling evidence on the

criteria to overcome creating another pork chop lot, also taking into consideration the abutter comments.

Mr. Pierce stated that there is a disagreement over the intent of the plot plan, and he wasn't there in 1973, and in his opinion was concerned that it could be misinterpreted [1973 Subdivision plan], and would cause a hardship to the applicant.

Ms. Cushman stated there are all pork chop lots in the area.

Mr. Pierce stated his opinion that there is a uniqueness to this lot, compared to the other pork chop lots. He believes that the other pork chop lots in this area all have an independent driveway to each house, and that goes through that small part of the pork chop. He commented that this proposal is not adding another driveway and not changing the character of the neighborhood.

Ms. Cushman stated her concern about the additional traffic and safety would be added by the proposed subdivision.

Mr. Eastwood stated that the Board should focus on the specific variance request before it. He noted that the application seeks relief to reduce the existing nonconforming frontage from 75 feet on a single lot to 37.5 feet of frontage for each of the two proposed lots.

Mr. Pierce stated that the zoning board exists because there are lots that we need to provide relief on because not all lots are created equally, and our job is to find out if there's a uniqueness to the situation, and if it's a reasonable request. He commented that, in his opinion, it's a reasonable request to put a single-family home in a neighborhood full of single-family homes, when the lot, in its current state, is nine acres. He commented that they are not putting in another driveway in that 75 feet; in his opinion, they are minimizing the impact if the Board were to approve it. Mr. Pierce acknowledged the concerns expressed by neighboring property owners regarding privacy. However, he noted that the existing lot could be further developed within the limits of the current zoning regulations. He explained that the existing residence could be rebuilt in a different location if necessary and that the property owner could also remove trees from the property, potentially affecting the level of privacy currently enjoyed by neighboring properties. Mr. Pierce stated that, in his opinion, it is not the Board's role to determine whether neighboring property owners may experience a loss of privacy. Rather, he believes the Board should focus on whether the request is reasonable in light of the unique characteristics of the property and whether the requested frontage relief is justified. He noted that the proposed lots comply with all other applicable dimensional requirements, with the exception of frontage. Mr. Pierce further commented that, if every application met all requirements of the Zoning Ordinance, there would be no need for the Zoning Board of Adjustment. He stated that the Board exists to consider reasonable requests for relief in situations involving unique property characteristics. In closing, Mr. Pierce stated that he believed the applicants' desire to remain on their property after living there for many years was reasonable. He also noted that buildable lots are increasingly difficult to find in Stratham and, in his opinion, the proposal satisfies the remaining variance criteria.

Ms. Jensen commented that making a non-conforming lot more non-conforming makes her feel uneasy. She explained that, as part of an HOA with those constant disagreements, driveway agreements are almost worthless. She commented that it's a very old road [Winnicutt]. In her opinion, the Board should be doing things to minimize conflicts between adjacent properties, and she's not sure this really does that. Ms. Jensen stated that it would exacerbate the possibility or likelihood of difficulties. In her opinion, she doesn't think the Board should approve the variance.

Mr. Pierce addressed the Board that they should go through each criterion before the Board makes any decision.

Mr. Pierce started with the first criterion. In his opinion, Mr. Pierce stated that the first criterion of the variance is that the variance will not be contrary to the public interest because the applicant has stated that the lot conforms to everything except for the road frontage, which is why it's being requested to provide relief; It's a very large lot; It's going to serve a single-family home, which is permitted use in that zoning district; It maintains the character of the neighborhood by being a single-family home.

Ms. Cushman commented that the Board has heard her reasons why she doesn't think it's in the public interest.

Mr. Eastwood stated he believed the public voted for 200 feet of frontage, and we would be taking one that's 75 and making two that are half that.

Ms. Jensen stated she is in agreement with Mr. Eastwood.

Mr. Pierce commented that the second criterion is that the spirit of the ordinance is observed because it is tied to the previous criteria and would echo his previous comments from criterion number one.

Ms. Cushman commented that she would say the spirit of the ordinance is 200 feet, and this is 37 and a half; in her opinion, this is not observed.

No other comments by the board for criteria number two.

Mr. Pierce commented that criteria three is that substantial justice is done in the granting of this relief; in his opinion would be providing a reasonable solution to a problem that exists on a unique lot, giving them a building lot so they could stay in town, and it seems like a very low impact, lower impact than alternatives that have been presented.

Ms. Cushman commented that she is in disagreement. In her opinion, making a non-conforming lot more non-conforming is not just and not fair to the people who bought, thinking it wasn't going to be subdivided.

Mr. Pierce commented that, in his opinion, under criterion four, the values of surrounding properties are not diminished. I would suggest that new construction in a neighborhood brings up the values of surrounding homes. He asked for additional comments from the Board.

Ms. Cushman stated she has said it already.

Mr. Pierce addressed the board, stating that we owe the applicant to get these on record.

Ms. Cushman stated, in her opinion, if everyone says it's not setting a precedent, but looking at all the other pork chop lots in the neighborhood, I think we could be opening Pandora's box, and I do think that would diminish the value of the surrounding properties with increased traffic on Winnicott Road in an area that doesn't have great sight distance.

Mr. Pierce commented that the Board needs to remember we're thinking about one driveway, even though there are two property lines there, so the sight line isn't going to change now.

Ms. Cushman commented that it would cause more traffic.

Mr. Pierce commented that we can't predict how that traffic goes, and I think that's more up to the state.

Mr. Pierce commented that criterion five is the last criterion; literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. For the purposes of this subparagraph, unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area, a no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because, in his opinion, we are telling someone that has nine acres of land that they can't divide that into two lots, even with a shared driveway. Mr. Pierce stated that creates a hardship for the owners. He stated that they can't stay in the existing house because of the size and the maintenance required. In his opinion, it would be causing an unnecessary hardship to the applicant by a denial.

Ms. Cushman stated that in her opinion, the hardship is financial, and the Board shouldn't be making another non-conforming lot because of a financial hardship. She expressed that it is self-imposed, and if they want to stay in Town and they don't feel like they can afford to buy another lot and town and buy a house, it is not a good enough reason to change the zoning.

Mr. Eastwood commented that the property was purchased as it was, knowing the conditions, and it's non-conforming already.

Mr. Pierce commented that the second part of criteria five is that the proposed use is a reasonable one. In his opinion, he believes it is reasonable because it's a single-family home on a lot that is well over the two-acre minimum, meets all the other setback requirements, well radii, and will support a septic system. There are no wetlands on the property. It seems like a very reasonable request based on the uniqueness of the property. Mr. Pierce asked if the Board had any other comments from the board before a motion is made.

Ms. Cushman made a motion that the Zoning Board of Adjustment deny the request for a variance from Section 4.2, Table of Dimensional Requirements, for continuous frontage for 37.5 feet of frontage for each new lot, where 200 feet is required for each new lot, and 75 feet currently exists, as the zoning board has determined that the application does not meet all the variance criteria, subject to the board's deliberation. The spirit of the ordinance is not observed because this is making a non-conforming lot more non-conforming by limiting frontage, and literal enforcement of the provisions of the ordinance would not result in an unnecessary hardship by special conditions of this property. Mr. Eastwood seconded the motion. Ms. Jensen -Aye, Ms. Cushman – Aye, Mr. Eastwood – Aye, Mr. Pierce – Nay. Motion passed 3-1.

5) PUBLIC HEARING (NEW BUSINESS)

- A. Case #693: Steven & Amy Houle (Owners) request a variance from Section 4.2 (Table of Dimensional Requirements) of the Stratham Zoning Ordinance to permit the construction of an eight-foot-high privacy fence located twenty (20) feet from the front setback on a corner lot, where a minimum thirty-foot (30-foot) front setback is required. The property is located at 4 Tilton Drive, Stratham, New Hampshire 03885, Tax Map 6, Lot 215, within the Wetlands Conservation Overlay District and the Residential Agricultural Zoning District.

Mr. Pierce read the case file and asked the applicant to present.

Mr. Houle presented his project before the Board; he is requesting to install an eight-foot-tall brown vinyl fence along the Bunker Hill Road side of my property. He described that the fence would run in

a straight line along that side of the property and would not extend toward or impact any neighboring properties, and that the primary purpose of the fence is safety. Mr. Houle has two young boys, ages one and three, and Bunker Hill Road has become somewhat of a cut-through road and can be fairly busy. His family is looking to install the fence to provide additional safety and separation between the yard and the road. He explained that there is currently a single line of trees running along the road, which provides some separation. However, the former driveway for the property cuts through the tree line, creating a significant opening and essentially providing direct access from the property to the road. Mr. Houle's opinion is that the fence would help close off that opening and provide a physical barrier between the yard and the roadway. His variance request identifies a setback of 20 feet in order to provide some flexibility and ensure compliance during installation. Mr. Houle has had the fence company and a surveyor come to the property, and we have placed stakes to determine the anticipated location of the fence. Based on that work, he expected the fence would actually be approximately 20 to 25 feet, and potentially as much as 28 feet, from the road; therefore, perhaps it would only be a few feet short of the required 30-foot setback. Mr. Houle's reasoning for locating the fence there is the existing tree line, and the configuration would generally be the road, followed by the existing trees, then the proposed fence, and then the remainder of the property. The fence would be entirely on my property, would run in one straight line along Bunker Hill Road, and would not have any openings. Mr. Houle discussed the variance criteria for the record.

In Mr. Houle's opinion, he doesn't believe granting the variance would be contrary to the public interest. The fence would be located far enough from the roadway that it should not interfere with the road or create a health or safety concern. There would also be no impact on neighboring properties.

He also believes the request is consistent with the spirit of the ordinance because it is a reasonable request intended primarily to improve safety and reduce some of the impacts of road traffic and noise on the property. He commented that his neighbors have also been supportive of the proposed fence.

Mr. Houle explained that substantial justice would be done by granting the variance because denial would limit our ability to provide the level of safety we are seeking for our young children. This is particularly important because of the existing opening in the tree line created by the former driveway, which provides relatively unobstructed access toward the road. Mr. Houle commented that there are wetlands on one side of the proposed fence, and he met with the Conservation Commission prior to discussing the wetland impact. That portion of the property is actually where he is most concerned about safety because the former driveway and opening in the tree line are located there. They have planted some small trees in that area, but they are not currently large enough to provide an effective barrier for young children. The proposed fence would provide a physical barrier and help prevent the children from accessing the roadway.

Mr. Houle explained the values of surrounding properties. He stated that the proposed fence is not anticipated to negatively affect surrounding property values. The fence would have limited visibility from the roadway due to existing trees located between the road and the proposed fence. Mr. Houle explained that an eight-foot fence was considered reasonable for the property and that a six-foot fence had also been considered because it would not require a permit. However, due to the elevated location of the house and the existing site grading designed to accommodate drainage, he determined that an eight-foot fence would better provide the intended screening and privacy.

Mr. Houle explained that due to the elevation of the house, a shorter fence would not adequately screen the direct line of sight from the roadway to the residence. The additional height of the

752 proposed eight-foot fence would provide greater privacy and screening and was considered
753 reasonable for the residential property. He stated that the property is uniquely affected by its
754 configuration and location as a corner lot. The property previously contained a driveway, and the
755 residence is exposed to two road frontages. Mr. Houle noted that no fence is proposed along the
756 less-traveled roadway; rather, the proposed fence would be located along the Bunker Hill Avenue
757 side of the property, where additional screening is desired. Mr. Houle referenced the submitted
758 plan showing the approximate location and extent of the proposed fence. The Applicant also
759 identified the nearby wetlands as a primary consideration in determining the fence location and
760 stated that the fence would be positioned to maintain the required 25-foot no-disturbance setback
761 from the wetlands.

762 Ms. Cushman asked if the only fencing proposed is facing Bunker Hill, not fencing in the backyard.

763
764 Mr. House confirmed it was a fence along Bunker Hill.

765
766 Mr. Eastwood asked that if he [Mr. Houle] is looking to seek 25 feet to 28 feet, why not keep it out of
767 the setback of 30 feet?

768
769 Mr. Houle explained that locating the fence farther into the property would place it within the portion
770 of the yard where the children typically play. He expressed concern that this configuration could
771 allow the children to run around the end of the fence and toward the roadway. Placing the fence
772 closer to the road would provide a greater separation between the children's play area and traffic and
773 would therefore improve safety.

774 Mr. Houle acknowledged that the difference in setback would not determine whether the project
775 could proceed and stated that the fence could be located at the required 30-foot setback if necessary.
776 However, he requested approximately five additional feet toward the roadway to provide greater
777 separation and protection from Bunker Hill Avenue based on how the yard is currently used. He
778 explained the plan before him and showed a surveyor's sketch.

779
780 Ms. Cushman asked about the sight line, and if it would be limited by the installation of the fencing.

781 Mr. Pierce asked about the maintenance of the trees that would be on the other side of the fencing,
782 and the jurisdiction of the roads.

783 Ms. Price answered that Bunker Hill is a state road, and Tilton is still under construction.

784 Mr. Pierce asked what the additional next steps would be.

785 Ms. Price stated that Mr. Houle needed to have a conditional use permit from the planning board, and
786 if this board and the planning board grant the requests, he can pull a building permit. She explained
787 that a building permit is needed as it is over eight feet and is a structure by our definitions

788 Mr. Pierce said that they are only looking at the setback.

789 The Board discussed the two front setbacks due to being a corner lot.

790 Mr. Pierce asked for clarification regarding the proposed location of the fence. He noted that the
791 property includes Bunker Hill Avenue, a stone wall, and an existing line of trees or vegetated buffer,
792 and asked approximately how much distance would remain between the existing tree line and the
793 proposed fence.

794
795 Mr. Houle replied that he anticipated it was ten feet or so, where the trees stopped.

796 Mr. Pierce asked if he were to move the fence to the 30-foot setback, it would still be out of the
797 natural tree line. Mr. Houle said it would be about a yard between the trees and the fence.

798 Mr. Pierce asked if the brown color of the fencing was to camouflage into the tree line.

800 **Mr. Pierce asked if there were any more questions from the board before they vote to open public**
801 **meeting or public hearing. Mr. Pierce motioned to close. All voted in favor; motion passed 4-0.**

802
803 **Mr. Eastwood motioned to open public session. Mr. Pierce stated to rescind the prior motion before**
804 **moving forward. Ms. Cushman seconded. All voted in favor; motion passed 4-0.**

805
806 **Mr. Pierce motioned to open the public hearing. Ms. Cushman seconded. All voted in favor; motion**
807 **passed 4-0.**

808
809 Mr. Pierce noted there was no one in the audience for the record,
810 Ms. Price stated that there was no public comment sent to her office.

811
812 **Mr. Pierce closed the public hearing. Mr. Eastwood seconded. All voted in favor; motion passed 4-**
813 **0.**

814 Mr. Pierce stated that the Board should go through the variance criteria.

815 Ms. Jensen noted that the area along Bunker Hill Avenue is heavily vegetated in some locations but
816 includes openings in the vegetation, including near a neighboring driveway. She commented that,
817 although the issue was not directly related to the variance request, the property is located along a busy
818 roadway and may be affected by vehicle headlights and other roadway impacts. Ms. Jensen suggested that
819 vegetative buffer planning or similar guidance could be beneficial for homeowners facing these types of
820 conditions and noted that this may be a recurring issue for residential properties along busy roadways.

821 Mr. Eastwood commented that it's a relatively small ask, but he would hate to approve something so close
822 to what could already be conforming, but it is a relatively small ask.

823 Mr. Pierce discussed alternatives that could be constructed in compliance with the existing regulations,
824 noting that the Applicant could potentially install a six-foot fence within the setback and an eight-foot
825 fence at the required 30-foot setback. He stated that, in comparison, the requested relief appeared
826 reasonable and was not considered excessive. Mr. Pierce noted that the proposed fence would be located
827 partially within the existing vegetated buffer and that the vegetation would continue to mature over time.
828 The proposed brown color would also help the fence blend with the surrounding area. He further
829 commented that the fence could reduce the impact of vehicle headlights on nearby properties and may
830 provide some benefit to neighboring residences. Mr. Pierce stated that the proposed setback reduction was
831 unlikely to be readily noticeable from the roadway, negatively affect surrounding property values, or alter
832 the character of the neighborhood. He further stated that the request appeared consistent with the spirit of
833 the ordinance and represented a reasonable use of the property, particularly given the unique
834 characteristics of the lot as a corner lot.

835
836 Mr. Eastwood was in agreement that it is a corner lot and on a busy road.

837 Mr. Pierce stated that the Board should go through the criteria one by one and just comment on it.

838 Mr. Pierce described the first criterion: the variance will not be contrary to public interest, and the
839 applicant's comments are exactly right. The post fence may not entirely interfere with traffic, public
840 access, utilities, drainage, or neighboring properties. The intent of the fence doesn't go against public
841 interest, or the implementation of the fence doesn't affect public health, safety, or welfare. He asked the
842 Board if anyone had additional comments to add. There were no other board comments.

843
844 Mr. Pierce described the second criterion: criterion two is that the spirit of the ordinance is observed
845 because the ordinance does allow an eight-foot fence. In his opinion, the requested relief would allow the
846 fence to be located in an area that may be less visually intrusive than if it were placed farther into the yard
847 in compliance with the required setback. He also suggested that the Board consider a condition requiring
848 the fence to be brown, noting that a white fence would likely be more visible from the roadway and could
849 have a greater visual impact on the surrounding area.

850 Mr. Eastwood commented that if we do agree to approve it, we need to have a condition that it's only

applicable to the Bunker Hill frontage.

Ms. Cushman agreed.

Mr. Pierce described the third criterion: in his opinion, substantial justice is done because the applicant will benefit from the decreased noise and light pollution on the property, the safety of his children and animals, and he doesn't see any negative aspect of this to any of the neighbors, any of the passersby, any of the abutters, or residents. A fence is a safety issue.

Mr. Pierce described the fourth criterion: in his opinion, the values of surrounding properties are not diminished because he thinks that a fence doesn't detract from property value; it adds to the neighborhood. It only increases the value of one property, but it doesn't take away from the value of another.

Ms. Cushman agreed.

Mr. Pierce described the fifth criterion: in his opinion, the literal enforcement of the provisions of the ordinance will result in an unnecessary hardship. For the purposes of the subparagraph, unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area, no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.

Mr. Cushman and Mr. Eastwood were in agreement.

Mr. Pierce stated his opinion for criterion 5B: the proposed use is a reasonable one because it's a small adjustment, and going to be done tastefully and professionally according to the applicant that we've been presented with. He asked if the board was ready to make a motion and any conditions?

Mr. Eastwood said to specify the Bunker Hill side.

Mr. Eastwood made the motion that the Zoning Board of Adjustment grants the request for a variance from section 4.2, table of dimensional requirements of the Stratham Zoning Ordinance, to permit the construction of an eight foot high privacy fence located 20 feet from the Bunker Hill Road front setback on a corner lot, where a minimum of 30-foot front setback is required, as the Zoning Board of Adjustment has determined that the application meets all the variance criteria subject to the board's deliberations. Ms. Cushman seconded. All voted in favor; motion passed 4-0.

Ms. Price addressed the board with their findings of fact. Mr. Pierce stated it was under the criterion above. He addressed the applicant's appeal period timeline of 30 days.

B. OTHER BOARD BUSINESS

Ms. Price introduced Matthew Malone and his application to become a full ZBA member. Mr. Malone discussed his interest in volunteering with the town and has lived in the community for a long time. The Board thanked Mr. Malone for his time, and his application will go before the Select Board's next meeting for consideration.

C. ADJOURNMENT

Mr. Eastwood made a motion to adjourn the meeting at 9:22 pm. Mr. Pierce seconded the motion. All voted in favor; motion approved.

Respectfully submitted by Vanessa Price