



## **ZONING BOARD OF ADJUSTMENT**

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### **Meeting Minutes**

**March 22, 2012**

Members in attendance: Rob Sylvester, James Smith, Lue Snyder, and Bob Srnec. Also present was Wendy Keane, Land Use Clerk.

Excused absence: Mike Tabory, Lue Snyder.

Public in attendance: MaryJane Morgan, Stanley Banks, Lynn Sprague, George Ellis, Pastor Robert Walsh, Sally Riley and Robert Riley.

Chairman Smith called the meeting to order at 6:14 pm

Chairman Smith stated that the first item on the agenda is the election of officers.

MOTION: Bob Srnec moved to appoint James Smith as Chairman. Seconded by Rob Sylvester. Motion carried 3-0.

MOTION: James Smith moved to appoint Mike Tabory as Vice Chair. Seconded by Bob Srnec. Motion carried 3-0.

Chairman Smith opened the meeting for public comment. There being no public present he then closed the session.

Chairman Smith explained to the applicants that because there is a quorum for the meeting, however not a full Board, they have the option of continuing the hearing until such time that there is a full Board. Pastor Walsh chose to continue with the hearing.

1. Case 2012-2: Request for Waiver of Dimensional requirement per Article VIII, B.  
Applicant Nute Ridge Bible Chapel, Pastor Robert E. Walsh. Property located at Map 44 Lot 26 on Nute Rd, Milton, NH in the Low Density Residential District.

Chairman Smith opened the floor to Pastor Walsh to speak on behalf of the application.

Pastor Walsh stated that although there is discrepancy with the back lot line and he is uncertain based on that line if they need to apply for a waiver, however, to cover all bases they are seeking a waiver from the Table of Dimensional Requirements because a shelter and holding site for oil

tanks they constructed on the rear of the structure as well as a small area of the stairs encroach into the setbacks as proscribed in the Milton Zoning Ordinance. Pastor Walsh stated that there is no impact to the abutters as the structure has been present for some time now. He presented a site plan showing the encroachment which had been prepared by Norway Plains.

Chairman Smith explained to the Board that the application they have in front of them is for a Special Exception solely because the Board has not approved an application for a waiver of dimensional requirement.

Chairman Smith inquired if there were any other questions or comments from the public. Pastor Walsh spoke on the criteria for an Equitable Waiver of Dimensional Requirement.

1. The violation was not noticed or discovered until after a structure in violation had been substantially completed, or a lot or other division of land in violation had been conveyed to a bona fide purchaser for value.

Ans: The Church was not aware they had encroached upon the lands until they began to prepare a site plan for a future addition and it was discovered.

2. The violation was caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in the interpretation or administration of this ordinance by the Code Enforcement Officer.

Ans: The error was an oversight of the Church, builders and inspectors at the time of construction.

3. The violation does not constitute a nuisance, diminish the value of properties in the area, or adversely affect any present or permissible future uses of the premises.

Ans: The structure is not visible as it is in the rear of the property and there are woods to the rear and side of the property.

4. Weighing the cost of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained in requiring the violation to be corrected.

Ans: If the structure were to be moved it would be a costly endeavor to remove the concrete which the oil tanks sit in as well as the stairs. The oil tank would then have to be placed in a different area which could be visible to abutters.

MOTION: James Smith moved to accept the application noting it is the wrong application due to not having a proper application in office, however will accept application "as is" as appropriate and complete. Seconded by Bob Srnec. Motion carried 3-0.

MOTION: James Smith moved to enter executive session. Seconded by Rob Sylvester. Motion carried 3-0.

The Board discussed the application as presented.

The Board voted on the criteria for a waiver individually, with the outcome of all criteria passing unanimously which led to the following motion:

MOTION: Based on the passing of all criteria by a unanimous vote of the Board, the Board hereby grants the Equitable Waiver of Dimensional Requirement to the Nute Bible Church. Seconded by Rob Sylvester. Motion carried 3-0.

MOTION: James Smith moved to accept the meeting minutes of October 27, 2011 as written. Seconded by Bob Srnc. Motion carried 3-0.

MOTION: James Smith moved to accept the minutes of January 26, 2012 with the correction that the second to last motion note Lue as the person to second. Seconded by Bob Srnc. Motion carried 3-0.

MOTION: Rob Sylvester moved to adjourn. Seconded by Bob Srnc. Motion carried 3-0.

Meeting adjourned at 7:37pm.

Respectfully submitted,

Wendy L. Keane  
Land Use Clerk