

**Newfields Zoning Board of Adjustment**  
**May 29, 2024**

Attendance: Chairman Kent Lawrence, Betsy Coes, Steve Yevich, Bob Elliott, and alternate Catherine Tarnowski. Jack Steiner and alternate Scott Sakowski were absent from the meeting.

**Guests:** Jason Ward and Kevin M. Baum, counsel for Jason Ward

Chairman Lawrence called the meeting to order at 7pm and introduced the Board Members above. Tonight's case:

1. Case #24-03-27-01—continued hearing. A variance application submitted by Hoefle, Phoenix, Gormley & Roberts PLLC, on behalf of applicant Jason Ward, 11 Swamscott St., Newfields, seeks relief from Article III, Schedule 3.4.2-Schedule 2 to allow a 0' side yard setback where 25' is required, a 9.15' front yard setback where 25' is required, and a 19.15' front yard setback where 25' is required, and relief from Article IV Section 4.9 to allow 29.7% building coverage where 25% is permitted. The applicant proposes to construct a 24 x 24 two-story garage and seeks approval for an existing nonconforming sugar shack. The property is located in the Residential Village District, known as Map 102, Lot 26.

**VARIANCE NARRATIVE**

Bob and Steve asked about the agenda and if there was another with both cases as submitted. There was discussion about whether the continued hearing agenda included both requests for relief, and it was decided that it was a valid notice because it includes everything. It's not separated out as the applications are, but it still covers all of the relief being requested. Mr. Baum said for the purposes of agenda and notice, to make sure this is properly noticed, it does talk to the 9.15 ft. setback and the 19.15 ft. setback, so it's covered in both ways in the agenda. The purpose of the notice is to notify any neighbors of how their interests might be affected, and this agenda does that. Steve noted that the Select Board had issues with the notice in the initial case, so wanted to make sure that counsel was comfortable with that. Mr. Baum explained that the first time, the Select Board argued the agenda did not have enough detail, but this agenda does the opposite and is very detailed. It does appear to be fully covered and he's comfortable with the notice.

Kevin Baum introduced himself as attorney with Hoefle, Phoenix, Gormely & Roberts representing Mr. Ward Ward, the property owner. They are here with two requests: the two-car garage and to maintain the existing sugar shack that was constructed by the prior owner. It was requested at the April meeting that we separate the application into the garage request and the sugar shack request, and he apologized that it will be repetitive. It was recommended to start with the garage, so that's what he'll do.

This request arises out of an application and approval from last August that was granted for the garage as it is currently laid out. Mr. Ward received approval; he went to the building inspector and received a permit. The foundation was installed, inspected, and signed off on, and the Board of Selectmen filed for a rehearing. The goal is to receive relief tonight so Mr. Ward can complete the garage. One benefit is there is no question on where it's going to be and the size. They're looking for reapproval of the variance from August for the garage. It's a 24 x 24 garage on the front right corner of the lot. This lot is

a corner lot, on Swamscott St. and Pleasant St., so under the ordinance it has two front setbacks. The front of the house is technically on Swamscott St. The lot is a long and narrow property and a nonconforming lot. The house was built in about 1854, like many of them the building goes right to the lot line. The garage is slightly on Pleasant St. consistent with the existing driveway; it's at an angle, and the reason is that it's better for solar panels, which is the intent. The side benefit is that places the closest corner 19.15 ft. from the right of way, 9.1 ft. to the property boundary, but the bulk of the building is farther away from the property boundary because of the angle. As we noted, it sounds like the chair has received some clarification, not sure from whom; our read was that under Section 3.4.2 Schedule II, Note 1, the measurement is taken from the edge of the street rather than the property boundary, and we mostly focused on that for that reason. I will state again, because it's necessary, that our position is that is what applies, but the same considerations apply whether it's 9.15 ft. or 19.15 ft. If the Board feels it's better to grant the variance on 9.15 ft., there's no harm; it's the more conservative approach. Likewise, we need relief from the side setback, but we also need building coverage relief, we've asked for 29.7% where 25% is required. We've done it based on the existing conditions and because we're going first with the garage. This request assumes that the sugar shack is approved or remains, but obviously wouldn't be needed as much if the sugar shack wasn't there. The garage isn't going to change or expand; whatever is being requested, even if the sugar shack isn't approved, we aren't going to go beyond what's in the ground for the foundation. The Supreme Court has been clear that the type of expressed condition being presented in an application is sufficient by the applicant. They want to make sure they are being thorough considering the Select Board's comments. We have also asked for relief from Section 4.9. Section 4.9 is basically a rehash of the setback requirements. It says that no accessory structure shall be permitted closer to the property line in any lot than the required yard permits. So basically, it says you must comply with the setback requirements. So, we're asking for relief from the setbacks; arguably that overrides this, but to be safe we included that request as well, but it's basically the same. The prior approval was conditioned on water being contained on the site, and the drive shall not increase impermeable surfaces, and they intend to comply with these conditions.

Chairman Lawrence asked if the garage is two story or one story. The proposed garage is fully compliant for height. Mr. Ward couldn't have a steep gravel driveway, so had the excavator dig out four feet and drop the bottom of the drive. He's driving in lower, so they'll be a finished floor above that, and the gable faces the street. There will be a two-story, two-car garage. You'll drive in, have stairs, and have a second floor. There will be a finished second floor to be able to get dry storage. Steve said that it was going to be a full story above the garage. Measurement will take place from the ground floor, but there is no ask for a height variance. Chairman Lawrence said that visually, building density will have a totally different appearance. Mr. Ward said that building density doesn't change with elevation. Mr. Baum said the garage will be considerably lower than the house, 8 and ½ ft. ceiling for garage, a floor above that, and the roof is pitched.

#### VARIANCE CRITERIA

1. The variances will not be contrary to the public interest.
2. The spirit of the ordinance is observed.

The Supreme Court has indicated those are considered together. The overall question is whether the requested variance is unduly and to a marked degree conflict with the ordinance's basic zoning objectives. The general purposes of the ordinance are outlined in the memo. We think it's consistent because it retains the existing residential use and are confident that allowing it to be more usable with parking for a historic building constructed in 1854. The specific test the court has

articulated to determine whether these criteria are met: the first is whether the variance will alter the essential character of the neighborhood. This is an existing historic structure in a nonconforming lot, like many in this area of town. They've provided several photos showing some examples in the nearby area as well as some in the memo. The lots and the buildings weren't constructed to comply with modern zoning, and they don't. The garage is consistent with the existing character of the neighborhood, many other surrounding properties within the setbacks, and well over the 25% building coverage, what they're asking is 3% over what is required. They think it will fit in with the neighborhood and will have no negative impact. The response that Mr. Ward has gotten from his neighbors has been positive or he hasn't heard, so it speaks to neighbors not being concerned about the consistency. The second is whether the variance affects health, safety or welfare. There's no evidence of any impact. The garage is angled to allow for the solar panels. The closest is 9.1 ft. from the property boundary, 19.15 ft. from the Pleasant St. right of way. Most of the building is farther back. With regards to health, safety and welfare, because of the angle and the distance from the right of way, the types of things you're concerned with like sight lines and visibility aren't an issue. The closest and only impacted property is across Pleasant St. and doesn't impact their property. It's almost 57 ft. from the closest building across the street. For building coverage regarding health, safety and welfare, the risk relates to storm water runoff and flooding. This Board imposed additional conditions that would retain water on site and result in no increased permeable surface. So, in light of this, there is no additional risk to health, safety or welfare.

3. Substantial justice will be done by granting the variances.

This is a weighing test; you must weigh the benefit to the general public of denial vs. the hardship to the applicant. The proposal is consistent with the surrounding area, no neighbors have opposed it, and many have supported it. Water is going to be contained on site, there is no benefit to the public. Denial to Mr. Ward is significant. Whether permit should have been issued or not, it was and so denial requires removal of that existing foundation and the loss of significant funds. It also is the loss of additional amenity to the house that was not a consideration in 1854 but is for most homeowners now.

4. Granting the variances will not diminish surrounding property values.

It's going to result in a more useful home, and we believe it will increase the value of Mr. Ward's property and increase the value of surrounding properties. There is no evidence that it will diminish the values. Those most effected, the neighbors, are either supportive or not opposed. ON the while, the evidence is that it will improve but it certainly won't diminish.

5. Denial of the variances result in unnecessary hardship.

a. Special conditions distinguish the property from others in the area.

It is a small and very narrow lot, it's 50-60 ft. wide. It's subject to two front setbacks because it is a corner lot, and there's very little that can be done on the property without needing some relief.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

Here it's what is the reason for the specific regulations and how would relief impact it. The purpose of the setback requirement is to prevent overcrowding or shadowing or other lots, maintain privacy. Given the angle of the garage and across the street from the closest abutter and the fact that it is a garage, privacy issues don't apply. It's consistent with the surrounding area. This is not a part of town with 1 acre lots and significant distance between buildings. People live here with the understanding that these are old homes on old lots, and you are closer to your neighbors than you might otherwise be. If the intent is to

maintain it in line with the neighborhood, that's certainly met here. The angle of the building reduces the bulk right on the road and reduces any sightline impacts; and given the location, we don't think there would be any. For the purpose of building coverage, the requirement is to avoid overcrowding. We don't think that applies given the character of the neighborhood. To avoid run-off issues with stormwater, we think that's going to be negligible, but given the conditions the concern is addressed because Mr. Ward will keep all runoff on site.

- c. The proposed use is reasonable.

Generally, the court has indicated that if the use is permitted, it's presumed to be reasonable. This is permitted for residential use, and this is a two-car garage to serve that give residential use. Given that type of accessory structure we think it's a reasonable addition to the property. Impact to the overall character of the neighborhood, it's consistent and so it's reasonable as well because it's consistent with the conditions and the expectations of others in the neighborhood.

They feel that the five variance criteria have been met, certainly with the implied conditions.

#### **PUBLIC COMMENT**

None.

#### **ZBA QUESTIONS**

Steve asked if there would be any plumbing on the second floor; Mr. Ward said no. Steve asked if the slope is coming down on the front of the garage for solar panels and Mr. Ward confirmed. Chairman Lawrence noted that Jack said he was one of the ones who was more comfortable with the two separate variance requests. Mr. Baum said he typically sees that the criteria are discussed together out of convenience, but each variance request is voted on separately, and the reason for that is because this Board is required to provide its reasoning for approval or denial. It's based on the specific variance. The expectation is that there will be a vote for the garage, and then for the sugar shack. The Board agreed to proceed in that manner.

#### **ZBA DISCUSSION**

Chairman Lawrence noted a statute that describes building density and that would be a way of maintaining open spaces; open spaces aren't exactly, but that's what we're doing here. The difference is visually compared to residential streets in Portsmouth or New Castle only have around 50% coverage, and it's claustrophobic. Betsy said they predate all zoning; Steve said imagine how it was when people had horses and outhouses. Chairman Lawrence said in our last case, we had an applicant come back several times, and they were getting relief for a back setback and not a front setback. That case did not encroach upon the 25%; took several tries to come to that. Bob noted 675.2-5 in the Newfields handbook.

Chairman Lawrence noted in the variance criteria guidelines, the one that seems relative here is that the variance is not contrary to public interest. It says the proposed use must not conflict with the explicit or implicit purpose of the ordinance. It must not alter the essential character of the neighborhood, threaten public health, safety, welfare, or otherwise injure public rights. So, this has become something

of opinion, and he thinks it's about how this building is sited on the lot. Chairman Lawrence has a problem with it. Bob said the attorney said that the special conditions of this lot are different than those in the area, and he doesn't think it is, he thinks there's some that are worse and some are better. Chairman Lawrence said he hasn't taken out tax maps and drawings and figured out lot coverage on the surrounding lots. Bob doesn't agree that the special conditions are that different, but they are more average. Catherine asked if he meant was average for the town or the neighborhood, the immediate neighborhood or the Village District. There are probably more that don't have area problems. There may always be a building that is next to the property line but within setbacks that were established as zoning after the buildings were already there. Betsy said there's precious little new construction going on down there in the village; not many people try. Betsy said we all have funky lots. Catherine said there's a combo of conditions that make it worse: two sides of the driveway and the narrow size of the lot. Chairman Lawrence said the front side, the house is preexisting and built there and that's what it is and it's legal. The front lot on Pleasant St. probably meets the setbacks, the back setback line is just the way it is. However, it does leave the open characteristic by having the open space on one side, and that open space continuum will be cutoff with a continuation of this building. Catherine said theoretically if the garage would be further back, taking up more of the open space area, it would meet the setback requirement better. Chairman Lawrence said it would be using preexisting foot space and it would maintain the open front. It wouldn't give him the angle for the solar, and he's seen solar panels on less than optimal roofs. The house roof probably has more square feet than the garage roof ever will; Mr. Ward said no because there is a second chimney. Catherine was trying to picture if there was a different layout, it would still encroach on the open space vibe. But she's driven around the neighborhood, and it seems like it's in keeping with the character of the neighborhood. It seems like it's in keeping with the look of the neighborhood or like it would obstruct more unusually than what's already there. Bob asked if we knew why the garage foundation was poured before the end of the 30-day waiting period. Chairman Lawrence said that it was noted clearly on the notice of decision. He said the building permit happened before the 30 days was over. Bob confirmed it was excavated before coming in for permission. Mr. Baum said that he would like to speak to the factual questions because there are some suggestions that Mr. Ward acted improperly that we can address. Chairman Lawrence feels that should be a part of the consideration. Bob said that it was presented by counsel as evidence of hardship that the foundation is already there, and that's part of the reason why the variance should be granted. Betsy said that reason can't be used. Mr. Baum said that, and that he wouldn't have reasonable use of the garage. Mr. Baum said that Mr. Ward did start clearing out his lot; he was told he needed a building permit and needed a variance, so he followed the rules, and he did that. He went in and received a variance from this Board, continued to follow the rules and went to the building inspector; the building inspector granted the permit for the foundation and signed off on it. He doesn't want there to be any thinking that he acted in a way that was trying to get away with something. Mr. Ward said that he saw the line about 30 days, but he went and got the building permit, and the building inspector didn't say that he had to wait 30 days. Mr. Baum just wanted to make the point that this was an attempt to follow the rules. Betsy asked if construction started; Mr. Baum said that clearing happened. Betsy said that some digging happened. Mr. Baum said that you have a citizen who has attempted to follow the rules and is paying the price for it. There are people that do and ask for forgiveness; he didn't do that. Mr. Ward tried to follow the rules; he got this inspected; would have loved to do it a different way. Mr. Ward said hence why I put the kibosh on everything, and the neighbors wanted him to just continue with the building.

## **VOTE**

Variance requirements:

1. *The variance will not be contrary to the public interest: proposed use must not conflict with the explicit or implicit purpose of the ordinance. It must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure public rights.* Chairman Lawrence says it's going to alter the essential character of the neighborhood. Safety or welfare not so much. Injure public rights: he doesn't know if there is a right to have everything look the same throughout time, not exactly for him to get there. Steve said he's not sure how it's changing the character of the neighborhood; the angle is different but that doesn't change the neighborhood having another garage. Bob said it's definitely overcrowded, and that changes the character of the neighborhood. Bob said there's just too many things on the lot—the house, the building and the sugar shack. Chairman Lawrence noted it's only buildings we can consider. VOTE Yes-2, No-3
2. *The spirit and intent of the ordinance is observed.* As it is in the public interest to uphold the spirit of the ordinance, these two criteria are related. Steve asked if we are voting on the setback or lot coverage or both? Confirmed that they are voting on both together. Chairman Lawrence said if this was a case that was separated from the whole of both variances, then we might go separately. Mr. Baum said that he can submit one case with separate variance applications. He's hearing that there are too many buildings, but you also asked us to separately ask for the sugar shack. What you're voting on; it doesn't make sense to break it up. He doesn't understand if you're denying because it's too dense, but with no discussion of setback, and if it's too dense, is it because you don't want any change or is it because there are too many buildings, including an outbuilding that you're asking us to seek a variance for next. It puts the applicant in an impossible position, especially since he's relying on prior approval. Mr. Baum said this is a garage in an area that has several similar garages. This is 3% over the coverage; consider what you're doing to a citizen of the town who just wants reasonable use of his residence. Mr. Baum said the Board has an obligation to provide clarity and reasons for denial, and he's not sure the Board knows what they're saying no to. Bob said the Board was asking for clarity on both the setbacks and density for the garage, not two different things. Mr. Baum said the reasoning doesn't apply to this. Chairman Lawrence said they are discussing the ordinance having to do with dimensional regulation; there are two sections. As the discussion was kind of going amongst the Board members, primarily the placement of the over on the 25% rule has caused a building density issue: partially it's the placement. Steve said that last August the Board voted; and the last time we approved it, and the basic facts haven't changed. Bob said one thing that has changed is the foundation went in, and now the issue of open space and setback is clear because the foundation is in it's very clear. Mr. Baum said that he built it as approved, and now he's being penalized. Chairman Lawrence said there was a sketch that showed it situated due south and oriented for solar. Mr. Baum said the site plan had more detail on it, and the layout has not changed. The rehearing was based on concerns of notice and procedural issues. It does not make sense to Mr. Baum that the Board is completely changing its consideration when the facts haven't changed. Bob said that on August 23<sup>rd</sup> we had the application and a drawing, which he showed, and that was the evidence, and now the evidence in front of us today is much different. Mr. Baum disagrees that this proposal is markedly different and said that this application has more details. He says it's a disservice to this applicant to try to do things the right way and meeting the requests of the Board, and now that's being held against him. Mr. Baum said he wants to clarify the quote for the criteria: the question isn't whether the request differs from the regulation, it's does it conflict with the ordinance to an unduly marked degree. We are talking about an under 3% difference which is precisely the reason that ordinances are in place. Chairman Lawrence said it's not 3%; it's 4.7%. Mr. Baum said he misspoke and apologizes for the error and that the point still stands that it is a small discrepancy. It is not unduly and to a marked degree different from what the ordinance requires. It does not seem fair to put an applicant through this who has tried to do what the town has asked him to do and is being punished for it. Mr. Ward said that his part of the neighborhood is

not very dense—he taps 100 trees in the neighborhood, and the existing driveway will serve this garage rather than disturb more of the existing yard for a new driveway. Mr. Baum prefers not to have to do this at all; for small projects applicants shouldn't need a lawyer, and it's hard to think about people thinking they are doing the right thing and getting advice from the town. Chairman Lawrence reads the explanation again (see italicized above). Be clear we have two issues—we have frontline setback, and we have area coverage. Catherine mentioned the conditions about capturing stormwater and felt that they applied. VOTE Yes-2, No-3

3. *Substantial justice will be done by granting the variance. The benefit to the applicant shall not be outweighed by the harm to the general public.* Steve said other than one corner of the building sticking out a little bit, he doesn't see where there is any harm to the public. It doesn't block the view to the intersection and isn't an impediment to traffic. Bob doesn't think that harm to the public doesn't outweigh the benefit to the applicant. Catherine said there's no benefit to the public that would outweigh the hardship to the applicant. VOTE Yes-5, No-0
4. *Granting the variance will not diminish surrounding property values.* VOTE Yes-3, No-1 (Chairman Lawrence abstained)
5. *Literal enforcement of provisions of the ordinance would result in unnecessary hardship.* Bob said the applicant must establish that the property is burdened by the zoning restriction in a manner that is distinct from other land in the area. Determine the purpose of the zoning restriction in question, the applicant must establish that because of the special conditions of the property caused the proposed use to be reasonable. The use must not alter the essential character of the neighborhood. Steve said he struggles with this one. Chairman Lawrence said a more complicated way would be to stick it under the L of the house. Obviously, there's more alternatives than what we're going to come up with here now. Betsy said we have encountered this before with corner lots, and she doesn't see it any different than any other village property. Chairman Lawrence said that's part B. Mr. Ward said that the other lots are much deeper than his. Betsy said they're existing lots and buildings. Mr. Baum said that these lots do not have to remain static, and the reason there is zoning is that there needs to be a relief valve for these types of older lots that don't meet current zoning. The fact that it's old and the fact that the building he's proposing is new is the reason for zoning.  
VOTE Yes-2, No-3

Chairman Lawrence said this shows division along the lines of thinking and that's fine. Based on the votes on the five conditions, he made a motion that we deny the application for the garage. Betsy seconded the motion. VOTE Yes-3, No-2.

For clarity's sake, the building coverage density as well as the front setback discussed as being in contrary with the public interest. On the spirit and the intent of the ordinance same thing, coverage and setback are too encroaching. He doesn't know that we need reason for finding that substantial justice would have been fine. Surrounding property values not diminished; that came out in favor of the application. Literal enforcement would result in unnecessary hardship: there is residential use of this property now without exceeding the 25% rule. All the side and front setbacks are preexisting conditions. Basically, it's an extension of nonconformity, preexisting conditions of the foundation. This should be done as planned as opposed to an existing foundation. Bob said the public interest is upholding our zoning rights, and that in particular it goes against what the voters have voted on for zoning. Our job as stated is to find relief, so all zoning is a burden on the whole town. Zoning in general is a burden. But if we don't enforce certain aspects of the zoning and it gets enforced differently in the village or elsewhere, it's because we're taking the setting into mind.

## **VARIANCE NARRATIVE—SUGAR SHACK**

Mr. Baum said this is a preexisting 345 sq. ft. sugar shack on the lot when Mr. Ward purchased the property. They think it when in about 2000. It came up when he hired us, and to clean this up, they identified it. It's not clear from the town records whether it was ever permitted, so again to do an overall cleanup and follow the guidelines of the town, they are seeking relief. Bob asked if it was working; it was confirmed yes. Mr. Baum explained the sugar shack is on the other side of the property, the left rear of the lot. With the roof overhang, it goes basically to the property line, so a zero ft. setback. It abuts to the rear of the neighboring lot well behind where the residence is there. The primary structure is 7.9 ft. from the side property line. A 20 ft. setback applies. With the denial of the garage, there is no coverage relief needed. Chairman Lawrence said the property line, the back of the house, the sugar shack, they are all tight. The preexisting nonconforming home, and everything is within that side setback. We think it's consistent with the general area, and this Board has seemingly agreed there are a number of similar accessory buildings in the neighborhood, we think it's consistent with those the area, and also think the use as a sugar shack is consistent with the historic rural nature of the village.

## **VARIANCE CRITERIA**

1. The variances will not be contrary to the public interest.
2. The spirit of the ordinance is observed.

The question is not whether relief is needed; if you are asking for a variance, you are violating the ordinance, that's the reason for this Board and for variance. The question is whether the requested relief unduly conflicts with the general purposes of the ordinance. The test is whether it alters the essential character of the neighborhood. We don't believe it does because it's consistent with other properties; it's in line with the existing building; many surrounding properties contain accessory dwellings. And in this case, it's been in place and in use for approximately 20 years without issue. It's on the rear of Mr. Ward's lot, away from other residences, no risk of privacy or fire issues. No threat to the public, health, safety or welfare. It's wooded on the other side.

3. Substantial justice: it's a weighing test; there has to be a benefit to the general public for denial that outweighs the impact to the applicant. This is a structure that's been there for 20 years without any known complaint or issue. It's away from the closest abutting residence. The fact that it violates the zoning ordinance is not a proper criterion; it has to have an impact on the overall general public. No neighbors have an issue with it. Denial directly impacts the resident as it results directly in the loss of a long-used sugar shack that was installed prior to his ownership. Mr. Ward thought it was in compliance when he purchased it.
4. Property values: no evidence variance would diminish property values. No evidence that removing it at this point would create any benefit. There's no evidence to suggest the 20-year-old sugar shack is having any influence on property values.
5. Hardship: it is a small narrow lot. It is a corner lot which does restrict where outbuildings can be placed. It's not as deep as other lots. The structure is already on the property and can be considered part of the special conditions because you have an existing residence that's been there well before zoning. Bob asked if it was permanently affixed; the response was the lean to on the back have posts. The front of the building all just sits on rubble, but it's not a moveable structure. Bob said the reason he asked there is a difference between a shack which is moveable and not permanently affixed; Chairman Lawrence said he doesn't think we need to get into that. Mr. Baum said they don't intend to move it, and they are trying to the relief and get it into compliance. No fair and substantial relationships exist between the general public purpose of the specific application here. We talked about that this is setback only. We've talked about the impacts of setbacks, and none of



them apply here because it's to the rear and trees on the other side, not looking into anyone's windows. None of the siting concerns. There's no application to the reason for setback variances and it's specific application here. It's an accessory structure for a historic home and fits the character of the surrounding rural neighborhood. Maintains the existing status quo for the last 20 years, and we think maintaining the sugar shack in its current location is reasonable.

## **ZBA DISCUSSION and VOTE**

Variance requirements:

1. *The variance will not be contrary to the public interest: proposed use must not conflict with the explicit or implicit purpose of the ordinance. It must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure public rights.*  
Chairman Lawrence said it's a small building, easy to see over and around it. The fact that it's back against the back property line allows the open space in the front to be there and beneficial to the community. Bob said he finds it kind of interesting because usually people are going to build something new. We're called on to decide whether or not it's infringing, so it's interesting that it's preexisting. It's already proven that it's not offensive. Chairman Lawrence said the unfortunate thing that happens sometimes is that nobody says or does anything when something is put up without permission. In this case, he gets it; it was only brought into this case because it adds square footage to the entire building use on the lot. The back setback is the only part of that that's affected by our ordinance. The main house is similarly situated.  
VOTE Yes-5, No-0
2. *The spirit and intent of the ordinance is observed.* VOTE Yes-5, No-0
3. *Substantial justice will be done by granting the variance.* VOTE Yes-5, No-0
4. *Granting the variance will not diminish surrounding property values.* Betsy dissented because whoever buys that house with the sugar shack right on the property line will have to deal with it and may not like it. VOTE Yes-4, No-1
5. *Literal enforcement of provisions of the ordinance would result in unnecessary hardship.*  
VOTE Yes-5, No-0

Chairman Lawrence motioned to approve the request for the variance for the sugar shack; Steve seconded. VOTE to approve the request: Yes-5, No-0.

Chairman Lawrence said that he doesn't know if the Board has the authority to discuss the foundation. He likes the idea of additional parking, but the idea of an additional building doesn't sit well with him. He doesn't know whether the foundation can be modified to be a retaining wall or alternatives that could be presented towards that end, but that's not for the here and now.

Besty made a motion to close the meeting, and Chairman Lawrence seconded at 8:52 pm.

Kent Lawrence, Chairman