

**JANUARY 6, 2015  
REGULAR & RE-ORGANIZATION MEETING**

**The Manasquan Planning Board held their regular and Re-Organizational meeting at 7PM on January 6, 2015 in the Council Chambers of the Borough Hall, 201 East Main Street, Manasquan, NJ.**

**The Chairman, Neil Hamilton asked all present to please stand and salute the Flag.**

**Geoffrey Cramer, Planning Board attorney read the Public Sunshine Law Statement.**

**UNFINISHED BUSINESS OF 2014**

**RESOLUTION #38-2014 – Hegel, Terrence (Hoffman) 445 E Main Street – Mayor Dempsey made a motion to memorialize, seconded by John Burke, all in favor none opposed.**

***RESOLUTION MEMORIALIZED***

**RESOLUTION #41-2014 – Murphy, Kevin (Loughrea Realty, LLC) 576 Brielle Road – Kevin Thompson made a motion to memorialize, seconded by John Muly, all in favor none opposed.**

***RESOLUTION MEMORIALIZED***

**RESOLUTION #42-2014 – Wolf, Michael – 558 Brielle Road – Kevin Thompson made a motion to memorialize, seconded by Paul Rabenda, all in favor none opposed.**

***RESOLUTION MEMORIALIZED***

**Vouchers – John Burke made a motion to approve the vouchers, seconded by John Muly.**

**Board Members voting to approve:**

**Mayor Dempsey, Neil Hamilton, John Muly, Paul Rabenda, John Burke, Mark Apostolou, Kevin Thompson.**

***VOUCHERS APPROVED***

**Minutes of December 2, 2014 – John Burke made a motion to approve the minutes with the typo change noted by Mark Apostolou, the motion was seconded by Mark Apostolou, all in favor none opposed.**

***MINUTES APPROVED***

## **RE-ORGANIZATION**

**RESOLUTION #A-2015** – 2015 Meeting Dates, Mark Apostolou made a motion to approve, seconded by Kevin Thompson, all in favor none opposed.

**RESOLUTION #B-2015** – Designation of official newspapers – Mark Apostolou made a motion to approve, seconded by Kevin Thompson, all in favor none opposed.

**RESOLUTION #C-2015** – Appointment of Chairman and Vice-Chairman, motion to approve made by Mark Apostolou, seconded by Kevin Thompson, all in favor none opposed.

**RESOLUTION #D-2015** – Appointment of the Planning Board Secretary – motion to approve made by Mark Apostolou, seconded by Kevin Thompson, all in favor none opposed.

**RESOLUTION #E-2015** – Appointment of Al Yodakis as Planning Board Engineer – motion to approve made by Mark Apostolou, seconded by John Burke, all in favor none opposed.

**RESOLUTION #F-2015** – Appointment of Al Yodakis as Planning Board Planner – motion to approve made by Mark Apostolou, seconded by John Burke, all in favor none opposed.

**RESOLUTION #G-2015** – Appointment of Legal Services to Geoffrey S. Cramer – motion to approve made by Kevin Thompson, seconded by Mark Apostolou, all in favor none opposed.

**RESOLUTION #H-2015** – Adoption of the Rules and Regulations – motion to approve made by Mark Apostolou, seconded by Kevin Thompson, all in favor, none opposed.

## **OATHS OF OFFICE -**

All members present stood and were sworn in by Geoff Cramer, the members not present will be sworn in at the next meeting they attend.

## **REGULAR MEETING AGENDA**

Chairman Hamilton addressed 125 Main Street and explained that this building which received prior approval now has to be demolished as there is a structural issue. They will start from scratch, build it on grade level. They need our approval to do this; John Burke made a motion to approve the change, seconded by Mark Apostolou, all in favor none opposed.

**15-MINUTE PRESENTATION** – Ocean Star Gas Station – 65 Union Avenue – Carol Jablonski, owner/presenter. She gave testimony to the fact that she wants to continue her use and have a mechanic on site which is not there presently. She has a CD which she

received from the DEP which states there is “no further action”. She had the mechanic present with her at the meeting. She argued the fact that she never abandoned the use which was in existing by the previous owners, Cumberland Farms Gulf. Due to the clean-up at the site the mechanic bay hadn’t been used in over 10 years. Neil asked attorney Geoff Cramer that if this use was abandoned and there was no other use other than pumping fuel at this site for 10 years now is there any issue with that? Carol said she was just waiting to get the site cleaned up prior to opening a mechanic bay. Neil asked Geoff if the Site Plan expires or does she need to return to the Board with a revised Site Plan for this Board to look at or the residents to review. He said we now have condominiums built there and he doesn’t want to make waves as the Board certainly supports businesses. He doesn’t know if your tenant has already spoken to the neighbors to at least advise them that he may want to open this facility and service vehicles. Mr. Cramer asked what Mr. Furey the Zoning Officer said. Ms. Jablonski said he said it would be up to the Planning Board because she asked him for a temporary use and he said he didn’t feel comfortable until she ran it past the Board and he advised her to come and speak to the Board, tell them what was going on, explain the remedial action work plan with the State and she was only finalized in August 2014, when they came and finally cemented the wells. Geoff asked her if she had a report from the DEP’s contractor about what’s been done with respect to the monitoring wells. She said she does, this started in 2002 and it has taken this long to get a NFA on the property. She said they had moved their tank fields three times and now it’s in the permanent field where it’s supposed to be now, but they just left all of that contamination in there. Neil interrupted her and said the Board just needs to get back on track which is going back to the full use of this property and the Board attorney needs to direct this Board on whether or not you need to come back with some sort of a modified Site Plan. You only have 15-minutes for this, you may want to bring up your tenant and let him quickly run through what his operation is, his hours of operation and what he intends to do so we can at least get a handle on that and move forward on this. Mr. Cramer said his only problem with this is procedure is we are converting this appearance into a hearing and quite frankly the only hearings this Board conducts and proceeds with are the ones that are processed in compliance with the Land Use Law, which means publication of a notice in the paper, service of notices upon property owners within 200-feet and we swear the witnesses in to make sure they provide sworn testimony to the truth of whatever they are stating to the Board and we just don’t have that application before the Board. There is no application. I understand what Mrs. Jablonski wants done but we have no report from the Zoning Officer that identifies why the presenter should come before the Board this evening with an informal presentation. I don’t see how we can proceed with a review of a Site Plan without some type of application. Plus, our Engineer Mr. Yodakis should take a look at what Ms. Jablonski is offering to show us and offer his observation with respect to the site having been cleaned up in compliance. Mayor Dempsey said if the site is cleaned up and it’s a permitted use in that Zone, he doesn’t see why they have to make an application. Mr. Letz the lessee of the property said he originally came in before we talked about signing a lease and spoke to Mr. Furey and he told him he saw no issues with it, he asked about times of operation and if I had to fill out any paperwork. He said no, he only had to fill out a form that if the building burned down God forbid, the police department could get a hold of him. He filled out that form, signed a lease and a month later he got a letter in the mail saying that it’s not a permitted use. Mr. Cramer asked Ms. Jablonski if

she showed the Site Plan to Mr. Furey and she said yes. Neil Hamilton asked if she had the original Cumberland Farm Site Plan and she said somewhere at home she was sure she did. She said there were nine parking spots, one lift on the right bay, the air compressor, everything. Mr. Cramer said she needs to go see Mr. Furey with the paperwork so that he can verify by a site inspection perhaps with Mr. Yodakis present that what you are saying is entirely correct. I don't know the site and he is very uncomfortable with encouraging the Board without sworn testimony without the opportunity for residents within 200-feet to be heard, encouraging the Board to make a decision tonight. The Board has before it three (3) applications tonight, these were presented after Mr. Furey reviewed the development plan, denying them, and the statute says that they have the right to appeal the decision of the Zoning Officer to this Board, but in the process they have to give notice, publish in the newspaper, notice to the people within 200-feet that this is why they are before this Board. You are coming into the Board this evening with a request to give a 15-minute presentation and we are now trying to look at this as an application. I can't encourage the Board to do that, it's outside the scope of their capabilities. They don't have the jurisdiction to do it. You have to start in the Zoning Office. She said she did go to the Zoning Officer. Mr. Letz said Mr. Furey wanted a copy of the Site Plan because in his opinion the business was abandoned and that was a month after I signed the lease. Chairman Hamilton said you have to go back to the Zoning Officer, get an approval or disapproval from him, you have the option to challenge his decision then that challenge would come before this Board and you have to file for a full hearing. Al Yodakis said he would be happy to review her paperwork. Neil said we are out of time, so we are done, go to the Zoning Officer and he will make the call.

Councilman McCarthy arrived during the presentation, Geoff Cramer swore him in.

**APPLICATION #23-2014** – Budisak, Brian – 76 First Avenue, 77 Beachfront – Block: 165 – Lot: 30, 31.03 – Zone: R-4 – C. Keith Henderson is the attorney representing the applicant. The Board found the file to be in good order and accepted jurisdiction. Mr. Cramer swore in three witnesses – Brian Budisak – owner/applicant, Christopher Rice – Architect, Ray Carpenter – Planner for the applicant, and also Al Yodakis, Planning Board Engineer/Planner. Mr. Henderson had Exhibits to be entered, Exhibit A-1 is Resolution #14-2006, this Resolution memorialized the minor subdivision of Peter and Maryellen Halas the previous owners which also included use and bulk variances. The first to testify was Brian Budisak, owner/applicant. He gave a background of the property and what he and his wife Carol are proposing to do. They propose to demolish both dwellings on the site and re-build. The next witness to testify was Chris Rice, architect. The Board accepted his credentials. Chris addressed the Variances required; he explained the design of the buildings. The First Avenue structure gets smaller than what is there and the Beachfront structure gets larger than what is there. They are asking for 44% building coverage. It's a long thin lot and it's a long thin home. The house is only going to be about 19-feet wide. It was tricky in designing the home. He went through the floor plans. It's a 2 ½ story home. The height of this home is based on our first floor being at elevation 20 and we do exceed the height, we are at 34-feet. This will be Option B which violates the dormers. This is a gambrel roof style, some people know it as a Dutch Colonial, and they tried to break up the side elevation for neighbor's sake, those who walk by it, those who enjoy the beach nearby.

It makes an unusually long dormer, they are asking for relief on that because it's aesthetic and doesn't affect anyone's light and air, these dormers have no side walls. They are improving the side yard setbacks from what is presently there. Mayor Dempsey said it's a huge building, its 71-feet long plus the covered porch is another 8-foot, so you've got an 80-foot long building up there. That's big. Chris agreed it's long and again it's a product of the shape of that lot. George thinks it's too much building up there, its 80-feet long and 34-feet high, that's huge. Neil said he concurs with what the Mayor just said. He would like to see the garage moved back, the applicant has to sacrifice some of that open space between the buildings. Chris said in his opinion the closer those buildings get together the more monolithic that length is going to look. He likes that there is some space between. Mr. Henderson said he just spoke to the applicant and if that would make it more palatable to the Board they would move it back and get those parking spaces in there. He knows and understands what the Mayor is saying but again you have other applications that you can now look at that you have approved. He cited the names and blocks of applications that were formerly approved by the Board that were over on lot coverage. Neil said the Board does each one on their own merit, but you have a twin property to the north of this site so whatever we grant tonight certainly the applicant would very likely be coming to this Board and asking for what we approved for this lot. Keith said you are getting ratable that are sorely needed, some of the houses that are going up there are now worth in the millions of dollars, you would have never dreamed of this. He doesn't have any problem moving this house up for additional parking, the applicant has agreed to this also. Keith said he also doesn't understand the handling of the pavers. Mayor Dempsey said that will be addressed this year. Chris Rice said the DEP will restrict where this house can go easterly, so it's right where the old structure is, that's what's allowed. The only thing allowed east of that would be a porch over a porch or a deck over a deck, that's what we've got. Al Yodakis said the size of the main house is an issue is there any opportunity to shrink it. Chris said nothing is built yet, so of course the opportunity is there. We do our best, we have been working with the Budisak's for about a year, before they even bought the property, and we've been working on a house for them. He just wants to make sure he represents his client well and of course do our best for the Town. Owen said following up on Al's question, the opportunity is there so is it possible and you have heard concern from the Mayor and the Chairman about the size of these houses, and I agree with you about bringing ratable up and the importance of that, but we do still have some small homes up there that don't need to be overshadowed by their neighbors. Can you compress the house, keep some buffer between the Beachfront house and the First Avenue house and also allow for parking as Neil presented. Chris said he would like Al's input as to the right number from the front of the garage to the curb line. He's concerned if the Board would like to slide the garage east, he's concerned about closing up the gap. We're at 12-feet from curb line, so if we went to 16-feet, so I would like to propose to my client if we are sliding the garage do we take three or four feet off the length of the main house. This way we maintain the gap between structures and move the garage back and gain parking. Every foot we take off is 20-square feet, times 2 1/2-stories, so for building coverage purposes if we were to take a few feet off the back of the house we would go down a couple percent. John Burke said who is going to use all the bedrooms and they have additional room in the First Avenue house. Al said you probably need an additional 2-feet, he would be comfortable with 16-feet.

Timothy B. Middleton came to the floor microphone stating he represents Mrs. Pisacane, who lives two doors to the north, Lot: 29.01, owner of 70 First Avenue. She has concern with the size and mass of the home. He cross-examined Chris Rice regarding the size of the proposed house. His argument was that Chris could design a home that would meet the Zoning criteria.

Next, Ray Carpenter was called to testify. The Board accepted his credentials. He addressed the prior approvals on this property regarding the submitted Resolution #14-2006. Ray addressed the BFE and the DFE. He said Manasquan's Ordinance does not deal with the DFE. The BFE is 16-feet for this lot; he has added 3-feet above the BFE with an additional 1-foot for free board, wave action. It is his opinion that the extreme narrowness of this lot constitutes a Hardship Variance as you can't do anything about it. The height is also something driven by the FEMA requirements. He stated a 2800-square foot even with the third story added on is not an extremely large house. The garage apartment stands by itself as far as size and reduced size of the garage apartment. Mr. Carpenter argued the parking issue, Al Yodakis said 16-feet is reasonable. Mr. Henderson after speaking with his professionals and client he had a proposal, if they move the garage back 4-feet, they meet Al's comment. If they take 2-feet off the Beachfront house they address your concern and we only lose 2-feet off the separation between the houses. That is a win/win for everybody. Mayor Dempsey said the house is 71-feet long that would make it 69-feet. That would take 1% off. Keith said you would be in range with all the other Resolutions you have approved. Mayor Dempsey said this still didn't make him happy. Tim Middleton, attorney for the objector had questions for Ray Carpenter regarding the percentage of lot coverage. Neil Hamilton said we are at the time limit, ten more minutes we need to wrap this up otherwise we will have to carry this application.

Kevin Thompson made a motion to open the meeting to the public, seconded by Mark Apostolou, all in favor none opposed.

**Audience Participation:**

Timothy B. Middleton – attorney for objector Mrs. Pisacane, came forward to speak again. He is here to object to the size and mass of the application, his client did not voice any objection to the height issue; she is more concerned with the lot coverage issue. He quoted the LUL; he said a hardship was not testified to tonight at all. The second case is what they call a C-2 Variance, enacted in 1984 and allowed Planning & Zoning Boards a little more flexibility in dealing with cases like this. The applicant would have to come forward, and produce with confident evidence that the deviation somehow promotes the purposes of Zoning. What is clear tonight is that the applicant has not put forth any evidence to support the deviation here. It is his opinion that they could build a house here that complies with the 35%. He did the calculations and they are almost 300 square-feet up, which on a 4000 square foot lot that's a lot. There is nothing in this testimony today that would support the granting of this significant deviation. We are talking 25% from what's permitted and even if you cut 2-feet off the house, it's 1%. He requests on behalf of his client that they go back to the drawing board and try to come up with a conforming house. Mark Apostolou moved to close the public portion of the meeting, seconded by Kevin Thompson, all in favor none opposed.

Keith Henderson gave his closing argument.

John Burke asked the numbers to be straightened out. Greg Love would like to see the coverage reduced more, to get closer to the 4200 square-foot, which would be about 38%.

Keith said that would be less than we are at now. The architect said that is not possible. Neil asked if they can get down to 40%. He then asked if they could get to 41%, Chris Rice said he could he didn't know if the applicant's would agree. The Board would be amenable to 41%; Mr. Middleton said he would accept 41% also. Keith Henderson stipulated to 41% building coverage. Kevin Thompson made a motion to approve the application as stipulated; the motion was seconded by John Burke.

**Board Members Voting Yes:**

Mayor Dempsey, Neil Hamilton, John Muly, Paul Rabenda, Councilman McCarthy, John Burke, Greg Love, Mark Apostolou, Kevin Thompson.

***APPLICATION APPROVED***

John Burke called for a 5-minute recess, all in favor none opposed.

**ROLL CALL FOLLOWING RECESS:**

**Board Members Present:**

Mayor George Dempsey, Chairman Neil Hamilton, John Muly, Paul Rabenda, Councilman McCarthy, John Burke, Greg Love, Mark Apostolou, Kevin Thompson

**APPLICATION #24-2014** – Warjanka, Dara and Steve – 221 Third Avenue - **Block:** 217, Lot: 17.01, 74.07 – Zone: R-3 – Neil Hamilton stated the Board has heard this application before, they have returned to the Board. Geoff Cramer said the Board has seen the correspondence Mr. Holzapfel has forwarded. Also, Keith Henderson who represented the Keil's who sold the property to the Warjanka's have stated they have no problem with the proposal by the applicants. Michael Holzapfel is the attorney representing the applicants. He opened by saying he wants to clarify because this is an unusual procedure, he has never made what is almost the equivalent of a motion for reconsideration in front of a Land Use Board. Following the Board's denial of the application in October Mr. Cramer reached out to him advising the internal Rules and Regulations that allows for such an application, provided we re-notice and re-publish. Mr. Cramer found the file in order and accepted jurisdiction, everything has been satisfied. Mr. Holzapfel said the proposal is what his November 11, 2014 letter stated. In October the Board voted to deny the re-subdivision of these particular properties and of course the front deck on the existing developed lot which was also part of it although the front deck didn't factor into the Board's decision. He said the Warjanka's are willing to Deed restrict the proposed smaller lot, the vacant 2700 square-foot parcel which of course would require the Variance for frontage and overall lot size. If they were willing to Deed restrict that property such that what would be built on that particular lot would otherwise conform to all of the other bulk requirements. Height, side yard, building coverage, lot coverage, that perhaps the Board if it sees fit may be more receptive to that. At the October hearing that was suggested, my client's at the time were not willing to do that for various reasons. One being that the proposed lot split but if the quid pro quo could be if we could have the lot split that we propose have the front deck for the developed house which again doesn't require any Variance except for the existing side yard and was really a non-issue during the application process, his client's would now be willing to have that stipulation now that whatever gets built on the undersized 2700 square-foot lot would otherwise conform to all of the other Bulk requirements so there would be no more Variances given. He had set forth in his letter why he thinks that's a good idea. The

lot his client's present house sits on is non-conforming and requires four (4) Variances, by doing the lot split that we propose, that would now be down to one (1) Variance and whatever gets built on the smaller lot would be otherwise conforming with all of the other Bulk requirements, so he thinks it's a win-win for everyone involved. His clients get to at least build out the lot for the purpose for which they acquired it, the Kiel's who are here to speak on their own behalf but he believes are going to voice their opinion that they are happy because they are given the side yard setback requirements solidified in stone so to speak which is what they were concerned about. The Board should be happy because we are going to have an otherwise conforming structure on the smaller lot. He believes it's a better situation than what exists; its good Zoning and good Planning. We would like a Resolution approving our proposed subdivision and the porch with of course those Deed restrictions. Geoff Cramer said for the Board's edification the one Variance that would be required with respect to your client's developed lot, what's the one area of non-conformance. Mr. Holzapfel said existing on the property right now on the developed lot it's built with 2 1/2-feet as you are looking at it from the Street, the left side yard, which is an existing non-conformity. The existing porch would obviously be an extension of that side of the house. The other 3 Variances that the property currently requires as it sits there would be eliminated by this split. Neil asked the Board for their comments. Mayor Dempsey asked Mr. Holzapfel what exactly the applicant is proposing. We proposed something different which was turned down. Mr. Holzapfel said there are reasons why that were not feasible. Mr. Holzapfel had a photograph of a car, a sedan parked in the current driveway, with both doors open, you can see clearly the side of the house and the proposed compromised solution would be taking that white fence and moving it 6-feet closer to the house, you can see how that would impact just an ordinary sized car with both doors open, which defeats the purpose of having a driveway there. This was marked Exhibit A-6. Neil said basically you are making your lot more conforming where the structure is now, and create the non-conformity and there would be no Variances whatsoever for the undersized lot. There would be a Deed Restriction on the new, non-conforming lot. Mark Apostolou said he would like to hear from the objectors, his position is it puts the onus on the property owner, it brings their lot now into greater conformity, but most importantly it imposes a Deed Restriction where they can't do anything with that lot, nor can anyone who purchases that lot down the road, so if they can't sell it to somebody who wants to build the appropriate structure they are stuck with it and it remains vacant. George still wants to be with the Board's original proposal, Owen did not have a statement, John Muly had no comment, Paul Rabenda and John Burke had no comments. Neil Hamilton said he is not crazy about this because it just takes apart something that we put together in that conforming subdivision and this may never come before this Board again. With the Deed Restriction there will be a narrow house going in there. Paul Rabenda said if we go back to what you proposed before would that get rid of those Variances. Neil said we would be lacking by a foot or two on the required lot width and there would still be Variances required according to Mr. Holzapfel, so this really is the best possible outcome. The other proposed split just isn't feasible and not something his clients would want to entertain. Al Yodakis said with a quick look it looks like they would be creating more Variances if they split the difference here with the lot line. Mark Apostolou moved to open the meeting to the public, seconded by John Burke, all in favor none opposed.



**Audience Members Coming Forward:**

Ann Kiel – she owns the property next door at 211 Third Avenue, her sister Susan owns at 205 Third Avenue. She thanked the Board for helping getting them to this point, she thanked the Warjanka's for coming to this point, and she does think it's the best resolution, she definitely supports it. They have made substantial to their property since they've owned it. The whole block is improving, there is other construction work going on. The block is moving forward.

Mark Apostolou made a motion to close the public portion, seconded by Councilman McCarthy, all in favor none opposed.

Mr. Holzapfel said he has already taken up too much of the Board's time so he rests.

Mr. Apostolou made a motion to approve the application with the very specific Deed Restriction, that it must comply totally with every regulation of Manasquan without any Variances granted, that would run with the land that any subsequent property owner be bound by that. John Burke seconded the motion.

**Board Members Voting Yes:**

Councilman McCarthy, John Burke, Greg Love, Mark Apostolou, Neil Hamilton

**Board Members Voting No:**

Mayor Dempsey, John Muly, Paul Rabenda, Kevin Thompson

***APPLICATION APPROVED***

**APPLICATION #39-2014** – Graham, Richard – 35 Deep Creek Drive – Block: 189.01 – Lot: 6.01 – Zone: R-2 – Kevin Thompson disclosed that about 30 years ago he did some work for Mr. Graham, Mr. Cramer said that would not excuse him. Mr. Hamilton asked Mr. Cramer a question that goes back to the first application tonight, because Mr. Graham is going to be leaving a structure on a subdivision. Mr. Hamilton said this raises a red flag to him. Mr. Graham had Henry Schweir with him, they were both sworn in along with the Board Engineer. The Board accepted jurisdiction on the application. He had items to be submitted as evidence. Mr. Schweir had highlighted Subdivision plats he passed out to the Board members, also Exhibit A-2 was put in the file, they are copies of photographs of no-parking signs on Deep Creek Drive. Mr. Graham gave his testimony giving the background of the damage he and his wife sustained due to Super Storm Sandy. He also had an Engineer Report prepared by KBA Engineering Services, LLC marked as Exhibit A-3. Mr. Graham stated both lots would have at least 5000 square-feet. He proposes to leave the garage with the apartment above and remove the existing house. John Muly said when the TRC met they didn't know what his intentions were for the two buildings they were assuming they were both going to be there but now that he clarified that he was taking the one down that changes the whole scenario. Regarding the driveway widths and curb cuts, they had received approval for those in the past and in keeping the three bays they request to keep the wider driveway which is all pavers. He requests to keep the existing curb cuts that are there, they are a little wider, but they are existing and proposed. The pictures he submitted as evidence show five no parking signs along Deep Creek Drive. He originally showed a zero property line but reconsidered that and wanted to have a buffer from the side of the building to the property line that gives access around the property also for maintenance on that side of the building. Mark Apostolou asked Mr. Graham why he couldn't run the property line straight back. Mark Apostolou asked Mr. Graham if he was willing to be restricted by a Deed so no subsequent owner could come in

and request a Variance. Mr. Schweir said it would be a Deed Restriction because if you approve a Site Plan, this would be what we would show would be a Deed Restriction. Mark didn't agree and Geoff Cramer said we are talking about two different things here. The Zoning Ordinance has its own setback requirements; anybody can always make an application to the Board and try to vary those requirements. Historically, this Board has always on new lots that are conforming lots has taken the position that we will allow you to create this new lot but you've got to build consistent with the Zoning requirements of the Ordinance. That's a condition in the Resolution. Mr. Graham said that's what he is proposing. Neil Hamilton said let me move this along, the bottom line is we're going to subdivide this property into two conforming lots by area and by frontage. The new home being built on lot 7.03 the lot to the South, that's going to be a vacant lot, according to the Resolution we are going to give you that house must meet all the criteria for Zoning. That's a given. The only issue you have with this Board right now is to move forward with this Subdivision is, and we are probably ok with the curb cuts and he makes a valid point with that, and he does have a Variance for that curb cut, as Neil sat on that case, but his objection and I will tell you right now I will not approve to have this jog. I would get right to the crux of where you want to be because time is running is out and we need to move on. Mr. Schweir said so you are saying take that lot over 3.4-inches. Neil said no take that lot and run that lot line straight back to the water, we don't want any jogs. He will need a Variance for that garage and what we are going to do is Deed Restrict that so if that garage should be destroyed by disaster or whatever, it isn't going back to that 3.4-inches. John Muly said why you can't move the line 5-feet off the garage and go straight back. John Burke and Paul Rabenda said they would rather give him a Variance for the 5-foot setback off the garage and run the line straight back with no jogs. Al Yodakis said his professional opinion is not to create jogs, you create lots based on the requirements of the Ordinance, not based on structures that are there, that someday is going to be torn down and re-built. Mr. Graham said he agrees with that totally, the only reason he asked for this is because of unusual circumstances. If I was starting a subdivision from scratch I would never have had one of these jogs. There was a lot of discussion by Board members as to how the lot could be reconfigured so as not to have a jog in the lot line. Al Yodakis said if we move the lot line over 4-feet, lot 7.03 would be 4,958 square feet. If we are going to do that he suggested the Board make a motion to provide a 4-foot setback from the existing garage. Mr. Graham said upon approving this he would like the condition that he can submit a final document prepared by the Surveyor. So, let's say the Surveyor comes in and we need 3-feet, 11-inches instead of 4-feet. Mark Apostolou said as long as it's a straight line and we can do it based on the Surveyor, we will work with you. Al Yodakis said a couple of technical things, he was handed this Engineering report, basically it's discussing the structure of the house that needs to be torn down, that's fine. Two other items in his report, you would agree to tear the house down before the subdivision is finalized, and Mr. Graham said yes. Al asked if he would agree to set the monument out front and Mr. Graham agreed to that. There will be a straight line from the Street to the water. Mark Apostolou made a motion to approve the application as stipulated; the motion was seconded by Kevin Thompson.

**Board Members Voting Yes:**

**Mayor Dempsey, Neil Hamilton, John Muly, Paul Rabenda, Councilman McCarthy, John Burke, Greg Love, Mark Apostolou, Kevin Thompson.**

***APPLICATION APPROVED***

**There was no one in the audience so the meeting was not opened to the public.**

**Geoff Cramer said that on First Avenue properties that are so narrow, he is beginning to think that perhaps you should really look at this and deep six the garage apartment situation and encourage the applicant to go to one structure, with a setback of minimum distance. Neil said some of them have been subdivided.**

**Motion to adjourn was made by Mark Apostolou, seconded by Kevin Thompson, all in favor none opposed.**

***MEETING ADJOURNED AT 10PM***

**Respectfully Submitted,**

**Mary C. Salerno  
Planning Board Secretary**