

NEWINGTON ZONING BOARD OF APPEALS

October 9, 2025

Regular Meeting

Chairman Sharon Dunning called the regular meeting of the Newington Zoning Board of Appeals to order at 7:00p.m.

I. **ROLL CALL**

Commissioners Present

Commissioner Bachand  
Commissioner Cane  
Commissioner Donaluk  
Chairman Dunning  
Commissioner Kolakowski  
Commissioner Lucas-A

Commissioners Absent

Commissioner Houle

RECEIVED FOR RECORD  
IN NEWINGTON, CT  
2025 OCT 17 AM 11:20  
*Sharon O. Dunning*  
Town Clerk

II. **PUBLIC PARTICIPATION** (For items not listed on the agenda)

None

III. **PUBLIC HEARING**

- A. ZBA-25-3: Requesting a variance of 3' from Section 4.5, Table A of the NZR (Newington Zoning Regulations) to reduce the side yard setback, on the southerly side of the house from 10' to 7' for a second story building addition to an existing garage at 52 Elton Drive in the R-12 Zone, Applicant/Owner Rachel D. & Jeffrey Osak, Contact: Jeffrey Osak

Erik Hinckley: I'll read the public hearing notice for the record: Notice is hereby given that the Newington Zoning Board of Appeals will hold a public hearing in the Council Chambers, room 103 at Town Hall, 200 Garfield Street, Newington, CT on Wednesday Thursday, October 9, 2025 to consider the following petition: ZBA-25-3: Requesting a variance of 3' from Section 4.5, Table A of the NZR (Newington Zoning Regulations) to reduce the side yard setback, on the southerly side of the house from 10' to 7' for a second story building addition to an existing garage at 52 Elton Drive in the R-12 Zone, Applicant/Owner Rachel D. & Jeffrey Osak, Contact Jeffrey Osak.

This public hearing will be a Zoom Webinar/Hybrid Meeting. Information on how to attend will be posted on the town website at <https://www.newingtonct.gov/virtualmeetingschedule>.

Submitted, Erik S. Hinckley, Assistant Town Planner/ZEO.

The notice was published in the Rare Reminder on September 25 and October 2, 2025.

Chairman Dunning: Would the applicant come forward, state your name and address for the record.

Jeffrey Osak, 52 Elton Drive: Good evening members of the board. My name is Jeff Osak and I currently reside at 52 Elton Drive with my wife Rachel and daughter Josephine. We purchased our home in 2020 and over the past five years have worked hard to make it a place where our family can truly grow. We love our neighborhood, as they are represented here, two of my favorite neighbors and it's a great neighborhood. We are within walking distance of Main Street, and Mill Pond Park, and we see a great future here for our family. In January we will be welcoming another daughter to our family and the need to expand our home quickly became a priority. Our house is currently a cape style residence with two bedrooms and one bathroom totaling 1,142 square feet. The existing bathroom and spare bedroom are located on the first floor. Our proposed plan includes adding a half dormer off of the back of the second story to create space for a second bathroom as well as a hallway and closet leading into a new master bedroom and bathroom above the existing single-story garage. This design was carefully planned to be economical and minimally invasive and as it does not increase the home's footprint or require major site work. When we purchased our home in 2020 the garage was already in place, having been constructed many years prior under different zoning requirements. Since that time, zoning regulations have changed, and the garage now lies within ten feet of the neighboring property line. This prevents us from being able to get a permit and having to go through this process. The hardship that we are facing is that the placement of the garage is an longstanding pre-existing condition that we did not create. Because the garage was legally built before our ownership we are unable to reasonably expand or improve our property without relief from the setback requirements. Our intent is not to increase the footprint of the structure but simply to build upward within the same footprint that has existed. Granting this variance will allow us to make practical use of the property in a way consistent with the character of the neighborhood while not creating any encroachments or altering existing setbacks. The addition will be designed to meet all applicable building and safety codes and we will work with the town to ensure that the project has no negative impact on neighboring properties. Thank you.

Erik Hinckley: So now this is your opportunity to ask the applicant any questions that you might have.

Commissioner Bachand: I have a question for Erik, so this is a situation where the side yard setback was changed?

Erik Hinckley: That is correct.

Commissioner Bachand: Do we know when that happened?

Erik Hinckley: I think I bracketed it in there, between 1977 and 87. There were actually two zone changes at the time. There was a (inaudible) residential district and then a change to the R-10 and now it is currently R-12.

Commissioner Cane: What is the special condition or circumstance that you are not (inaudible).

Jeffrey Osak: Seeing that the garage has already encroached over that ten foot line three feet, we're not going to be any farther, we're just going on top of the existing structure.

Commissioner Cane: So what is peculiar about the land structure building compared to the other structures in the same zone?

Jeffrey Osak: I'm not sure how to answer that. I don't understand the question.

Commissioner Cane: Did you read Section 8.1.3?

Jeffrey Osak: I don't have a copy of it with me.

Commissioner Cane: Did you read it?

Jeffrey Osak: Yes.

Commissioner Cane: Okay, so that special condition and circumstances exist which are peculiar to the land structure or building involved which are not applicable to other lands, structures or buildings in the same zone.

Jeffrey Osak: Again, sorry I don't know if I understand the question, I'm having a hard time with it.

Chairman Dunning: What section are you talking about?

Commissioner Cane: Section 8.1.3, A 1

Jeffrey Osak: Again, I think my answer to the question the special condition would be the that the zoning got changed so originally it had been a different setback and the condition and circumstance than exists now is different and that is peculiar to the situation that we are in.

Commissioner Cane: Okay, so you are saying that the change in the regulations is the special condition?

Jeffrey Osak: Correct.

Commissioner Cane: Could you put the addition off of the southeast corner of the house?

Jeffrey Osak: It is possible.

Commissioner Cane: Okay.

Chairman Dunning: Did you look at that?

Jeffrey Osak: I did.

Commissioner Cane: I think she is talking about the other, opposite side of the house.

Commissioner Bachand: That would be the northeast.

Erik Hinckley: This is the northeast up here, this is the southeast over here.

Commissioner Cane: Okay.

Jeffrey Osak: I did not consider going off the back of the garage only because it would still be not accessible from the main living area.

Commissioner Cane: I mean here.

Jeffrey Osak: So that would be the northeast is what he is saying. We have only 12 feet there, that would be only two more feet of room, and bringing in a new foundation and all the heavy site work that would have to be done, the foundation is going to cause serious interruptions to the other side neighbor, who is also here tonight. So I did consider that but there are a lot of factors that are part of that.

Commissioner Bachand: That is just a breezeway there?

Jeffrey Osak: Correct.

Commissioner Bachand: That may or may not be on a foundation so you may have some trouble there, not really our purview here, so the front of your house will look essentially as it does now.

Commissioner Donaluk: What about the neighbor to your left?

Jeffrey Osak: She is also here tonight. She is the one that will be potentially near the setback, she is my neighbor to the right. It would be closest to her property, correct.

Commissioner Donaluk: That's a tight neighborhood. I like to see people getting along, but the houses are close.

Jeffrey Osak: Yes.

Erik Hinckley: I brought up the aerial, his house is the one that is highlighted.

Commissioner Bachand: You will have the garage and then a full second story. My only concern is, are you going to exceed the height of the existing house?

Jeffrey Osak: No, I actually do have plans, I did have that done, and they were submitted and from the house over to where the new second story is going to be, it's on the same, I don't know, I mean it is within the same line.

Everyone talking at once.

Jeffrey Osak: The intent of the design was to stay within the design of the neighborhood and not stand out like an addition.

Commissioner Bachand: We had another one with a second story and the question how is it unfair to the neighborhood, because there could be other neighbors in the neighborhood that have two story houses that are also over that line. That was like the one on Homecrest, right Erik?

Commissioner Cane: Under the current case law a change in regulations is not a valid hardship (Inaudible) versus Old Saybrook, there was a 46 year old regulation and the property owner who owned it prior to the regulation change and was denied a variance, and this is even a less strong argument in case law. When did you purchase your house?

Jefrey Osak: In 2020.

Commissioner Cane: And the property owner who owned the property prior to the regulation change was denied a variance and you have a less strong argument so we are kind of bound by case law.

Commissioner Bachand: Well, that is where elasticity, the elasticity referred to in the regulations. I don't have a problem with it, the neighbors are actually, further into the ten foot side yard, so, it would just be that front corner.

Commissioner Cane: I don't personally have a problem with it, it just doesn't comply with case law.

Commissioner Bachand: Well, there is the elasticity, the need for some flexibility, that is what this board is here for.

Chairman Dunning: Are there any further questions for our applicant.

Erik Hinckley: You can call for Public Participation, either for or against.

Chairman Dunning: Is there anyone here who would like to speak in favor, or against?

Elizabeth McDonald: I own 56 Elton Drive which is closest to the proposed modification to the home, and all of our houses were built in the '40's and 50's when the side yard requirement was different, and it has changed since then. I'm a high maintenance neighbor, and if there is something I don't like, you will know. My husband is an architect and Jeff and Rachel have been very transparent and have shown us the plan, and but the thought that he is going to take the existing footprint and the garage and just go up is not a big deal. The whole idea of this meeting is a variance, it varies from the standard expectation of side yard requirements that were put in place, what twenty, thirty years after the neighborhood was built. To your point yes, our lots are long and narrow, and there is (inaudible) in the side yard and we are all aware of that. We have a lot of young couples in the neighborhood and Jeff is the second one to need an addition to the house, the first one already modified his house and brought the footprint closer to the neighbor's side yard as a result of that work. This is a lovely young couple who moved into

Newington, have chosen Newington not only as a transition into adulthood and then transition into home ownership, but a place for longevity, a place to raise their children and welcome their grandchildren in these homes for generations to come. Rachael and Jeff have made a conscious decision to stay in this home, in this community and raise their girls here and I urged them to do something to make the house work for them, rather than move, because they are wonderful people and wonderful neighbors, and they are an asset to the community and I would hate to see this variance be denied, putting them in the awkward position of having to choose to move, rather than become a part of this community that they can contribute so positively to. This is not an issue for me, it is not an issue for my husband, who is an architect who deals with design and setbacks and variances and all sorts of things all of the time. We really hope that you have insight to grant the variance because we have seen the plans, it's a beautiful design, it's not like that horrendous house that was just modified over on Fisk which shame on anybody for approving that addition, so I'm hoping that you will get behind him and if you want, we have the plans here, it's a lovely aesthetically pleasing modification of a home and I personally, I'm the closest to it, I'm looking forward to seeing this addition and being able to spend time with him and his family, his lovely girls for decades to come. Thank you.

Rose Lyons, 46 Elton Drive: I can't say much more than Beth has already said, Jeff and Rachel have been in the neighborhood now for five years, came right during the pandemic, and anything that they have ever done in their yard from taking down a tree to putting up a fence, they have notified me and I'm guessing Beth as well. I'm very aware of the neighborhood and what is pleasing to the neighbors as well to themselves, they are the second ones, as Beth said to put on an addition. I understand that there is another couple looking to do the same thing, a different variation. We have now I want to say, ten children under the age of five on our street, and another set coming. They love the street, it's a dead end, they can get to the center, they can get to the high school, it's a quiet, mostly quiet neighborhood. I can attest to the fact that that garage was there because I'm eighty years old, and I moved in when I was two. If you want some pictures, I'm sure I have some down in my basement. In any case, I hope that you consider his application and grant it because when he told me he had good news, and that was that Rachel was pregnant, and I said, don't tell me the bad news that you are moving, and he said no, I want to tell you about what we want to do. They are very upfront and honest and he asked if I wanted to see the plans and I said I trust you and Beth saw them, and her husband is an architect, and if anyone was going to have a complaint it would be Beth and she has no complaint.

Erik Hinckley: I'm also going to read an e-mail that was received from Adam and Alisa Lewis at 55 Elton Drive: To whom it may concern, we live at 55 Elton Drive directly across from Jeff and Rachael of 52 Elton Drive. We have lived here since 2012 and were here when Jeff and Rachael moved in. We welcomed them to our little dead end street and are glad that they are here. Since they moved in, their space needs have increased as their family has grown. We're thrilled that Jeff and Rachael found a way to provide space for their growing family without having to leave our community. We have talked together and reviewed that proposed addition to their home. Please grant the variance that they need so they can move forward without any hindrance.

That was received October 8th.

Commissioner Kolowski: If you didn't receive the variance, would you have to move?

Jeff Osak: It's a good possibility, yes.

Commissioner Bachand: First of all, to Ms. MacDonalds point, because if it was denied, he would just have to pull the addition in, that is what one party had to do which doesn't look too good to be honest with you, looks kind of funny when the second floor was brought in.

To Commissioner Cane's point I can't imagine anyone winning an appeal on a denied zoning board decision, because it is pretty strict. If you follow the regulations, there aren't too many that you could say are an iron clad case that would pass a court decision that would say, oh this should have been approved. The regulations are in favor of the denial, and that is where I consider the elasticity and all the parts of the variance. Again, I would like to see if you have the pictures of the addition?

To Ms. MacDonald's point about the addition on Fisk Drive, this board actually did approve it, I recused myself, I had a good reason for it, and I was glad I did, I mean I saw the plan and I was a little concerned but this room was filled with people who supported it, so.....

As I said, you may have some issues with the Building Department using that foundation for two stories, but that is not our purview.

Commissioner Cane: Did you consider text amendments to the regulations and then that would take care of this problem for all of the houses with garages?

Jeffrey Osak: I did not.

Chairman Dunning: Any other Commissioner questions?

Commissioner Donaluk: As with any other variance request, it's not the property owner that we are concerned about, it's the property. As I understand the regulations, it's the property, it's not the owner that we are concerned about, and as long as the neighbor's have no issues I feel that what the Town needs is young growing families, and this is a good example in my opinion. To deny I think that we might lose a good family.

Elizabeth MacDonald: The three feet basically brings it three feet closer to my garage which is just a garage. Then I have a side entrance to my kitchen and then I have the main body of my house, so our windows face north and his windows face south would be more than like twenty-five feet away from each other. It's not like we are creating a situation where we have windows to windows looking into each other's second floor seven feet apart. It's not like that at all. I don't feel any invasion of my privacy and I know, I'm not here forever so I feel that I am acting in good stewardship to the future owners of 56 Elton Drive in fully supporting this addition because it is adorable, it's aesthetic pleasing, my husband as an architect had nothing but positive things to say about the design. We love Jeff and Rachael, we do not want them to move because the house is too small. Any effort to put an addition on the other side of the house is really logistically not possible because of what rooms and spaces are at the other side of the house. This is the space and the way that makes sense to them, and it's aesthetically pleasing to my husband and me, and we fully support them and hope that you will too.

Rose Lyons, 46 Elton Drive: As much as I want to keep Jeff and Rachael here, and I agree with what Beth is saying, I'm also hearing from you that, maybe I'm wrong, but that you are concerned with other people on the street wanting to do the same thing, and if I come in front of you, and it seems to me that this is kind of a unique situation, most of the houses, they are

close, but it's garages. It's garages between these two people and I'm, most people, I have a very small space between my house and my next door neighbor and it's her garage and my garage and then it's the house, so I agree with what Beth is saying, not just because I want to keep them in the neighborhood, I think it is good for, at this particular time, this particular (inaudible) to give them the variance. That doesn't mean that somebody else shouldn't be denied, I don't think it is setting a precedent of any type, but that's just my opinion. Thank you.

Chairman Dunning: Mr. Lucas, do you have any comments?

Commissioner Lucas: No, I'm all set.

Chairman Dunning: I think we can close the public hearing.

Erik Hinckley: Then you need a motion to close the public hearing, move it to Old Business for action this evening if that is what you chose to do.

Commissioner Kolakowski moved to close the public hearing and move Petition ZBA-25-3 to Old Business. The motion was seconded by Commissioner Bachand. The motion passed unanimously with five voting YEA.

#### **IV. WORK SESSION**

Commissioner Bachand: I think we pretty much discussed it, unless someone else has something.

Commissioner Cane: The appropriate legal mechanism to get this done would be a text amendment to the regulations, something like, existing garages are exempt from the setback requirements.

Commissioner Bachand: But he's not asking for a garage, he's asking for an addition.

Commissioner Cane: Then, additions above garages are exempted from the existing setbacks. Second story additions may be added without (inaudible) the setbacks. There are legal mechanisms to get this built which would require a text amendment to the zoning regulations.

Commissioner Bachand: Then you are saying it wouldn't require an appeal from the zoning board.

Commissioner Cane: Right.

Commissioner Bachand: But this is an appeal process, that is what we are doing here.

Erik Hinckley: There is a mechanism to do a text amendment, it doesn't mean that Planning and Zoning has to approve that either, because they are going to look at how it affects every property. We are looking at, in the R-12 Zone, how it is going to affect all the R-12 Zone properties in town, not just one individual. So they will look at the bigger picture and then at an appeal on a case by case basis.



That mechanism is there yes, it's time consuming, it's usually a three to six month process with public hearings and everything else, the public can speak, in favor or against the text amendment. Someone would have to draft that amendment, town staff does not always do that, at the request of the Planning and Zoning Commission we would. Typically someone has to hire an attorney, draft that motion, move forward through the process.

Commissioner Bachand: I don't think they would be very successful because that would be negating what they already did to make that to change that side yard, so I don't think there would be much hope of that being changed

Commissioner Kolakowski: So with a text amendment, everyone in town would be able to to (inaudible)

Erik Hinckley: There would be a public hearing, there would be a proposal, someone would have to make the proposal to change, there is a process, we would have to send it to CRCOG, they review it, it would be posted, anyone can speak for or against or whatever they think the issues are and the Planning and Zoning Commission can keep the hearing open for a couple of meetings and then make a decision, just like you make a decision. They can deny or approve it.

Commissioner Cane: It's like a policy change.

Erik Hinckley: It's a change in the regulations. You are the Zoning Board of Appeals, so when it is time to vary the regulations, that is what is a variance. You are varying whatever the regulations are.

Chairman Dunning: Do we need a motion to do that, to change the policy?

Erik Hinckley: It has nothing to do with the Zoning Board of Appeals.

Chairman Dunning: It doesn't?

Erik Hinckley: No.

Chairman Dunning: Do we need to keep this open?

Erik Hinckley: You are not acting on whether you are going to tell them to do this or that, you are acting on the application before you, whether to approve or deny. If you deny it, he has the avenue to pursue.

Chairman Dunning: Thank you I guess I didn't understand the change in the policy.

Erik Hinckley: Mr. Cane's position obviously is that he should try that before coming to us.

Commissioner Cane: The desire to expand the property is a self created hardship. It's just not legal, it's contrary to law. So, you can vote however you want, I'm not the legal counsel for the board, I do practice zoning laws, I can give a legal opinion, but it is up to the Town Attorney, I'm just here as a member.

Chairman Dunning: This is very challenging, I mean, I can see it from all sides. It turns out what I see before us and over the last couple of years the results vary, it is on a case by case.

Commissioner Bachand: As it should be, any one can go either way.

Chairman Dunning: Right, and I think we could consider hardship to see if it is feasible and we have a practice of seeing if there are other options.

Commissioner Cane: When I asked what was peculiar about the land, his response was, the change in the regulations. So, the problem is, we need something to latch onto so we can approve this, so the fact that he said that there was space in another part of the yard, and that the thing that was peculiar was the change in regulations, is not giving us something to work with, to prove that it meets the bar.

Commissioner Bachand: So the thing that is in his favor is that the footprint is already there. So that space is already taken, so he is talking about encroaching on air space not in lawn space, so it's an aerial encroachment if you want to call it that. Maybe that is not the right term, but the footprint is already occupied in that space, you can't give it back, so it is always going to be there, it's always going to, the corner of that garage is always going to be two feet over the line, so I think it would be arbitrary to not allow it because this was the case that I brought up with the one that we denied, I think on Homecrest, because there were other houses right on the street that had two story that were built before the change in zoning, so that is where we came up with the point that it seems arbitrary to not allow this person to do the same thing that what the neighbor next door has.

Commissioner Cane: So how do we change zoning regulations?

Commissioner Bachand: We have had two applications in four or five years, so I don't .....

Commissioner Cane: So should we just apply the old regulations forever?

Commissioner Bachand: That's where we have the elasticity and we don't know how this one is going to go, so right now, one was denied, I voted for it.

Commissioner Cane: We were talking about TPZ, I would vote in favor of a text amendment. It's very reasonable. I think that is why you're are inclined to approve this because the existing garage and setbacks should be able....

Commissioner Bachand: That is definitely not a guarantee and that is probably a year long ordeal to get something like that to go through.

Commissioner Donaluk: I think the thing that makes me want to consider it favorably is the fact that the neighbor that testified who lives next door, it's garage to garage. It's not window to window. Again, three feet in my opinion in that close neighborhood, it's not a concern I think.

Commissioner Kolakowski: Is the current garage over the line?

Erik Hinckley: Yes, the survey shows I think 7.3 is in the calculations, and again, the garage was built, when it was originally constructed, it met the 5 foot requirement.

Chairman Dunning: If I understand correctly, he is only building above the garage.

Erk Hinckley: That's correct, and I would like to discuss that there are towns that have allowances for second story additions in this basically is what a number of towns say, you can project your roof line from your existing home over to that and you could built up to that, and they have that in the regulations, we don't have anything about that within the regulations. Some towns do have language in the regulations that say basically yes, you can build up and meet the existing roof line.

Commissioner Bachand: That might be something that you might get through TPZ, not the blanket statement that you were talking about that anyone could encroach into the five foot setback but something like that you might be successful with the TPZ, but again that's quite a burdensome thing. If I could just add one more thing, part of the hardship, I don't know if you would call it a hardship, but part of the situation here, is if you look at the back corner of the addition is right on the line, but because this property is somewhat pie shaped that kind of, that pushes that front corner into it too, but the back corner is at the line.

The shape of the lot, it's not a square lot, it's a pie shaped. So I think to Commissioner Cane's point, I don't think anyone would ever be able to get an appeal through because if you were so rigid with the regulations or with the case law, no appeal would ever be passed, and if someone tried to appeal it to the courts, I don't think they would ever have a chance.

Commissioner Cane: Variances are supposed to be extremely difficult to get, it's very, very hard to get a variance.

Commissioner Bachand: If he was asking for ten feet variance, well, this is only one corner of this lot, I wish he could tell us what the total square footage is, but again, it's already occupied a space, no one is going to lose any more land.

Chairman Dunning: I think in the past we have had some concerns about setting a precedent here and maybe this is something that should be brought back to the TPZ to look into.

Erik Hinckley: So as far as precent goes, each application, variance request should be on its own merits. Just because you approve one doesn't mean that you have to approve another. It is a case by case basis. I understand that you get that feeling, well we approved that and that's fine.....

Commissioner Bachand: In reality, if a neighbor came tomorrow and asked for the same thing it would be kind of hard to deny.

Erik Hinckley: You can take action or you can table until the next meeting. We can have a discussion about something that you may want to inquire with the TPZ about, in the future, a regulation.

Chairman Dunning: I think there is another family that is thinking about enhancing their property as well.

Erik Hinckley: Again, I haven't seen any plans so I don't know what it is.....

Chairman Dunning: I think that we might want to look into something so we have better guidelines in the future.

Commissioner Kolakowski: I remember a few meetings back you said that if we should review the regulations and if we see anything that we believe could cause variance issues coming up we should probably recognize the TPZ to change it.

Erik Hinckley: You can workshop that at a meeting and just kind of go through regulations and say, hey what are key triggers, what do we get most variances for, stuff like that and you can kind of consider them. If you come up with some ideas, I can certainly draft a memo and assist you with that, but that is a conversation for another time. I don't want to take away from the applicant.

Chairman Dunning: I think we have exhausted the work session, unless there are any other questions.

**V. MINUTES OF PREVIOUS MEETING**

Chairman Dunning: Has everyone had a chance to read the minutes of the September 4, 2025 meeting? Can I have a motion to approve?

Commissioner Cane: No. I would like to fix the spelling of my name.

Erik Hinckley: So you can make a motion, with the correction.

Commissioner Kolakowski moved to approve the minutes of the September 4, 2025 meeting with the correction of the spelling of Commissioner Cane's name. The motion was seconded by Commissioner Bachand. The vote was unanimously in favor of the motion, with five voting YEA.

**VI. COMMUNICATIONS AND REPORTS**

None

**VII. NEW BUSINESS**

None

**VIII. OLD BUSINESS**

- A. ZBA-25-3: Requesting a variance of 3' from Section 4.5, Table A of the NZR (Newington Zoning Regulations) to reduce the side yard setback, on the southerly side of the house from 10' to 7' for a second story building addition to an existing garage at 52 Elton Drive in the R-12 Zone, Applicant/Owner Rachel D. & Jeffrey Osak, Contact: Jeffrey Osak

Commissioner Bachand: This might have been better for the work session, but can we still make some comments?

Erik Hinckley: You can make some comments.

Commissioner Bachand: The one thing I was thinking of and maybe this will add a little bit of peace to the progress, we are only approving it for this addition, so it's only that pie slice of that side yard setback, we are not granting three feet from front to back.

Erik Hinckley: So if you read my suggested motion, I make that point clear that is only for the addition and not the entire side yard.

Commissioner Bachand: Not even for the whole addition and in this image it is depicting a half of that space, really it's about fifty percent of what it would be if you drew a three foot line parallel to that.

Erik Hinckley: Just so we're all clear upfront, the applicant needs four votes for approval.

Commissioner Kolakowski moved to grant a 3' variance to reduce the required side yard setback, on the south side of the property, at 52 Elton Drive from 10' to 7' to allow a 25.3' x 12.4' second story building addition to the existing garage. This variance is for the addition only and does not reduce the entire side yard setback to 7'

Commissioner Bachand: Can we add a condition that it for only that pie shaped part of that addition. I don't know how you would word that, but just in case someone said, oh I want to build three feet all the way, which would be twice the encroachment.

Erik Hinckley: You will have to draft something for that if you don't.....

Commissioner Bachand: Just the way that the drawings and the application are depicted. If you want to ensure that the least amount of encroachment ever occurs then you would...

Erik Hinckley: So, this is just me, I'm not a member, you could say just the second story building addition as depicted on the submitted plan. I mean, that's up to you, you will have to amend your motion if that is what you are going to do.

Commissioner Kolakowski: I'd like to amend my motion: Move to grant a 3' variance to reduce the required side yard setback, on the south side of the property, at 52 Elton Drive from 10' to 7' to allow a 25.3' x 12.4' second story building addition to the existing garage. This variance is for the addition only as depicted on the submitted plan and does not reduce the entire side yard setback to 7'.

Erik Hinckley: On the record, after the vote, in general the reason can come from anyone of the Commissioners. It will be a roll call vote, and the motion is to approve.

The motion was seconded by Commissioner Bachand. The roll call vote was in favor of the motion, with five voting YEA and one NAY (Cane).

Commissioner Bachand: So you want a reason, we discussed all of the reasons.

Erik Hinckley: Okay, I'll extrapolate it and we will go with that.

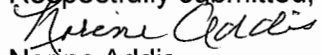
Chairman Duning: There is no other business under Old Business is that right?

Erik Hinckley: No there is not.

**IX. ADJOURNMENT**

Commissioner Kolakowski moved to adjourn the meeting, seconded by Commissioner Bachand. The meeting was adjourned at 7:50 p.m.

Respectfully submitted,



Norine Addis,  
Recording Secretary