



## WARREN ZONING BOARD OF REVIEW

August 19, 2020

### Minutes

The regular August 19, 2020 meeting of the Warren Zoning Board of Review was called to order by Chairman P. Attemann at 7:00 pm. Also, present were Vice Chair A. Ellis, J. Rainone, W. Barrett Holby, Jr., C. Thibaudeau, 1<sup>st</sup> Alternate J. Nystrom and 2<sup>nd</sup> Alternate J. Sylvia.

Solicitor Benjamin Ferreira, Building and Zoning Official Tony Carvalho and Bob Rulli, Director of Planning and Community Development acting Moderator were also present.

#### **Approval of Minutes:** May 20, 2020 and August 5, 2020

A motion was made by W. Barrett Holby, Jr. to accept the May 20, 2020 minutes as circulated. Second by C. Thibaudeau. Yea – Chairman P. Attemann, Vice Chair A. Ellis, J. Rainone, W. Barrett Holby, Jr., C. Thibaudeau and Alternate J. Nystorm. Alternate J. Sylvia abstained. Motion passes 6-0.

A motion was made by W. Barrett Holby, Jr. to accept the August 5, 2020 minutes as circulated. Second by C. Thibaudeau. Yea – Chairman P. Attemann, Vice Chair A. Ellis, J. Rainone, W. Barrett Holby, Jr., C. Thibaudeau and Alternate J. Nystrom. Alternate J. Sylvia abstained. Motion passes 6-0.

#### **Old Business**

**Application #20-25; Ocean State Plaza Inc., applicant and owner; 601 Metacom Ave; Plat Map 15B, Lots 333; request for a *Variance* under sections 32-115** to allow the replacement of a multi-use sign, install ground sign 174” x 208” at 251 sq. ft.; 21’ overall height (replaces damaged/removed 295 sq. ft; 29’ 6” sign height). Internally illuminated, replace at same location as previous sign. in the Business Zone. CONTINUED FROM JUNE 17, 2020.

**Heather Wood Dudko**, representative of Hazel Wood Hopkins Sign Permit Consultants, 2 Phoebe Way, Worcester, MA 01605 was present to give testimony. Ms. Dudko explained the following options:

- Option #1 would offer tenant panels having an opaque face. At night, when the light in the sign is turned on, it will only show through the graphics. She further stated that when you have an internally illuminated sign of this nature, the graphics are very clear to read. In the winter when it is dark, it will be a very crisp and a clear looking sign. This would be easily readable by motorist and a good visible sign. The light would be contained to the sign itself.
- Option #2 would offer an exterior light source, being a goose-necked lighting on both sides which would protrude.

- Option #3 would offer a self-contained external lighting that would shine downward but there would also be the need to install something at the bottom of the sign to shine and light up the lower tenant panels.

She also explained, sometimes when you move to an externally illuminated signs with the fixtures, there can be more of a light spill over on the interior structure because you are actually trying to light the interior structure. Ms. Dudko stated that the original sign that was damaged was 295.5 sq. ft. per face. The purposed sign is 208 sq. ft per face. Ms. Dudko requested a continuance to the September 16, 2020 meeting without prejudice.

**Tom Dunn**, Metro Sign and Awning, 170 Lorum St, Tewksbury, MA 01876. Mr. Dunn explained that not all of the panels would be white, it would be whatever that business uses. That would be made out of aluminum and painted with a matte finish. The face of the panel is grouted and only the graphics are backed with acrylic which allow for a rich look. Almost appearing as a curved sign during the day because you see a slight recess. This would be a softer lighting, less bright then external lighting that will be lighting up the whole face of the sign. These signs are illuminated with LED lighting which allows the ability to adjust a warmer or cooler temperature.

**Vice Chairman A. Ellis** stated after looking at the three (3) options they seem similar. In general, the scale and size of the sign are not being helped by the materials and it has a rather generic look. He also stated that he isn't sure it is consistent with the Comprehensive Plan, it appears to be like any sign that could go anywhere, that is serving at a detriment to making its size look even more opposing then it otherwise it would if some alterations to the materials or sense of scale applied to the sign. The main issue here is the size of the sign which is, a very large sign beyond what is allowed by the Ordinance.

**Member J. Rainone** stated if moving with an internally illuminated approach, both at installation and in the future, it would facilitate the acceptance, to move along the lines with LED technology. Also, a control box should be installed at the bottom of the sign.

**Member J. Nystrom** inquired if there have been any studies that would compare Option #1 illumination and spillover with the existing sign, to offer a compare and contrast. It would be helpful to have that information.

#### **PUBLIC COMMENT-None**

**It was moved by Vice Chairman A. Ellis to continue Application #20-25 to the September 16, 2020 meeting as requested by the applicant. Second by J. Rainone. Yea- Chairman P. Attemann, Vice Chairman A. Ellis, J. Rainone W. Barrett Holby, Jr. and C. Thibaudeau. Motion passes 5-0.**

#### **New Business**

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**Chairman P. Attemann recues himself**  
**Vice Chairman A. Ellis assumes Acting Chairman**  
**1<sup>st</sup> Alternate J. Nystrom assumes a voting seat**

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**Application #20-36; Charles M Jr. & Jane A Henderson owners and applicants; 26 Bridge St; Plat Map 7, Lots 57; request for a *Variance* under sections 32-77 to build a one-story addition with a landing/deck with less than required front and side yard setbacks and to exceed the maximum lot coverage in a R10 Zoning District.**

**(Charles) Mitch Henderson**, 26 Bridge, St., was present to give testimony for Application #20-36. Mr. Henderson explained that he purchased the home in 2013. He also explained the dwelling, 1760's cape, is adjacent to the bike path, which is State property. The property is also on the corner of Bridge St. and Hall St and actually pre-exist Hall St. He further stated, to the backside of the property there is currently a dormer. This is where the addition is being purposed and would go below that going toward the bike path by eight (8) feet. The purposed is approximately 8' x 19' which will accommodate a bedroom due to health and medical issues.

**Cory Kallfelz**, 22 Bridge St. Warren, the Architect for the Henderson's and a neighbor, stated that this is a legal non-conforming parcel measuring 2,877 sq. ft. The house is situated in such a way that it is tight to Bridge and Hall St. This is the most feasible place for the addition. The 8' x 19.4' is purposed. The eight (8) foot wide is the minimum to make a usable interior space. The 19' will allow them to get between the den and the dining room. The existing front yard setback is not changing, it is currently 2" and 4' is being requested, the required is 25', 21' is being requested. The side yard setback request is 3'1". The current lot coverage is 30 %, requested 31% where 25% is allowed. There is an existing 5' fence. Ms. Kallfelz also stated they have gone before the Warren Voluntary Historic Committee, who approved the materials and appearance.

#### **PUBLIC COMMENT-None**

**It was moved by W. Barrett Holby, Jr. to approve Application #20-36; Charles M Jr. & Jane A Henderson owners and applicants; 26 Bridge St; Plat Map 7, Lots 57; request for a *Variance* under sections 32-77 to build a one-story addition with a landing/deck with less than required front and side yard setbacks and to exceed the maximum lot coverage in a R10 Zoning District.** Finding of fact, the hardship is due to the unique characteristics of the subject land, the house and structure predate our Zoning. Where this is currently a street there use to be a windmill. It is a tight lot, but it seems that the addition will not be noticeable. Further findings of fact, it will not alter the general characteristics in the area, again it will not be noticeable, being only 8' x 19' and being tucked behind an existing fence. The hardship is not due to any prior action of the applicant or the result for any greater financial gain. The applicant is in need of better use of his home for health reason. By granting the Variance it will help the applicant by allowing him to live on the first floor of his house. Finding of fact, the relief being requested is the least amount of relief necessary, it is a small house on a small lot. It would be more then a mere inconvenience if the Variance were not to be granted for the health reasons stated by that applicant. The front yard setback for the addition will be 4' where the existing house will remain at 2". Second by J. Nystrom. Yea – Acting Chairman A. Ellis, W. Barrett Holby, Jr., J. Rainone, C. Thibaudeau and J. Nystrom. Motion passes 5-0

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**Chairman P. Attemann resumes his seat**

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**Application #20-37; Daniel Karten & Marissa Joinson owners and Tracy Joinson, applicant; 24 Laurel Ln; Plat Map 13D, Lots 202; request for a *Special Use Permit* under sections 32-47 to build a two-family dwelling in a R10 Zoning District.**

**Mr. Rulli** stated that this applicant went before the Planning Board (June 22, 2020). They were granted a Subdivision as well as, a Dimensional Variance, there by reducing the frontage requirement from 120' to 90'.

**Tracy Joinson**, 24 Laurel Lane, explained they are seeking a Special Use Permit to build a two-family residence where she would live with her mother. Ms. Joinson stated she would live on the second floor with her mother being located on the first. It is their hope that this will take care of long term and housing care for her mother. It will be helpful having her sister and brother-in-law next door so they can all share and provide the necessary care for her mother. She had submitted a plan of the house and noted that it looks like a single-family home, which is the intent. Although there are other multi-family homes in the area, they wanted it to appear as a single home. The frontage on the existing lot is 90' and the frontage for the proposed lot is 95'. Ms. Joinson stated that after driving through the area they notice one (1) block over, there is a two-family with two (2) separate entrances. Ms. Joinson stated that they did look into setting up an in-law apartment however that would only allow her mother a maximum of 600 sq. ft. and one bedroom. This option would not be feasible for her mother for the next 15 years.

**Daniel Karten**, 24 Laurel Lane, explained they are seeking to build a house that will serve as a two (2) family. His sister-in-law and mother-in-law will be living in the proposed new dwelling. Mr. Karten explained that the minimum requirement is 15,000 sq. ft. for a two-family with a SUP in the R10 zoning area and they made it 19,000 sq. ft., slightly large then the requirement. Mr. Karten informed the Board that on Homestead Avenue, which is part of the Laurel Park area, there is a six (6) family residence. He further stated that they have a 3.2-acre lot and the abutter on the west is the 67-unit apartment complex. Mr. Karten stated there are many mother-in-law units scattered around and there are only a handful of vacate lots in the area.

**Marissa Joinson**, 24 Laurel Lane, stated that the Town of Warren is looking to increase housing options. By adding one more living space in this neighborhood doesn't seem like it should really have a deleterious affect on the neighborhood, in fact, it should enhance the neighborhood. She further stated that they love the area and they don't feel there is the potential opportunity of this having a negative impact on the quality of life for anyone.

### **PUBLIC COMMENT**

**Robin Remy**, 21 Avenue A, doesn't think that there are two-family houses one or two blocks away. She also stated, that although the apartment complex abuts the applicant's property, it really isn't in that neighborhood. Her concern is, by allowing a two-family here, it will open the door to start creating more two-family dwellings in neighborhoods where they don't really exist. She is also concerned that later the family structure may change and it will become a rental to two (2) unrelated people, like college students.

**Chelsea Fletcher**, 22 Laurel Lane, stated that she is supportive of this request. She also stated in terms of the multi-family apartment unit, she considers that part of the neighborhood, even if it is a couple of streets over. Ms. Fletcher also stated especially with the proposed dwelling appearing to be a single-family home, she doesn't see how this is a problem.

**Karen McCanna**, 36 Fairview Ave, stated her concern, after seeing the plans and the owner of the property visiting with her the day before, there are possibilities of doing other things and also putting another house up there.

**James McCanna**, 36 Fairview Ave, stated for the record the efficiency of Mr. Rulli and Mr. Carvalho when he had met with them. He stated his concern is that at the Planning Board meeting, Mr. Blanchard stated that they could put a road in and seven houses at this location. He also stated that the Planning Board granted a Variance based on a hardship relief. He is not aware of where in the Comprehensive Plan or anywhere else, that a Board Chairman has the authority to make something a hardship relief. He then questioned the transparency and being told that it is inappropriate to bring up what happened at the Planning Board, and whether or not their designation that is coming before the Zoning Board is irrelevant.

**Solicitor Ferreira** stated that it is not appropriate to discuss what happened at the Planning Board. A decision was rendered, the appeals process is available by Statue, by Town Ordinance which would be the proper way to address those issues. The Planning Board is completely irrelevant to what is before the Zoning Board this evening.

**Mr. Rulli** stated that he is not sure where the lack of transparency is. The Planning Board approved the Subdivision of the property into two (2) lots. There is not adequate ability to create a road front from Laurel Lane to the rear of the remaining land that the applicant has. If in the future, the applicant would like to speak to abutting land owners and create another access point, that would be a separate application process that would be before Planning and Zoning. There is no opportunity based on what was approved by the Planning Board to create an access to the rear of this property. Not sure where the lack of transparency is, we have been nothing but transparent. Mr. Rulli also stated there was no hardship relief granted. It was a Dimensional Variance that was granted by the Planning Board.

**Barbara Dobbyn**, 7 Almeida Drive, who is a rear abutter, is not sure how her concerns relate to his need to build a house on Laurel Lane. Her concern is with the acreage behind his house. For over 100 years is has been a wooded land creating habit for a lot of wildlife. She further stated that many in the area are concerned with what may happen to the wildlife in this area with more development that could occur.

**It was moved by Vice Chairman A. Ellis to approve Application #20-37; Daniel Karten & Marissa Joinson owners and Tracy Joinson, applicant; 24 Laurel Ln; Plat Map 13D, Lots 202; request for a Special Use Permit under sections 32-47 to build a two-family dwelling in a R10 Zoning District. Finding of fact based on the testimony, it is compatible with the neighboring land uses, a two-family is a residential use and the prevailing area is of residential character. There is a mix of housing types within the general vicinity of this area, including two-family and multi-family dwellings. There is no indication that it will create a nuisance or hazard, the plans submitted show that the house is being developed in conformance with the setbacks and other requirements for this development. It is consistent with the prevailing pattern and its relationship to the street. It has its own driveway and access so the public safety is preserved. It will be compatible with the Comprehensive Plan. The Plan encourages diversity in the housing stock and encourages multi-generational living arrangements. The public convenience and welfare will be served but helping to increase the diversity of the housing stock and meeting a need for helping multi-generational family living, which is encouraged in the Town. Second J.**

Rainone. Yea- Chairman P. Attemann, Vice Chairman A. Ellis and J. Rainone. Nay – W. Barrett Holby, Jr. and C. Thibaudeau. Motion fails 3-2

**C. Thibaudeau** stated that Laurel Lane doesn't have two-family dwellings there and it doesn't seem to be compatible with the neighborhood.

**W. Barrett Holby, Jr.** stated that he disagrees with the findings. He doesn't think the SUP will be compatible with the neighboring land uses. It seems to be setting a precedent, individually although the proposed looks like a single family, but the two-family doesn't seem compatible with this street. He also stated that he doesn't see this creating a hazard however he doesn't believe it is compatible with the Comprehensive Plan. He further stated he doesn't see a two-family as part of the Comprehensive Plan on Laurel Lane. He also stated that the public welfare and convenience will not be served from the testimony of abutters and the fact of Zoom meeting makes it difficult. The applicant can appeal and come back before the Board, when we meet in person it would allow for other abutters to be present.

**Solicitor Ferreira** informs the applicant of the appeal process. (Within 20 days after the decision of the Board is recorded, an appeal can be filed in Superior Court.) (Recorded decisions can be found at the Town Hall or at <https://countyfusion9.kofiletech.us/countyweb/login.do?countyname=TownFusion&town=WarrenRI>)

**Jamie Sylvia had an EMS call and left the meeting at 7:48pm**

**Application #20-38; Janet Devin, owner and Daniel Teldoro, applicant; 125 Water St; Plat Map 2, Lots 23; request for a *Variance* under sections 32-51** to allow a six (6) foot fence between this property and the abutting property (119 Water St) in a Village Business Zoning District.

The Chairman calls the application and there is no response. The application is tabled until the end of the meeting.

The Board came back to this application at approximately 9:42. No one was present to give testimony for this application.

**It was moved by Chairman P. Attemann to move this application** to the next meeting, **September 16, 2020**, without prejudice. Second by Vice Chairman A. Ellis. Yea- Chairman P. Attemann, Vice Chairman A. Ellis, J. Rainone W. Barrett Holby, Jr. and C. Thibaudeau. Motion passes 5-0.

**Vice Chairman** added that the materials that have been submitted for review, there appears to be no details of the purposed fence. If they are to come before the Board, it would be useful to provide some drawing and information on what it is that they are purposing.

**Application #20-39; 65 Vernon LLC, owner and All in Fitness, applicant; 233 Child St; Plat Map 10, Lots 130A; request for a *Variance* under sections 32-52 to allow a personal training business to operate in the Manufacturing Zoning District.**

**Robin Remy**, explained that she had been granted a SUP two years ago for the barber shop who had a five (5) year lease that he will be breaking. She stated that she has a new potential tenant who would like to offer personal training. There may be two (2) trainers at a time who would be working with a client at any given time. She also explained that she has been before the Board in the past. She had applied to make this a single residence due to the inability to rent it commercially, the Board had asked for her to try again. The building sat vacant for one (1) year prior to the Barber Shop tenant who signed a five (5) years lease that he will be breaking. There are six (6) parking spaces and in addition, there is side street parking available. She further stated that she has spoken with several civil engineers and there are two things that would have to happen with this property. First would be a Subdivision of the property and there doesn't seem to be enough frontage for that section of the property. Secondly, both properties still be zoned Manufacturing require a Zoning Variance to change the use of the building. The minimum to achieve the Subdivision is \$10,000.00, which is a cost prohibitive. Further, every time there is a new tenant there is an almost \$300.00 fee to apply and her time, to allow just for a new tenant use. If she could make it into a dwelling then all of the property would be residential use. She further stated, the tenants that are allowed are limited and unusual. She explained that at the cost of \$3,600.00, she hired a realtor who listed the property and found this current potential tenant. The others who applied would not be allowed at this site or be beneficial (a fish n chips with Amaral's being right around the corner).

**The Board** discussed the possibility of going before the Town Council to request a Zoning amendment. This is a challenging site has come before the Board numerous times and the cost that the applicant has to pay every time, they have to apply for a Special Use Permit for a use change for a new tenant on this property.

**Mr. Rulli** informed the applicant that she could apply to the Planning Board for an Administrative Subdivision or request a Dimensional Variance relief.

#### **PUBLIC COMMENT-None**

**It was moved by W. Barrett Holby, Jr. to approve Application #20-39; 65 Vernon LLC, owner and All in Fitness, applicant; 233 Child St; Plat Map 10, Lots 130A; request for a *Variance* under sections 32-52 to allow a personal training business to operate in the Manufacturing Zoning District.** Finding of fact based on the testimony presented, the hardship is due to the unique characteristic of the subject land or structure, not due to the general characteristic of the surrounding land and not due the to the physical or economical disability of the applicant. There are many businesses that do not manufacture on Child St., there are beauty parlors and other like general businesses and this fitness business would fit in on this property. The hardship is not due to any prior action of the applicant, nor does it result primarily for the applicant to realize greater financial gain. The goal is to just get a tenant to occupy this building which would be good for the neighborhood. The granting of the Variance will not alter the general characteristic of the surrounding area and the request conforms with the purpose and intent of the Zoning Ordinance and Comprehensive Plan. The general business in the area will be a good thing and fit the area just as the Barber Shop has, it will be good for the surrounding area. The standard has been met for a small business going into a difficult property on Child St. Due to the fact that the Board is entertaining the Variance use, testimony presented about the building suggest strongly, and it is the opinion of the Board, that this structure cannot yield any

beneficial manufacturing use and the proposed personal fitness training is a beneficial use that would be appropriate here. Second by C. Thibaudeau. Yea- Chairman P. Attemann, J. Rainone W. Barrett Holby, Jr. and C. Thibaudeau. Nay – Vice Chairman A. Ellis. Motion passes 4-1.

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**Application #20-40; Brian Remy, owner and Natural Green Choice LLC, Jeffrey Motta, applicant; 168 Franklin St; Plat Map 13A, Lots 52; request for a *Special Use Permit* under sections 32-31 & 32-46** to allow for the expansion onto the first floor and the use of more of the 2500 sq. ft space, which is allowed by the Dept of Business Regulation in the Manufacturing Zoning District.

**Jeffrey Motta**, 592 Main St., was present to give testimony for Application #20-40. Mr. Motta explained he is the owner and operator of Natural Green Choice LLC. He further explained that they are looking to move to the first floor to create more room for the employees. Currently they are allowed under the Micro license 2,500 sq. ft and currently they are utilizing 1,340 sq. ft. The new space would allow for a breakroom for the employees and a bathroom. The current 8' x 8' manufacturing room would be moving to the first floor which will allow more room for the employees to trim and be in a better environment. The 2,500 sq. ft. is dictated by the DBR. Common hallways, bathrooms and breakrooms do not fall under that square footage. The square footage applies to the manufacturing area, with the purposed they would be using 2,170 sq. ft, which will still be under the allowed. There have been no problems or complaints. There have been new cameras installed on the first floor.

**Michael Fonseca**, 137 Ferry Rd, Bristol, RI 02809, stated that he is part owner of Natural Green Choice LLC. Mr. Fonseca stated that they are looking to expand due to bringing on more employees. He further stated that the regulations are changing continually, between the State and the Dispensaries. They, the State use to self-pack themselves, now this will have to be done inhouse. This building is capable for them to expand up to the 2,500 sq. ft. of cultivating and manufacturing. It will not go over 2,500 sq. ft. In fact, it would be just under the 2,500 sq. ft. if they were to occupy the whole space at a later time. If they were to expand beyond the 2,500 sq. ft. it would require a different license with DOR. Currently they occupy 35' x 46', 1,610 sq. ft. on the second floor.

**Solicitor Ferreira** stated that although this would be an amendment to their first SUP, if approved, they will have two (2) separate SUP permits. It would be noted that it is an amendment and just an expansion on the original. This application differs from the original because it added more space. Or if the Board would like, it could be incorporated into one, saying that you are hereby granting the SUP once again for the two (2) floors combined as presented, it will be drafted as such.

#### **PUBLIC COMMENT-None**

**It was moved by J. Rainone to approve Application #20-40; Brian Remy, owner and Natural Green Choice LLC, Jeffrey Motta, applicant; 168 Franklin St; Plat Map 13A, Lots 52; request for a *Special Use Permit* under sections 32-31 & 32-46** to allow for the expansion onto the first floor and the use of more of the 2500 sq. ft space, which is allowed by the Dept of Business Regulation in the Manufacturing Zoning District. Finding of fact based on the testimony, it is in fact compatible with the neighboring land use, it is a relativity contained business use. It does not stretch outside of the building in anyway. It will not create a nuisance or hazard in the neighborhood. Testimony has been presented that the building is well monitored, the new space pertaining to this SUP has already had cameras installed at the same level as the existing use. It



is compatible with the Comprehensive Plan as this will allow an existing business in Warren to expand its operation and bring on additional staff, thereby making its current business operation within the Town more convenient, more streamlined and provide the space that they need to continue operating as they have been. The public welfare and convenience will be served. This will be improving and creating new jobs in the Town of Warren and creating a product that is sold in Rhode Island. The granting shall be conditional on all prior Special Use Permit conditions shall apply to this Special Use Permit. (Conditions on prior granted Special Use Permit Application #18-25 heard on 7/18/18:

- The application has included, and will include as a condition, the legal name and address of the licensed cultivator, to include the Original Articles of Incorporation, for the LLC, the name, address and birth date of each principle officer and member of the LLC.
- The granting will not adversely affect any property the of any used for a school, public or private park, playground, play field, youth center, licensed day care center or any other location where groups of minors regularly congregate.
- The proposed location will be buffered in relation to any residential area in the immediate vicinity as there is a six (6) foot stockage fence, there is about twenty (20) feet between the location of the fence and then the residence. To the other side is business zone, to the rear is woodland and the buffer of Franklin Street to the front.
- The building was pre-existing and will not require any exterior changes other than lighting and security.
- Not within 100' of Residential Zone nor is it within 1,00 feet of a school.

Second by W. Barrett Holby, Jr. Yea- Chairman P. Attemann, Vice Chairman A. Ellis, J. Rainone W. Barrett Holby, Jr. and C. Thibaudeau. Motion passes 5-0.

### **Administrative Matters**

Vice Chairman A. Ellis inquired as to when the meetings may be relocated back at to the Town Council Chambers.

Mr. Rulli explained there is hope that the camera system will be installed prior to the next meeting. If the cameras are in place than the next meeting, September 16, 2020, will be an in-person meeting.

### **Adjourn**

It was moved by W. Barrett Holby, Jr. to adjourn the meeting at 9:40 pm. Second by Vice Chairman P. Attemann. Yea- Chairman P. Attemann, Vice Chairman A. Ellis, J. Rainone W. Barrett Holby, Jr., C. Thibaudeau and J. Nystrom. Motion passes 6-0.

Respectfully submitted,

Rhonda Lee Fortin  
Secretary