

ITEM 01 **Application #22-363: 250 Bristol Street, ANDREW AND JOANN FIORENTINO, requesting an Area Variance necessary to operate a Short-Term Rental from a property that is not their primary residence. In accordance with §850-110.5 of the Zoning Ordinance, within the R-2 zone district, the Short-Term must be the owner's primary residence. Applicant seeks a variance from this requirement. (Tabled from December 21, 2022)**

Mr. Wilmer moved to lift the application from the table. Mr. Roberts seconded the motion which carried with a vote (7-0).

Andrew and JoAnn Fiorentino presented the application. They have recently purchased this two-family home at 250 Bristol Street. They intend to make one of the units their primary residence at some point in the future, but would like to begin renting both units short-term immediately. Granting the variance would allow them flexibility to stay in one of the units during the summer months. Their income would be greatly reduced if they are limited to long-term rentals only.

Chairman Bader reopened the Public Hearing. No one came forward.

Chairman Bader closed the Public Hearing and directed the board to revisit the questions on the five-part test. This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Chairman Bader believes there is no difference in the impact to the character of the neighborhood whether or not the owners are on site.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Ms. Henshaw said waiting until they are able to permanently occupy one of the units would eliminate the need for a variance.

Mr. Wilmer agrees.

Chairman Bader disagreed. Waiting would not offer them the same financial benefit. A short-term rental will result in a higher profit margin than a long-term rental.

Regarding question #3: *Show that the requested variance is not substantial.*

Ms. Henshaw and Mr. Wilmer believe it is a substantial variance.

Chairman Bader believes there is no substantial difference with the owners on site.

Mr. Brazill disagrees.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Wilmer said there would be no impact on the physical or environmental conditions without the owners on site.

Chairman Bader agrees.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Ms. Henshaw sees the requested variance as a permanent solution to a temporary problem.

Chairman Bader referenced to the applicants' submitted comment stating that the property was on the market for 5 days with a showing and then a 5-day bid due process. There was no time for them to seek an area variance and special use permit.

Chairman Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Ms. Harris moved that the board **Approve** the application as submitted and presented for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #3. The variance is not substantial.

The motion *failed* for lack of a second. Chairman Bader asked for an alternate motion.

Mr. Wilmer moved that the board **Deny** the application as submitted and presented for the following reasons:

- #1. The granting of the variance will produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #2. The benefit sought by the applicant can be achieved by some other feasible means that would not require a variance.
- #3. The variance is substantial.

Ms. Henshaw seconded the motion, which *failed* to carry with a roll call vote ((3-4).

Ryan Wilmer	Voting	YES
John Roberts	Voting	NO
Roger Brazill	Voting	YES
Julie Harris	Voting	NO
Susan Haller	Voting	NO
Carol Henshaw	Voting	YES
Joseph Bader	Voting	NO

Chairman Bader repeated the request for a second to the first motion to **Approve** by Ms. Harris for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #3. The variance is not substantial.

Mr. Roberts seconded the motion, which *carried* with a roll call vote (4-3).

Ryan Wilmer	Voting	NO
John Roberts	Voting	YES
Roger Brazill	Voting	NO
Julie Harris	Voting	YES
Susan Haller	Voting	YES
Carol Henshaw	Voting	NO
Joseph Bader	Voting	YES

ITEM 02 Application 23-002: 11 Tamarack Drive, EDWARD SULLIVAN, requesting an Area Variance necessary to construct a new home with an attached garage that projects 9 feet from the front of the home. In accordance with Schedule 1 of the Zoning Ordinance, attached garages shall be set back at least 2 feet from the front of the home.

Edward Sullivan presented the application. He is seeking to downsize to a new single-story home to be built on a vacant lot that he currently owns. He is limited on floor plans due to the lot size. He is seeking a variance to build an attached garage that extends 9 feet from the front of the home and 2 feet beyond the porch. To slide the garage back further would interfere with the floor plan and make the back yard less useable. He has submitted images of several homes on Tamarack Drive that have garages that are not setback from the front of the home.

Mr. Brown pointed out that the zoning ordinance does not consider the porch as the front of the home. The requested area variance is for a total of 11 feet.

Chairman Bader opened the Public Hearing. No one came forward and Mr. Brown noted that no written comments have been received. Chairman Bader closed the Public Hearing.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood. Chairman Bader led the board through the five-part test.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Chairman Bader said there will be no change to the character.

Mr. Roberts said the forward garage will be consistent with many other homes in the neighborhood.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Chairman Bader said the applicant has the option to choose a different house plan.

Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Wilmer said the impact is not substantial.

Chairman Bader feels that the requested variance is substantial dimensionally; however, it is not substantial relative to the required setback from the street.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Chairman Bader sees no effect on the physical or environmental conditions of the neighborhood.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Chairman Bader recognized that the hardship would not be self-created if based on a desire to fit in with other homes in the neighborhood.

Chairman Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Mr. Wilmer moved that the board **Approve** the application as submitted and presented for the following reasons:

#1. The granting of the variance will not produce an undesirable change in the character of the neighborhood create a detriment to nearby properties.

#4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

Mr. Roberts seconded the motion, which ***carried*** with a roll call vote of (7-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Voting	YES
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

MISCELLANEOUS

Mr. Brown reminded the board of the Special Joint Meeting scheduled for the Planning Commission and Zoning Board of Appeals on Wednesday, January 25, 2023. The meeting is to discuss §850-110.5 of the Zoning Ordinance regarding Short-term Rentals including emerging patterns and concerns.

ADJOURNMENT

Mr. Roberts moved to adjourn the meeting at 8:00, seconded by Ms. Harris and carried by unanimous voice vote (7-0).

Richard E. Brown, Secretary

Joseph Bader, Chairman