

MINUTES BOARD OF ADJUSTMENT NOVEMBER 20, 2019

Minutes of the regular hearing of the Board of Adjustment, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Study Session 5:35 PM

Present:

Staff:

Vice Chair James Frazey	Steve Abrahamson, Principal Planner
Board Member Whitney Baker	Diana Kaminski, Senior Planner
Board Member Kevin Cullens	Brittainy Nelson, Administrative Assistant
Board Member David Naugle	
Board Member John 'Jack' Confer	

- **Acceptance of 2019 Annual Report**

The Board did not have any questions about the Annual Report during Study Session.

- **Del Taco**

Mrs. Kaminski provided the board with the packet from the opposition that she received over the weekend. There were questions from the board about where the home was in regard to the site that is being developed. As well as what were the other business in the area. Mrs. Kaminski informed the board of a few business in the area but also informed the board that this information will be in her presentation as well.

Regular Meeting 6:03 PM

Present:

Staff:

Chair David Lyon	Steve Abrahamson, Principal Planner
Vice Chair James Frazey	Diana Kaminski, Senior Planner
Board Member Whitney Baker	Brittainy Nelson, Administrative Assistant
Board Member Kevin Cullens	
Board Member David Naugle	
Board Member John 'Jack' Confer	

1) Voting of the Meeting Minutes

Study Session & Formal Meeting Minutes from October 23, 2019 – Continued to December 18, 2019 Meeting

2) Acceptance of 2019 Annual Report

Board Member Baker stated that she has two corrections on the report. One her start date was the same Board Member Watson 2/28/2018. She also informed City Staff that she only had 3 absence.

Chair Lyon called for a motion:

Motion by Vice Chair Frazey to approve the 2019 Annual Report with corrections; second by Board Member Baker. Motion passed on **6-0** vote.

Ayes: Chair Lyon, Vice Chair Frazey, Board Member Baker, Board Member Cullens, Board Member Naugle, Board member Confer

Nays: None

Abstain: None

Absent: Watson

3) Request a variance to reduce the required parking from 27 to 24 parking spaces for **DEL TACO, located at 1331 North Scottsdale Road. The applicant is Sender and Associates. (PL190276)**

Presentation from Applicant: Ms. Darin Sender

Ms. Sender informed the Board that they initially requested for three parking space variances. Turns out that the measurement of spaces in terms of parking is net not gross which is why they are asking for two parking spaces not three. Ms. Senders team will be asking for a Use permit as well if the variance is approved. As well as a Subdivision plat. The property is located on the Southeast corner of Webber and Scottsdale Road. The content of the area is a mix of CSS, PCC1 and some Industrial. There is a R2 to the Northeast, East and Southeast of the property. The property is part of a Plat that was done in 1947 where there were lots 1, 2 and 64. When the jack in the Box was in the area it was lots 1 and 2. The client has been working on the project since 2017 doing site plans to see what it the best site for the development. Ms. Senders client went through five site plan reviews. They did come up with a plan that works for everything expect the two parking spaces. At one point in 2017 the project was going to move to the east, but the escrow fell through. Ms. Sender went over the site plan flow of traffic and where parking would be located on site. The requirement on the property changed it went from 27 to 26. The property is required to have 26 parking spaces however they have 24. The plans that her associates received said that it was a 2053 floor plan and they assumed that it was 2053 square feet. However, once they measured it they realized that it was just the name on the plan. Ms. Sender went over the landscape plan and it will affect the area and how

they have been in trees to create a buffer for the neighbors as asked. Variance in Arizona are by statute. The City of Tempe Ordinance stated 1.) that special circumstances are applicable to the property including its size, shape, topography location or surroundings. 2.) Strict application of this Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. 3.) The adjustment authorized shall not constitute a grant of special privileges 4.) May not be self-imposed. Ms. Sender went over the first criteria showing the Board members a site plan and explaining the small size and narrow shape. Some of the restrictions that impacted the site was the 23-foot driving width, 8 1/2 by 18 parking space sizes. There has been communication between the refuse in regard to how space is needed for the trucks and turning ratio. Which Ms. Sender informed the board is the purple line on the site plan. There are also deed restriction in the plat where Lot 2 can not have any commercial buildings on the property. They are however allowed to put a driveway or parking spaces on the Lot but no the building itself. Lot 1 and 64 can have commercial buildings. There is also a public utility easement on the property that also restricts where the building can go and eliminates putting the project on Lot 64 because of how close they would be to violation the agreement. The original plat is inaccurate the site is 1.66 feet less wide then originally thought after doing a survey on the land. There is also a Bus Shelter Easement Dedication on the property which means that the property is not allowed to use a zero-foot set back like other CSS properties of Tempe. Then they have the Scottsdale Right of way Takings that were taken from Lot 1 and 64 in 1953 and 1993. With decrease of 34 percent in Lot 1 and 18 percent in Lot 64. Ms. Senders stated the second criteria stated that there is going to be some hardship if the City does not give the property some relief. Which are what variances being for to provide some relief when you have something that otherwise fits. Restaurants are allowed in CSS by right. Drive-Thru are allowed with a use permit or by right according to height and standards. The properties to the south are grandfathered in. The third criteria are to make sure that the property is not getting anything special. Granting the variance will ensure the site is developed by the constancy of the surroundings areas there was a Drive thru Jack in the Box on the property for years. The fourth criteria where the variance can't be granted if the circumstances were imposed by the property owner. The Supreme Court of Arizona stated that special circumstances are not self-imposed when the owner wants to use the property in a way permitted in other situated properties, but it cannot do so because of its currently imposed circumstances. It's not that their request is to do a drive thru that is causing a problem that is not self-imposed. What is would be when the owner split the lot and made it small and only develop one part of it. The Arizona Supreme Court dove tail what Ms. Senders is asking for. The holding of the case says that special circumstances existed justifying an approval of a variance. When the property owner requests a separation requirement when eminent domain happens which is like the right of way takings that reduce the size of the lot, less frontage, reduce the parking limiting the commercial liability developer lot. The Phoenix Board of Adjustment stated that special circumstance was not created by the applicant but by the growth in the City itself. Purchasing the property does not mean that the circumstance was self-imposed. The Arizona Supreme Court stated that it supports the Phoenix Board of Adjustment decision stating that the lot size, building limited set back and the parking restrictions do constitute the aerial variance because the properties unique shape create special practical circumstances. The cities eminent domain application alters the properties dimensions which created the special circumstances including the parking restrictions. Ms. Sender request that 2b in the conditions of approval be stricken because they are meeting the request for 2 parking space variances. Ms. Sender wants to make sure that the property does not have to worry about during construction and a closet must bump out that they are covered just in case. But they are really looking at a one parking space variance. Ms. Sender that the business is more drive thru users then parking and there will about 5 employees on site. Many do take alternate transportations and there is a bus station right out front the restaurant.

Chair Lyon asked the Board if they had any questions for Ms. Sender.

Chair Lyon acknowledged Vice Chair Frazey

Vice Chair Frazey asked for clarification that the applicant has been working on this project since 2017. However, they just purchased the property as of this year where they applicant and just purchased the property. The purchase was made while they knew that a variance was still needed.

Ms. Sender stated is correct.

Chair Lyon acknowledged Board Member Confer.

Board Member Confer asked if Ms. Sender has communicated her wishes to reduce to the 2 spaces with City Staff and does that require a new application.

Ms. Sender stated that she was not aware that she needed a new application because they are reducing there request however if they were asking for more then they would need to do a new application.

Chair Lyon acknowledged Vice Chair Frazey.

Vice Chair Frazey asked clarification that if you are going North on Scottsdale Road then you would enter the property from the South side. If you missed the entrance, then you would have to go up to Weber and turn into the property. Is the City of Tempe Traffic department ok with the flow.

Ms. Sender stated is correct.

Chair Lyon asked what Risk Managements assessment of the Parking is being between the drive thru and the building.

Ms. Sender stated that they have worked with risk management of Del Taco on this property and the problem that they are running into is that the when they changed the plans then people where entering the building in the middle of the drive thru. So, a person would place the order and then drive straight ahead, and someone could be walking in front of them. This happens a lot with drive thru restaurants, but they did not like the ideal. Where they placed it now it is after they have stopped to get their food and it is a safer location.

Chair Lyon acknowledged Board Member Cullens.

Board Member Cullens asked what is the route that a person would take if they park in one of the ADA spaces on site.

Ms. Sender pointed out on the Site plan the direction that the person can take to enter the building via the sidewalk.

Chair Lyon acknowledged Board Member Baker.

Board Member Baker asked for clarification on the process because there was a previous site that the project was looking to be located at and the owner of that property is now saying that the project is being rushed. However, when looking over the information that was provided it does not show that anyone is against the parking request.

Ms. Sender stated that is correct.

Presentation by Staff, Diana Kaminski, Senior Planner

Mrs. Kaminski informed the board that the request is for a deviation in parking requirements. There is a future Development Review Commission request regarding the Use Permit for a drive through in the CSS Zoning and the development plan review for the site plan, landscape plan and building design of the proposed restaurant. Mrs. Kaminski went over the aerial map informing the board of where the restaurant can be located. Mrs. Kaminski also informed the board that the private deed restriction on Lot 2 is not something that the city enforces. Lot 2 is recognized in the zoning code as a commercially zoned property. Ms. Kaminski also went over where there is going to be parking allotted in the development areas. City Staff does not take the measurements of the area staff goes by what the applicant provides. In this case there were five different plans that were given to staff. Where the numbers changed, and parking requirements changed according to the area being developed. Mrs. Kaminski provided a floor plan in which the parts in red are the back of the house area such as the freezer, and storage areas, kitchen area but not the office area. In total the area in red is 745 s.f. by City of Tempe code it requires 10 parking spaces. The plans also show the interior seating area assuming that there is a two-occupancy vehicle then you would have parking for 25 with double occupancy with the seating of 50. Assuming shifts with different number of employees and they are shift workers then there would be single occupied vehicles. The code occupancy of 1 parking space for 75 square feet of building area factors into the customer and the employee parking demand.

There were alternative floor plans looked at where the building was moved into different locations. Floor plan configuration where the walls are knocked out and some of the seating is outdoor space. The foot print would stay the same with the roof in tact it would just give 279 s.f. which can give the applicant the parking that they need. It does not remove the seating from the site however the code requirements are different when it is outdoor patio versus indoor dining. The code requirement for outdoor patio area is one parking space for every 150 s.f. of patio but it excludes the first 300. The City of Tempe gives that space away to encourage outdoor seating when it can. That way anything above the 300 is 1 for 150 and when it is brought inside it is 1 for 75. The original lot with the combination of both was .57 acres. Which is prior to the two street dedications along the street front which leaves the site at .52 acres today. There was a reduction including the abandonment of the alley which has its own restrictions. The site lost 2006 s.f. of space on the three lots and the area needs 459 s.f. to fight those three parking spaces that the code is requiring. The City also requires the dedication to the bus shelter on North Scottsdale road and the deed restriction on Lot 2. Lot 64 is similar in size and shape to the lots to the south but as a vacant lot is required to comply to standards the other lots do not meet as grandfathered conditions. The alley abandonment also has the restrictions that you can not have buildings on that area the combinations on the lot are small. There is dedication for the easement and the additional landscape buffer adjust to the single-family area. It is located at a corner intersection. Mrs. Kaminski addressed the question in regard to traffic and their involvement by pointing out on the map the flow of traffic and process that will be taken to help with the flow. The properties from the south benefit from the alley access. The commercial trash collection is no longer allowed to come through a residential alley. The way that it did in the past where the properties to the south have this access grandfathered in. The applicant attempted five different site configurations over a two-year period. There was a reeducation in building size to try and meet the parking requirements. They continued to work on getting the size down up to the point of providing their formal submittal. The applicant was not sure they would need a variance Staff did inform them that if they are not able to get the parking to work, they would need a variance. There are no topography issues with this location it is an or in the code not a and. When you look at the size shape location and surrounding areas it meets all of those beyond the one requirement which is an or not a and. There are no topographical issues with it. The property to the South of this site does not have the full right of way dedication, having an additional 5' of property along the street front and does not meet current standards. Most of the existing buildings along the east side of Scottsdale Road enjoy grandfathered conditions that are not applicable to a vacant lot being developed. There is no building easement along the Public property utility easement. The property is meeting all of the requirements of the code expect for the parking requirements. The zoning offers variance to property owners based on the unique circumstance of the lot. If any of the other lots redevelop, they may find themselves in the same situation however the adjustment is constant with the current code. Most commercial spaces want a lot of parking spaces however in this case the restaurant is trying to fit the City Code which is why they are asking for less. The property has remained vacant for 24 years it was previously a Jack in the Box for 30 years. When looking back at why the property has been vacant for so long. Staff believes that it is due to some the special circumstances where up to 2019 were someone else's problem. The refuse people did not realize the problem that they had until the Site Plan review process where it was found that the trucks were driving through the property to get to the back alley. The project did remove 347 s.f and city staff requested that they remove another 150 s.f. There was a neighborhood meeting that was held at the hotel adjacent to the site. 2 nearby residents, 1 adjacent property owner and 3 neighbors within the area attended. Two people left without making comments. Two people provided written comments in support of the project. The Discussion included questions about the landscape buffer, questions about alley access, concerns about traffic, noise, and hours of operation and location of the refuse enclosure. There was concern that the reduction in parking would create overflow parking onto Weber Drive. There were questions about the existing declarations and restrictions from 1947 and concerns about the setbacks. The proposed project meets the Zoning Code setbacks. Mrs. Kaminski did have a conversation with Mr. Arkules about the setbacks. There were six letters that were in opposition but not specific to the parking. City Staff is recommending approval of the variance but for only two of the three spaces which is what was recommended before it was known that there was an error in the square footage. The applicant did look them over and agreed but that was before they came up with the new square footage. The requirements would be that the applicant would need to get the use permit, do the development plan review, and to add a sidewalk from the North Side of Weber. City Staff is ok with removing the condition 2b as requested however they do not have a site plan with the modification and that would need to be provided before the project goes before DRC. So that City Staff have the Site Plan, Floor Plan with the correct data on it but a second diagram that shows how the interior is calculated.

Chair Lyon acknowledged Board Member Baker.

Board Member Baker asked if there will be signs on Webber for no parking.

Mrs. Kaminski stated that she would have to defer to Traffic Engineering if they felt that was necessary.

Chair Lyon acknowledged Vice Chair Frazey.

Vice Chair Frazey asked in regard to condition 4 in the staff report there should be no on street parking on Scottsdale and Webber for this development. If you go to the next lot over to the east of the subject property you are not going to restrict parking that is part of the residential subdivision, there is no way to monitor that.

Mrs. Kaminski stated that is something that people would have to document and if the parking lot was regularly full and there were lots of complaints then code enforcement would be out observing things in the area.

Vice Chair Frazey asked if the Old Jack in the Box was a nonconforming use.

Mrs. Kaminski stated that she looked at the history of the site and it did not appear to meet today's standards.

Vice Chair Frazey also asked if Jack in the Box had drive thru access off of Weber as well.

Mrs. Kaminski stated that is correct.

Vice Chair Frazey asked if 2b is removed staff is ok with it then is there a requirement to certify the square footage on the site plan to justify the removal of the stipulation.

Mrs. Kaminski stated yes because the applicant has to go to the Development Review Commission with the Site plan, Landscape Plan, and Elevations and City Staff would not recommend approval of the design if the design does not meet the standards of the Code.

Chair Lyon acknowledged Board Member Confer.

Board Member Confer asked if they would need to submit a new application that specify the correct number.

Mrs. Kaminski said no because it is a deduction of the original request. An applicant can ask for less than what was but, on the application, they cannot ask for more than what they originally requested.

Board Member Confer asked if there was any worry about errors and the gross versus net on the number of parking spaces allowed.

Mrs. Kaminski stated that there is not a gross and net unless you are counting the width of the painted strip and those are usually between each space including the four-inch white strip. When staff looked at the ADA parking it is using a van accessible model with a eight foot space for egress so there is actually over what is required by ADA.

Board Member Confer asked if there will be an inspection process where the inspector would measure the inside space and the number of parking spaces on site.

Mrs. Kaminski stated yes there are two process that after the applicant receives their entitlement. They will have to go through a planning Plan Check and there is a person from the planning side that is involved in making sure that the conditions of approval are met. Then there are the inspectors that go out and look at the property as the project is being completed.

Chair Lyon acknowledged Vice Chair Frazey.

Vice Chair Frazey ask if Staff would speak to the comments made about the process being rush and the staff holding the applicants hand to get the project correct.

Mrs. Kaminski stated that a two-year process to her does not seem rushed. She was not aware of the other discussions that were heard from the adjacent property owner. The City Staff does work with applicants to get them through the process that is their role. City Staff provides an object analysis. Sometimes things change through the process.

Public Comment:

Stacey Arkules – Tempe Resident

Ms. Arkules stated that she meets a woman who had a lot next to the Arkules and she is an older woman who is in her 80's. The woman is taken care of her great grandson which is a big job. Ms. Arkules worries for the older woman's safety and her grandson's safety.

Chair Lyon asked how this project is going to endanger the residents in the area.

Ms. Arkules stated that when she has been out in the Lot, she has seen the kids playing next door and is worried that with the increased traffic that one of the children could be hurt.

Jeremy Arkules – Tempe Resident

Mr. Arkules stated that he would like to paint the Board a picture. Imaging that you are pulling out of the Del Taco Layout after having purchased your food. The first thing that most people do is reach into the bag and make sure that the food that was ordered is all there or grab a fry and before you know it you are already pulling out and driving your car. This raises a risk for handicap people signs are not elevate this problem. This layout will result in an accident leaving the City and the Franchise liable. Mr. Arkules also email that he sent in to the Board as well. This is an objection to the variance to reduce parking. The 24 hour Del Taco drive through restaurant parking variance request is based on what is clear not a acceptable site for parking. The Site Plan shows a path way for walking and ADA and wheelchair access it is dangerous drive thru customers and vehicles are distracted as their eyes look down and grab their purse and wallet to obtain the food purchases. The applicant herself stated that the layout of the property is tight. Which means that there is not a lot of room for error. Which that will result in an accident even Del Taco themselves do not allow customers to enter the building through the parking area. The Site Plan creates numerous other safety circulation that are obvious and extend a liability to the City of Tempe. Mr. Arkules believes that the applicant knows the Site plan will not work and the strategy is to act surprise at the Design Review Meeting. The plans mislead the Board of Adjustment by suggestion that the current on-site parking work. But the buck needs to stop at the Board of Adjustment parking variance.

Board Member Barker asked if in the picture the customers were pulling out on to the street or the path way of the parking lot going into the building.

Mr. Arkules stated that he is concerned with the overall congestion of the area. For instance, when the parking lots get congested especially in drive thru there is a lot of people navigating and then to add the handicap and there is going to be an accident.

Chair Lyon stated that there is the issue with crossing the Drive thru traffic however he would to have clarification on what other safety issues.

Mr. Arkules stated that the children are about the same height as a wheelchair person and they are at risk as well for causing an accident.

David Arkules – Tempe Resident

Mr. Arkules stated that he has submitted a lot emails to City Staff. Mr. Arkules stated that he would like to have a continuance. There is no signage on Webber and the neighborhood has a 110 plus homes. The problem is that the City is not advocating with the subdivision. He is aware that this variance is about parking but is about parking at a 24 hour Del Taco and he would like to see no variance on the project. The Supreme Court Case talked about

earlier does mention negative character. The neighborhood has improved there is a letter from an immigrant that moved in and got a Fannie Mae Mortgage. The Board of Adjustment where to give the applicant a variance then they would be switching the burden to neighbors.

Board Member Cullens stated that in looking at one of the emails that was sent in that Mr. Arkules would be inclined to accept a restaurant that was a sit-down restaurant and not a drive thru.

Mr. Arkules stated that he did not send in that email that it was from a neighbor.

Vice Chair Frazey stated this project does have to get a Use permit. Are there specific plans for the property next door to this site.

Mr. Arkules stated that area is a residential area Deed restriction. In the supreme court case, it does mention that if the character affects the area negatively then that is a reason not to grant a variance. The garage trucks are very disturbing if the board looks in the emails Solid Waste Management drove through the area with no problem however staff asked are, they sure about this and put more burden on the applicant.

Chair Lyon stated that the Board of Adjustment is present to consider a parking variance not rather or not the project becomes a Del Taco or not. Board is working adjectively to make sure that things are working best for the City. There are two options one being that they can say no you need to provide the correct amount of parking for whatever is built at the site or two the variance is granted that the project can be built with a little less parking then would otherwise be required.

Mr. Arkules stated that he agrees however if the variance is granted then there would be a burden on the single-family homes on Weber Drive. The reason is because if someone comes along Webber Drive and pulls up in front of a resident's house then they are putting a burden on the home owner when someone comes to visit the home.

Chair Lyon stated that the purpose of the Board and the City Staff is to vet the decisions. Chair Lyon stated that he is looking for clear and objective points that show there is a issue one of the four criteria for approving the variance. The one thing that has raised an issue is that granting a variance could cause parking on the street.

Public Comments Closed

Chair Lyon advised Ms. Sender that they could come up and respond to the public comment.

Ms. Sender stated that she agrees with the stipulation of the removal of 2b. In terms of the restaurant itself it is allowed in CSS zoning. Ms. Sender does not see where a reduction of two spaces will impact the parking on the street. This has been a two-and-a-half-year process and Mr. Arkules has been involved in the process since 2017. Mr. Arkules was aware of the plans and certain layouts that were proposed with his property in escrow at the time.

Chair Lyon acknowledged Vice Chair Frazey.

Vice Chair Frazey asked for clarification that Ms. Sender is going to certify the square footage because 2b is being removed.

Ms. Sender stated that is correct and the exhibit will be part of it. Which is also why Ms. Sender is asking for a two parking space variance not one because if anything is off a few feet then they are ok still.

Chair Lyon acknowledged Board Member Baker.

Board Member Baker asked directly across from Scottsdale Road and Webber what is on that corner.

Ms. Sender stated that there is a convenience store there.

Board Member Baker stated that Directly South on Scottsdale road what is there is commercial property that has been grandfathered in. Are there issues with the other properties where people are parking on Webber?

Mrs. Kaminski stated that to her knowledge there has not been any complaints about parking on Webber.

Chair Lyon asked staff if there was any recourse that the board has for adding signage for No parking.

Mrs. Kaminski stated as much as planning has which is none because it is in the right of way and it is traffic engineering preview. There is a natural restriction by the design of the street. But any time signage is put on the street it must comply with traffic engineering standards. They would determine where signage is appropriate. Mrs. Kaminski showed an aerial where parking's would not be allowed. Mrs. Kaminski also informed the board that there is a strip line on the pavement which is the normal way of showing a pedestrian crossing drive isle which can be designed as a table where the sidewalk is flushed and raised and pedestrians and people to a higher level.

Mr. Abrahamson also informed the Board that the residents can require the area to be a permit parking area.

Commission Discussion

Chair Lyon acknowledged Board Member Baker.

Board Member Baker stated that she personally thinks that there are other issues that can be handled elsewhere. She does believe that the applicant does meet the criteria. There is other business in the area that are doing the same thing that they are trying to do, and this development is trying to do everything that they can to make themselves fit into the code that is current. The Jack in the Box that was there before hand was a horrible design. There are a lot of good things happening with this project like creating jobs. Two parking spaces less is not going to create such an issue instead will go against the other commercial properties right there enjoying the benefits as well.

Chair Lyon acknowledged Vice Chair Frazey.

Vice Chair Frazey stated that he agrees with what Board Member Baker stated.

Chair Lyon acknowledged Board Member Cullens.

Board Member Cullens stated that he also believes the applicant has meet the requirements and how much impact two additional cars would have on the street. The Lot next to the property is a vacant lot and if anything, the parking would flow in front of that area.

Chair Lyon acknowledged Board Member Naugle.

Board Member Naugle stated that he is a resident of North Tempe and he is pretty familiar with the area. He does visit the restaurants in the area and there is a restaurant across the street, and he has not seen more then four parked vehicles in the area at one time.

Chair Lyon acknowledged Board Member Confer.

Board Member Confer stated that he will support the variance with the modified stipulations.

Chair Lyon stated that he does support the application as well. The four criteria have been showing to the Board as clearly as possible. The Jack in the Box on Broadway and Priest was given a hard time at DRC because of the driveway being between the parking lot and the building. There has been insurance that it works that way all the time. There is a concern that the traffic will increase however the traffic engineers work diligently to predict what the traffic patterns are going to do.

Chair Lyon called for a motion:

Motion by Vice Chair Frazey to approve the reduction of the required parking from 27 to 24 parking spaces with the amended condition 2b for **DEL TACO**, located at 1331 North Scottsdale Road; second by Baker.
Motion passed on **6-0** vote.

Ayes: Chair Lyon, Vice Chair Frazey, Board Member Baker, Board Member Cullens, Board Member Naugle, Board member Confer

Nays: None

Abstain: None

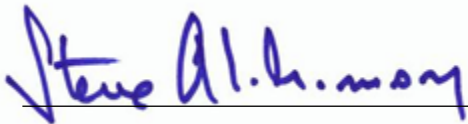
Absent: Richard Watson

Staff Mr. Abrahamson did announce that if anyone was in grievance with the decision can make a filing with the superior court in 30 days. There is currently no cases in December for the Board to hear but Staff is looking to do a Board of Adjustment retreat in January.

Hearing adjourned at 8:15pm

Prepared by: Brittainy Nelson, Administrative Assistant

Reviewed by:



Steve Abrahamson, Principal Planner

SA:bn