

**FEBRUARY 17, 2009 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 3**

PURPOSE

To consider granting a Special Exception for reducing the required lot size as recommended by the Board of Zoning Appeals from their February 11, 2009 Variance Hearing regarding Variance Application:

V-16 Tom D’Anna

BACKGROUND

In accordance with a Zoning Ordinance Amendment adopted by the Board of Commissioners on September 13, 2000, and amended on July 8, 2003, Section 134-271 (8), any use proposed for a parcel or tract of land which does not have the minimum lot size required, approval of a Special Exception by the Board of Commissioners is required after approval by the Board of Zoning Appeals. Attached is the Variance Analysis and recommendation of the Board of Zoning Appeals for the case that was considered at the February 11, 2009 Variance Hearing that required a Special Exception.

FUNDING

N/A

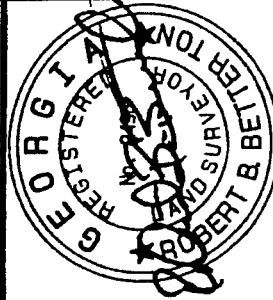
RECOMMENDATION

The Board of Commissioners consider granting a Special Exception for reduction in the required minimum lot size as recommended by the Board of Zoning Appeals for V-16 Tom D’Anna.

ATTACHMENTS

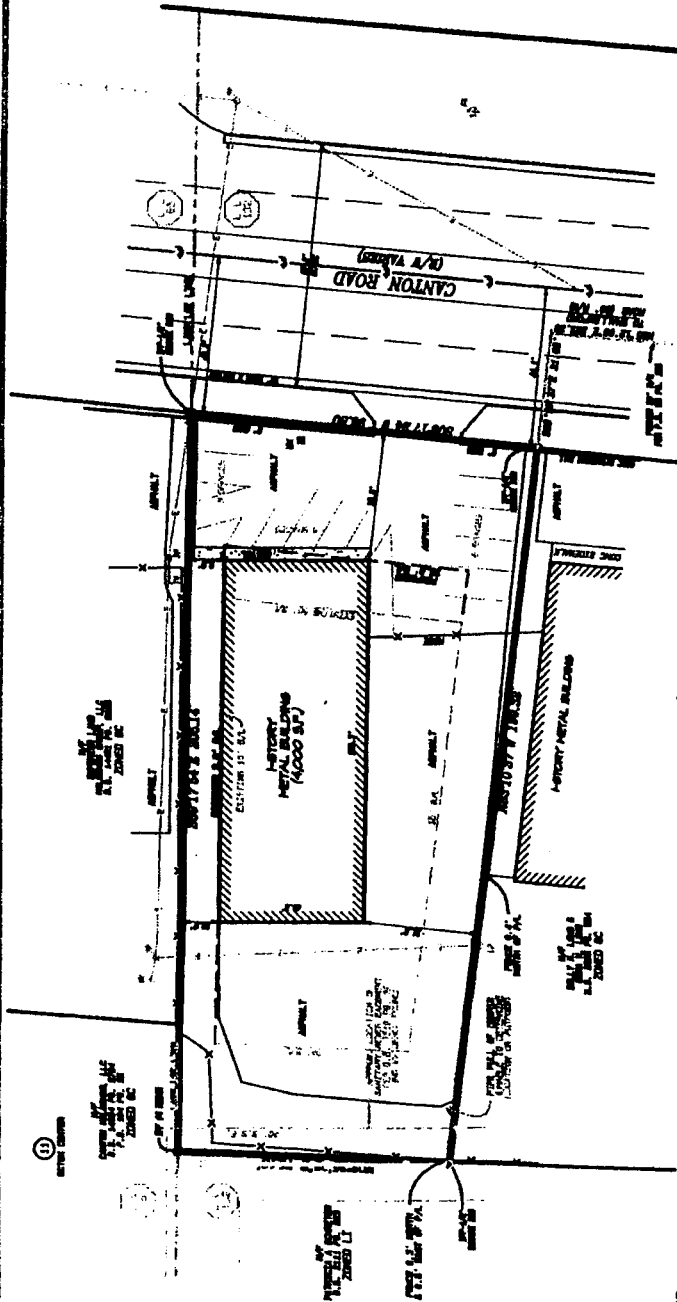
Variance Analysis
Board of Zoning Appeals Recommendations

VARIANCE PLAT
4655 CANTON ROAD
LOCATED IN:
LAND LOT 132
16TH DISTRICT, 2ND SECTION
COBB COUNTY, GEORGIA
SCALE: 1" = 50'
DATE: 12-12-2008
PREPARED FOR:
TOM D'ANNA



80-51-21

BETTERTON
SURVEYING & DESIGN, INC.
LAND SURVEYING,
LAND PLANNING,
SUBDIVISION & COMMERCIAL
SITE DESIGN
1111 SOUTH MARIETTA PARKWAY, SUITE A
MARIETTA, GEORGIA 30060
(678) 483-0242

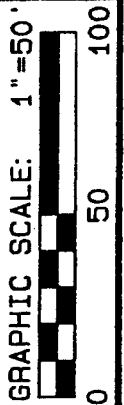


VARIANCE PLAT NOTES:

- THE PURPOSE OF THIS PLAT IS TO:
- 1) REDUCE THE MINIMUM LOT AREA FROM 20,000 S.F. TO 17,348 S.F.,
 - 2) REDUCE THE FRONT BUILDING SETBACK FROM 50' TO 35.6', AND
 - 3) REDUCE THE SIDE BUILDING SETBACK ALONG THE NORTH PROPERTY LINE FROM 10' TO 9.8'.

ZONING NOTES:

ZONING: GC
 TOTAL AREA: 0.398 ACRES (17,348 S.F.)
 AREA INSIDE FLOOD PLAIN: 0.000 ACRES
 MINIMUM LOT AREA: 20,000 S.F.
 TOTAL NUMBER OF LOTS: 1
 SITE DENSITY: 2.5 UNITS/ACRE
 MINIMUM LOT WIDTH: 60'
 MINIMUM FLOOR AREA: N/A
 MINIMUM SETBACK REQUIREMENTS:
 (CANTON ROAD CLASSIFIED AS ARTERIAL)
 FRONT: 50'
 SIDE: 10'
 MAJOR SIDE: N/A
 REAR: 30'
 MAXIMUM BUILDING HEIGHT: 4 STORIES
 MAXIMUM LOT COVERAGE: N/A



SURVEY NOTES:

1. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND HAS BEEN FOUND TO BE ACCURATE WITHIN 1 FOOT IN 428,492 FEET.
2. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 410,000 FEET AND AN ANGULAR ERROR OF 02" PER ANGLE AND WAS ADJUSTED USING THE COMPASS RULE.
3. EQUIPMENT - TOPCON 6TS 303 TOTAL STATION
4. DATE OF SURVEY: NOVEMBER 7, 2008
5. I HAVE, THIS DATE, EXAMINED THE OFFICIAL FIA FLOOD HAZARD MAP COMMUNITY NUMBER 130052, PANEL 0015 F, DATED AUGUST 18, 1992, AND HAVE DETERMINED THAT THIS PROPERTY IS NOT LOCATED IN AN AREA HAVING SPECIAL FLOOD HAZARDS.
6. 44 REBAR AT ALL CORNERS UNLESS OTHERWISE NOTED.
7. ALL FENCES ARE 6" CHAIN-LINK WITH BARBED-WIRE.
8. BEARINGS SHOWN HEREIN ARE BASED ON REFERENCE #1.

SURVEY REFERENCES:

1. SURVEY FOR JANITOR HIGDON, DATED DECEMBER 15, 1977, PREPARED BY WEST GEORGIA ENGINEERS & SURVEYORS, RECORDED IN PLAT BOOK 59 PAGE 156
2. WARRANTY DEED TO TED AND ESTER KIM, DATED JULY 8, 2005, RECORDED IN DEED BOOK 14400 PAGE 5965
3. GRANT OF EASEMENT FROM 6. SHELTON MILES, DATED MAY 13, 1993, RECORDED IN DEED BOOK 7510 PAGE 22
4. GRANT OF EASEMENT FROM 6. SHELTON MILES, DATED JULY 22, 1994, RECORDED IN DEED BOOK 8423 PAGE 186
5. RIGHT-OF-WAY DEED FROM 6. SHELTON MILES, DATED SEPTEMBER 4, 1991, RECORDED IN DEED BOOK 6305 PAGE 318
6. RIGHT-OF-WAY DEED FROM 6. SHELTON MILES, DATED SEPTEMBER 16, 1991, RECORDED IN DEED BOOK 524 PAGE 49
7. DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR PROJECT #H-9018(9), DATED MARCH 10, 1986

APPLICANT: Tom D'Anna **PETITION NO.:** V-16
PHONE: 770-448-5515 **DATE OF HEARING:** 02-11-09
REPRESENTATIVE: Parks F. Huff, Esq. **PRESENT ZONING:** GC
PHONE: 770-422-7016 **LAND LOT(S):** 132
PROPERTY LOCATION: Located on the west side **DISTRICT:** 16
of Canton Road, north of Shallowford Road **SIZE OF TRACT:** .398 acre
(4655 Canton Road, formerly 4647 Canton Road) **COMMISSION DISTRICT:** 3
TYPE OF VARIANCE: Waive the lot size from the required 20,000 square feet to 17,348 square feet to allow applicant to apply for rezoning to NRC.

COMMENTS

TRAFFIC: This request will not have an adverse impact on traffic.

DEVELOPMENT & INSPECTIONS: No comment.

STORMWATER MANAGEMENT: The existing parcel has inadequate site drainage. The property owner's engineer has provided a proposed plan that should correct this issue. Approval of this variance should be subject to the installation of the proposed new private drain system through the adjacent commercial parcel to the south.

HISTORIC PRESERVATION: After examining Civil War trench maps, Cobb County historic property surveys, county maps and various other resources, staff has no comments regarding the impact or treatment of historic and/or archaeological resources.

CEMETERY PRESERVATION: No comment.

WATER: Available and has been connected.

SEWER: Available and has been connected.

OPPOSITION: NO. OPPOSED PETITION NO. SPOKESMAN

BOARD OF APPEALS DECISION

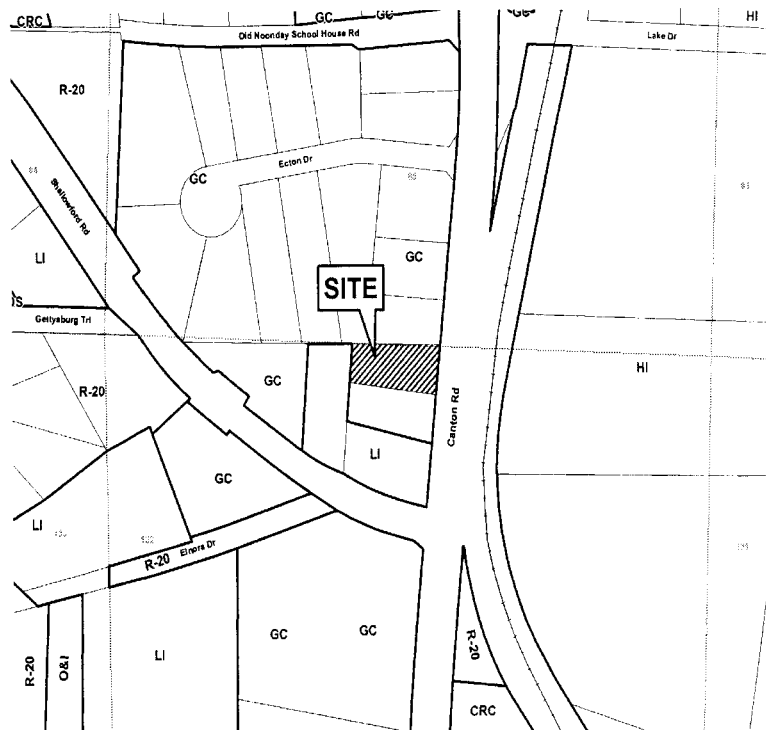
APPROVED X **MOTION BY** C. Trombetti

REJECTED **SECONDED** B. Hovey

HELD **CARRIED** 5 - 0

STIPULATIONS: Subject to Board of Commissioners granting a special exception for reduction in lot size.

(See draft minutes attached)





Cobb County Fire and Emergency Services

Applicant Name: Tom D' Anna

Petition Number: V-16

Date: December 16, 2008

Fire Marshal Comments

Fire Apparatus Access Road

All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20 feet, 25 feet inside turning radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor.

Aerial apparatus access shall be required for all structures over 30 feet in height measured from the lowest level of fire department access to the ceiling height of the highest occupiable floor level. Aerial fire apparatus roads shall be a minimum width of 24 feet face of curb to face of curb maximum of 40 feet from the structure and be positioned parallel to the long side of the building for its entire length. No overhead utility and power lines shall be located within the aerial apparatus access.

Dead-end access roads in excess of 150-feet shall be provided with a turn-around by one of the following methods:

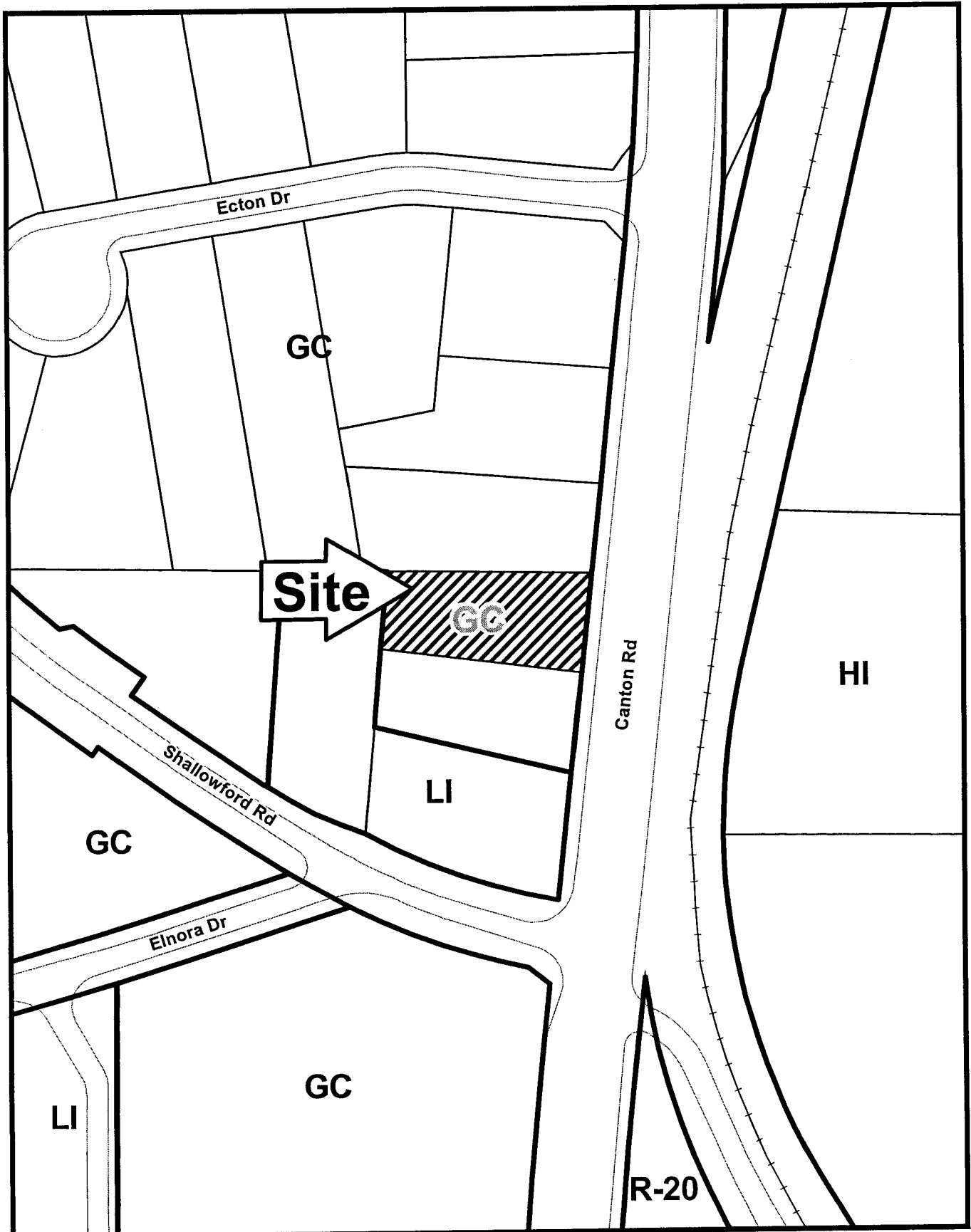
Commercial: Cul-de-sac without an island to have a 60 foot paved radius or Hammerhead turnaround – total of 110-feet needed (45 feet + 20 foot wide roadway + 45 feet).

Fire Hydrant

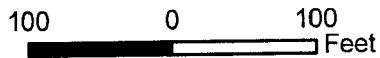
Commercial: Fire hydrant within 500 feet of most remote part of structure.

Residential: Fire hydrant within 500 feet of structure.

V-16



This map is provided for display and planning purposes only. It is not meant to be a legal description.



Application for Variance Cobb County

(type or print clearly)

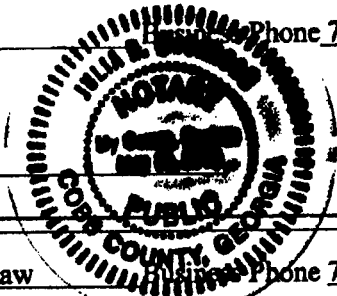
Application No. V- 16
Hearing Date: 2/11/09

Applicant Tom D'Anna Business Phone 770/448-5515 Home Phone 770/527-6651
SAMS, LARKIN & HUFF, LLP 376 Powder Springs Street, Suite 100
Parks F. Huff, Esq. Address Marietta, GA 30064
(representative's name, printed) (street, city, state and zip code)


(representative's signature)

Business Phone 770/422-7016 Cell Phone 770/426-6583

My commission expires: _____

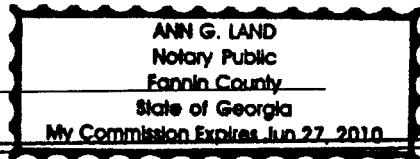


Signed, sealed and delivered in presence of:
Julia B. McCarson
Notary Public

Titleholder Mary Landsiedel Shaw Business Phone 706/258-2607 Home Phone 706/258-2607

Signature: Mary Landsiedel Shaw Address: 450 STILLWATER RD Blue Ridge GA. 30513
(attach additional signatures, if needed) (street, city, state and zip code)

My commission expires: _____



Signed, sealed and delivered in presence of:
Ann G. Land
Notary Public

Present Zoning of Property GC

Location formerly 4647 Canton Road — Current 4655 CANTON ROAD
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 132 District 16 Size of Tract 17,348 sq. ft/ Acre(s)

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property X Shape of Property _____ Topography of Property _____ Other _____

The Cobb County Zoning Ordinance Section 134-94 states that the Cobb County Board of Zoning Appeals must determine that applying the terms of the Zoning Ordinance without the variance would create an unnecessary hardship. Please state what hardship would be created by following the normal terms of the ordinance.
This is a non-conforming subdivided lot.

List type of variance requested: Reduce the size of tract required from 20,000 square feet to 17,348 square feet to allow for a rezoning application to the NRC zoning category.



**MINUTES OF VARIANCE HEARING
COBB COUNTY BOARD OF ZONING APPEALS
FEBRUARY 11, 2009**

DRAFT

V-16 **TOM D'ANNA** (Mary Landsiedel Shaw, owner) requesting a variance to waive the lot size from the required 20,000 square feet to 17,348 square feet to allow applicant to apply for rezoning to NRC in Land Lot 132 of the 16th District. Located on the west side of Canton Road, north of Shallowford Road (4655 Canton Road, formerly 4647 Canton Road).

The public hearing was opened and Mr. Parks Huff and Ms. Mary Shaw addressed the Board. Mr. Huff explained to the Board that he represents the Applicant; however, there is no longer a contractual agreement between the Applicant and the Property Owner.

Mr. Mark Danneman, Zoning Division Manager, advised the Property Owner that variance applications requesting a reduction in lot size which are *approved* by the Board of Zoning Appeals, take the form of a recommendation to the Board of Commissioners, who makes a final determination whether to grant a special exception for the requested lot size reduction. The Property Owner was instructed that, if the Board of Zoning Appeals *approved* the application, a representative would need to be present at the Board of Commissioners' Zoning hearing on Tuesday, February 17, 2009 at 9:00 a.m., for final determination.

Following presentation and discussion, the following motion was made:

MOTION: Motion by Trombetti, second by Hovey, to **approve** variance request **subject to:**

- final ratification of lot size reduction by the Board of Commissioners at the zoning hearing on February 17, 2009, at 9:00 a.m.
- Fire Marshall comments and recommendations
- Stormwater Management Division comments and recommendations

VOTE: **ADOPTED** unanimously