

EXPANDED DRAFT MEETING SUMMARY  
THIS IS NOT AN OFFICIAL TRANSCRIPT OF TAPE RECORDED PROCEEDINGS  
THE INFORMATION CONTAINED HEREIN HAS NOT BEEN REVIEWED OR APPROVED BY THE ZBA

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
March 26, 2019

A public hearing of the Zoning Board of Adjustment was held on Tuesday, March 26, 2019 at 6:30 PM in the Auditorium, 229 Main Street, at City Hall.

Members in attendance were:

JP Boucher, Chair  
Steve Lionel, Vice Chair  
Jack Currier  
Mariellen MacKay  
Rob Shaw  
Jay Minkarah

Carter Falk, Deputy Planning Manager/Zoning

Mr. Boucher explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Boucher explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Boucher also explained procedures involving the timing light.

1. John J. Flatley Company (Owner) 10 Tara Boulevard & 200 Innovative Way (Sheet A Lots 798 & 713) requesting special exception from Land Use Code Section 190-112 to encroach in a 40-foot "other" wetland and wetland buffer for connection of utilities and stormwater management structures along with associated site work to construct a climate control self-storage facility. PI Zone, Ward 8.

Voting on this case:

JP Boucher, Chair  
Steve Lionel, Vice Chair  
Jack Currier  
Rob Shaw  
Mariellen MacKay

Attorney Gerald Prunier, Prunier & Prolman P.A., 20 Trafalgar Square, Nashua, NH. Atty. Prunier indicated the location of the property. He pointed out the wetland buffers that would be impacted on the map. He said that they have gone to the Conservation Commission, and have received a positive recommendation, with two stipulations of approval.

Atty. Prunier said that the proposed use is listed in the Table of Uses, also, it will not create undue traffic congestion, or impact pedestrian safety, he said that it will be a climate controlled storage facility, and it will generate very little traffic, if it has 15 cars a day, that would be a lot. He said that it will not overload any public water, drainage or sewer, or other municipal systems.

Atty. Prunier said that there are nine special wetland regulations, he said that they all will be satisfied. He said that it will not impair the integrity of the area, it is a commercial type area.

Mr. Minkarah said that most of the impacts to the buffers appear to be fairly minor intrusions, and asked if there was any thought to try to pull the building back so there would be even less impacts.

Atty. Prunier said that with the topography, and utilities, it dictated where everything would be, and the impacts are minimal. He said that the Conservation Commission had no issues with it.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

Board members all expressed support for the application.

**MOTION** by Mr. Currier to approve the special exception as advertised on behalf of the applicant. He stated that the use is listed in the Table of Uses, Section 190-112.

Mr. Currier stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, as there will be only occasional visits to the storage facility by renters of the units.

Mr. Currier stated that the use will not overload public water, drainage, sewer or other municipal systems, it is a pretty benign effect on any public utilities.

Mr. Currier said that all special conditions are fulfilled, and they are addressed in the application, and were touched on in the applicant's testimony.

Mr. Currier stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to health, morals or welfare of the residents, the proposed facility will go in well with the neighborhood, where local folks and businesses can store items.

Special conditions:

1. Per the Conservation Commission recommendation for approval on 2-5-19 with one (2) stipulations, which the applicant has stated that they will adhere to, also, the Conservation Commission meeting minutes are attached to the record.

**SECONDED** by Mr. Lionel.

**MOTION CARRIED UNANIMOUSLY 5-0.**

Mr. Boucher said that there will be one presentation for cases 2,3 and 4, and there will be separate motions.

2. Pennichuck Water Works, c/o John Boisvert, P.E. (Owner) 206 Concord Street (Sheet 52 Lot 118) requesting special exception

from Land Use Code Section 190-24 (F)(5) to allow a temporary wetland buffer impact within the 150-foot Associated Water Body Buffer for a water main construction. R18 Zone, Ward 3.

3. Pennichuck Water Works, Inc. c/o John Boisvert, P.E. (Owner) "L" Tinker Road (Sheet G Lot 486) requesting the following special exceptions: 1) from Land Use Code Section 190-24 (F)(5) to allow a temporary wetland buffer impact within the 150-foot Associated Water Body Buffer; and, 2) from Land Use Code Section 190-115 (B) to work within the 75-foot prime wetland buffer - both requests to allow for a water main construction. R18 Zone, Ward 2.
4. City of Nashua & Autajon Packaging-Boston Corp. (Owners) Pennichuck Water Works c/o John Boisvert, P.E. (Applicant) 100 Northwest Boulevard, "L" Northwest Boulevard and "L" Deerwood Drive (Sheet H Lots 18, 290, 488, 577 & 634) requesting the following special exceptions: 1) from Land Use Code Section 190-24 (F)(5) to allow a temporary wetland buffer impact within the 150-foot Associated Water Body Buffer; and, 2) from Land Use Code Section 190-115 (B) to work within the 75-foot prime wetland buffer and the 40-foot "other" wetland buffer - all requests to allow for a water main construction. AI & PI Zones, Ward 1.

Voting on this case:

JP Boucher, Chair  
Steve Lionel, Vice Chair  
Jack Currier  
Rob Shaw  
Mariellen MacKay

Jim Petropulos, P.E., Hayner Swanson Inc, 3 Congress Street, Nashua, NH. Mr. Petropulos said that this is one project, in three areas in the City, so they are advertised as three different requests, even though it's one project.

Mr. Petropulos said that they are seeking relief from the 150-foot Associated Water Body buffer, and wetland buffers. He said that Pennichuck will be undertaking the Northwest Pressure System Upgrades. He said it includes the Kessler Farm Tank, located at the highest part of this area of Nashua, and provides storage and pressure to homes and businesses in north Nashua. He said that there is a steel tank that needs to be replaced, it

will be converted to a concrete tank. He said that it will be a 14-month project. He said that during this 14-month construction time, it is vital to provide uninterrupted service to this part of the City.

Mr. Petropulos said that there will be a series of water main extensions throughout, that will provide service during construction to the northwest.

Mr. Petropulos said that the three areas are along Manchester Street, from Pennichuck Jr. High School about 1,800 feet north, off pavement, on the east side of Manchester Street, up to Tinker Road, where it will cross Tinker Road. He said this particular project lies within 150 feet of the Water Supply Protection District. He said that the new water main will be a 24-inch line, using large diameter pipes. He said that in order to get off pavement, it is beneficial. He said that the project impacts 9,057 square feet within the 150-foot Associated Water Body.

Mr. Petropulos said that the second part of the project is just east of the bridge by exit 8 off of the turnpike. He said that 865 feet of improvement is proposed off of Tinker Road, about 363 feet of it lies within the 75-foot prime wetland buffer and the 150-foot Associated Water Body Buffer.

Mr. Petropulos said that the third project is near the end of Dumaine Avenue, it's about a 3,000 foot length, and goes by Northwest Boulevard. He said that this project impacts part of the 40-foot buffer, 5,170 feet, part of the 75-foot buffer, about 6,200 feet, and part of the 150-foot Associated Water Body buffer. He said that Manchester Street is off the roadway, Tinker Road is in and near the right-of-way, and the Northwest Boulevard is parallel to the railway line, but on property that is developed. He said that all the buffer impacts are really temporary in nature, the areas will be backfilled, and turned to pre-construction condition, and traffic impacts will be minimal.

Mr. Petropulos went over the relevant points of law to the Boards satisfaction.

Mr. Currier asked how far off of Manchester Street would the construction be.

Mr. Petropulos said that there is a chain-link fence there, which defines the Pennichuck property, and the work will be on the Pennichuck side of the fence.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Sean Martin, 236 Manchester Street, Nashua, NH. Mr. Martin asked what the traffic implications would be, as the road gets very busy. He said that when the bridge was replaced in Merrimack, there was an eagle nest that held up the project for a while, and asked if this has been investigated.

**SPEAKING IN FAVOR - REBUTTAL:**

Mr. Petropulos said that they are working off-pavement, to not disrupt Manchester Street from Pennichuck Jr. High up to Tinker Road, it's about 1,800 feet of 24-inch water main. He said that the project will take about 12 days.

Mr. Petropulos said as far as the eagle nest, these are mapped wetlands, by a certified wetland scientist, and they are aware of the eagle situation a few years ago, but don't believe it will be an impact this time.

Mr. Currier said that it looks like the work off of Manchester Street wouldn't close off the street at all, whereas there is this bad memory of when the bridge was closed for a long time.

Mr. Petropulos said that there is a crossing at Manchester at Tinker, perhaps 50-100 feet of crossing, but it is a much shorter duration, and much easier for traffic control for such a short distance than was for the bridge up the street earlier.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:**

No one.

Board members all expressed support for the three applications.

Mr. Boucher said that each case will have its own motion.

**MOTION** by Mr. Lionel to approve the special exception as advertised for Case #2 on behalf of the applicant. He stated that the use is listed in the Table of Uses, Section 190-24 (F)(5).

Mr. Lionel stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, per testimony.

Mr. Lionel stated that the use will not overload public water, drainage, sewer or other municipal systems, as there will be no real effect on municipal systems.

Mr. Lionel said that all special conditions are fulfilled, per testimony.

Mr. Lionel stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to health, morals or welfare of the residents, the work will be a temporary disturbance.

Special conditions:

1. Per the Conservation Commission recommendation for approval on 3-5-19 with two (2) stipulations, which the applicant has stated that they will adhere to.

**SECONDED** by Mr. Currier.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MOTION** by Mr. Currier to approve the special exception as advertised for Case #3 on behalf of the applicant. He stated that the use is listed in the Table of Uses, Section 190-24 (F)(5) and Section 190-115 (B).

Mr. Currier stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, per testimony, there will be no impact on Tinker Road.

Mr. Currier stated that the use will not overload public water, drainage, sewer or other municipal systems, the whole purpose of this project is to improve the public water supply.

Mr. Currier said that all special conditions are fulfilled, per oral and written testimony.

Mr. Currier stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to health, morals or welfare of the residents, this is a temporary impact, and the Board finds that once completed, the area will be returned to the existing conditions.

Special conditions:

1. Per the Conservation Commission recommendation for approval on 3-5-19 with two (2) stipulations, which the applicant has stated that they will adhere to. The meeting minutes are also incorporated into the record as well.

**SECONDED** by Mr. Lionel.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MOTION** by Mr. Lionel to approve the special exception as advertised for Case #4 on behalf of the applicant. He stated that the use is listed in the Table of Uses, Section 190-24 (F)(5) and Section 190-115 (B).

Mr. Lionel stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, per testimony.

Mr. Lionel stated that the use will not overload public water, drainage, sewer or other municipal systems, as this will improve public water systems.

Mr. Lionel said that all special conditions are fulfilled, per testimony.

Mr. Lionel stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to health, morals or welfare of the residents. He said that the Board has a letter from the NH Department of Environmental Services describing the work, and stipulating what should be done in the way the work is completed, and assumes the applicant will agree to this.

Special conditions:

1. Per the Conservation Commission recommendation for approval on 3-5-19 with two (2) stipulations, which the applicant

has stated that they will adhere to.

**SECONDED** by Mr. Currier.

**MOTION CARRIED UNANIMOUSLY 5-0.**

5. Woodlands at Nashua Realty Trust, c/o Gilbert C. Campbell, Trustee (Owner) 3 Sapling Circle (Sheet A Lot 27) requesting special exception from Land Use Code Section 190-112 to work within a 40-foot "other" wetland buffer to replace an existing 8'x20' steel box trailer with a 14'x20' wooden shed, and to replace a 200 sq.ft rip-rap apron with fresh stone and enlarge apron by 168 sq.ft. RC Zone, Ward 8.

Voting on this case:

JP Boucher, Chair  
Steve Lionel, Vice Chair  
Jack Currier  
Rob Shaw  
Mariellen MacKay

Marc Jacobs, CSS, CWS, Greenland, NH. Mr. Jacobs said that the property consists of nine multi-family buildings on Sapling Circle, off of Spit Brook Road. He said the wetland buffer is an "other" wetland buffer over 9,000 square feet, which calls for a 40-foot buffer. He said that there will be no impact to the wetland itself, only the buffer. He said that no trees will be removed for this work.

Mr. Jacobs that the applicant wishes to remove an existing 8'x20' steel box trailer, in the wetland buffer. He said that they want to replace it with a 14'x20' wooded pre-fab shed made by Reeds Ferry Sheds. He said that the new shed is 280 square feet, which is a net increase of 120 square feet from the existing one. He said it would generally go in the same spot. He said that the shed would sit on sonar tubes.

Mr. Jacobs said that the request is also to memorialize some rip-rap stone that was put in when the parking lot got repaved. He said it has no negative impact to the wetland itself.

Mr. Jacobs said that the Conservation Commission approved the request on March 5, 2019 with one stipulation of approval, that no hazardous material be stored in the shed. He said that the

shed is not for the tenants to use, and it will have no utilities in it, no water or sewer.

Mr. Jacobs went over all the points of law for the special exception.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

Board members expressed support for the application, and believed that it met the criteria for approval.

**MOTION** by Mr. Currier to approve the special exception as advertised for Case #3 on behalf of the applicant. He stated that the use is listed in the Table of Uses, Section 190-112.

Mr. Currier stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, per testimony, there will be no impacts to traffic or parking.

Mr. Currier stated that the use will not overload public water, drainage, sewer or other municipal systems, per testimony, this is only an impact to the drainage system, and it's basically memorialized for drainage, which was cleaned out and improved in 2017.

Mr. Currier said that all special conditions are fulfilled, per oral and written testimony.

Mr. Currier stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to health, morals or welfare of the residents, actually the Board finds that it may be more in character with the neighborhood with a nicer looking wooded shed.

Special conditions:

1. Per the Conservation Commission recommendation for approval on 3-5-19 with one (1) stipulation, which the applicant has stated that they will adhere to. The

meeting minutes are also incorporated into the record as well.

**SECONDED** by Mr. Lionel.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**6. GIMAK Properties, LLC (Owner) 41 Caldwell Road (Sheet 105 Lot 23) requesting variance from Land Use Code Section 190-16, Table 16-3 for minimum land area, 12,445 sq.ft required, 9,375 sq.ft proposed, to convert a single-family dwelling unit into a two-family dwelling unit. RB Zone, Ward 6.**

Voting on this case:

JP Boucher, Chair  
Steve Lionel, Vice Chair  
Jack Currier  
Rob Shaw  
Mariellen MacKay

Chad Branon, P.E., Fieldstone Land Consultants, Milford, NH.  
Mr. Branon said that they are requesting a variance for land area, to add a unit onto an existing single-family home to make a two-family, the lot has 9,375 sq.ft of land, where 12,445 sq.ft is required.

Mr. Branon said that the owner is proposing to place an addition off the end of the existing house. He said that the existing lot size is 9,375 sq.ft, it's about 3,070 sq.ft short. He said that this area of the city is primarily developed into duplex housing. He said that the west side of Caldwell Road consists of all duplex homes, with the exception of two lots. He said that all of the lots on Forge Drive and Anvil Drive behind the subject parcel are also developed as duplex units. He said that in their evaluation of the surrounding properties, they found that this proposal is in harmony with the surroundings. He pointed out a plan that shows all the lots west of Caldwell Road are currently developed with duplex units, and that all of those lots are smaller in area than the subject property.

Mr. Branon stated that the lots on Forge Drive behind the subject property are all 9,000 sq.ft lots in size, as shown on the plan. He said that the plan shows which lots have duplexes on them.

Mr. Branon said that the lots on Caldwell Road range in size from 6,100 sq. ft to 6,400 sq.ft around the property. He said that given that the subject property is 9,375 sq.ft, it is believed that this proposal is in harmony with the surroundings. He said that even though there will be additional impervious area, they are planning on taking the roof runoff and the additional runoff from the driveway and wrap that into an infiltration basin on the property.

Mr. Lionel said that most all of the surrounding lots are smaller than the subject lot, and are duplexes, and now there is the new lot that was recently subdivided. He asked what the intention is for developing the new lot.

Mr. Branon said that it is the plan at this time to build a single-family house on that lot, which is 6,000 sq.ft.

Mr. Currier asked what the approximate lot sizes are across the street.

Mr. Branon said that across the street, it's the RA Zone, so those are larger lots, they're about 25,000 - 30,000 sq.ft. and are single-family.

Mr. Boucher said that what makes this case a little different are the garages. He said that on Forge Drive and on Caldwell, there are no units with garages. He asked if there were any other options for this.

Mr. Branon said it is correct in that a majority of the homes do not have garages, they just have driveways in the front or on the sides of the units. He said that what makes sense with this lot is that the driveway will be central to the units, with the garages in-between the units, so it offers good buffering between the tenants, and also offers some additional buffering to the neighboring properties, because a majority of the activity would be central on the proposed lot. He said that by offering the garages, it would make the property unique and architecturally, it would make the building very nice. He said that they are trying to create some symmetry with the existing house, and the garage was a nice architectural solution with compatible roof lines.

Mr. Currier said that even if the garages were not built, the request would still be the same, as it is for land area for the two units, however, there would be more pervious area and open space.

Mr. Currier asked when the existing house was built.

Mr. Branon said it's a block foundation, but isn't sure.

Mr. Currier asked how long the current owner has had the house.

Mr. Branon said about nine months.

Mr. Branon said that the request would not be contrary to the public interest, the surrounding property consists of duplex-style units, with the exception of a few single family units on the east side. He said that the proposed use and density for this property will be consistent with the surroundings. He said that the proposal will not have a negative impact on public health, safety, welfare or otherwise injure public rights.

Mr. Branon said that the proposed use will observe the spirit and intent of the ordinance because it will consist of renovating the existing structure, and is consistent with the surrounding areas. He said that the property is the largest property in the neighborhood, and the next largest lots are located on Forge Drive behind the subject lot.

Mr. Branon said that there will be adequate separation and buffers between properties.

Mr. Branon said that substantial justice would be done to the owner by allowing the variance, and will allow them to improve the property in harmony with the surrounding properties and market the property as two units, and will not cause to the general public.

Mr. Branon indicated that the value of surrounding properties will not be diminished, as the use is consistent and compatible and the lot size is larger than the surrounding lots, and there will be adequate separation between units, and should show positive impacts to property values.

Mr. Branon said that hardship is met, as the proposal is consistent with the surroundings and will not alter the

essential character of the neighborhood, and the subject property has special conditions, as it is the largest lot in the neighborhood and developing it into a duplex would not make the development more dense, or create any additional density on the surrounding area. He said that the proposal is fair and reasonable, and the improvements will be an upgrade to the property.

Mr. Currier said that he is struggling with the hardship, in that it seems to be a perfectly fine functioning single-family home for a hundred-plus years.

Mr. Branon said that when they went through the subdivision process, he said that they studied the geometry of the lot, and how it's situated with the surrounding lots, and this lot is really out of character, it's a large lot with a single-family, and the request is reasonable, as the surroundings are creating a hardship for a marketability standpoint.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Maura Parnin, 47 A&B Caldwell Road, Nashua, NH. Mrs. Parnin said that when most of the duplex units were constructed here, the Code was different, and only 9,000 square feet was required for a duplex. She said that now, 12,445 sq.ft is required, which is 3,070 square feet less than what is required, a 25% reduction. She said that the generally accepted reason for zoning laws is to promote safety, health and well-being and to alleviate congestion, and to provide open space, cleaner air and safety. She said that Caldwell Road is a narrow road, and is often used as a shortcut between Lake Street and Lund Road, it's a busy street. She said that a lot of the duplex units are on small lots, and were built in the 1960's when people generally did not have two cars. She said it is a very busy street, and there are no sidewalks for pedestrians, and children walk to school, and often play in the street. She said that she is concerned for the safety of the children, and recommends that this request be denied.

Jessica Crosby, 46 Caldwell Road, Nashua, NH. Ms. Crosby said she lives diagonally across the street. She said that there is

a lot of traffic congestion, and a lot of kids in the street, as they walk to the Fairgrounds Elementary and the Middle School. She said with two driveways and two garages, there would be four cars, and most homes have two cars. She said that it looks like a single-family home and a single-family home, not a duplex.

Mr. Boucher said that there are the two units connected physically by the garages, it is a duplex.

Ms. Crosby said that she is concerned about the diminution of value to her property, and there is still a vacant lot that was subdivided off that still has yet to be developed. She said if this is another rental property, it will make the values diminished. She asked about the vacant new lot, if that will be a duplex as well.

Mr. Boucher said that the new vacant lot was developed for a single-family lot, and the applicant testified that it would be for a single-family house.

**SPEAKING IN FAVOR - REBUTTAL:**

Mr. Branon stated that the proposal does meet the green space requirements, and there will be some revised stormwater mitigation improvements, which will offset any of the improvements that will be made to the property, so there will be no impact to any of the abutting properties relative to stormwater. He said that for safety and congestion, this proposal is in harmony with the surroundings, and only one new unit would be added to the area, and the additional traffic that one unit would impose would not be measurable to the area. He said that the parking requirements of the Code would be met. He said that if the Board does not like the garage in the middle, it can be designed without it, but they believe it is an asset architecturally. He said that for diminished value, one additional duplex will not change the neighborhood, as it will be a brand new unit. He said that there are all duplexes on the left side of Caldwell Road, and behind. He said that any property appraiser would see the number of nearby and abutting duplexers and wouldn't see lot value as an issue. He said that the owner has contributed \$6,000 to the City's sidewalk fund.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:**

Ms. Crosby stated that she would be concerned if the proposed garages were turned into living spaces. She stated that she still has concerns about the diminished value of properties, as the perception from prospective buyers can be changed by seeing the proposal.

Mr. Minkarah said that the rendering is nice, as well as the garage. He said that it's doubtful that there would be a negative impact on property values, as there are a lot of duplexes in the area, and a lot of the property sizes are smaller. He said that he can't support the hardship, as well as some of the other points of law. He said that the neighborhood includes both sides of the street, and when you look across the street, the lots are much larger, and they are single-family in nature. He said it has existed as an oversized single-family lot, over 12,000 sq.ft. He said that the property has had a reasonable use, it can simply remain a large single-family house lot, but the owner chose to subdivide it. He said that they could have kept it as a larger lot, and make it into a duplex. He said he didn't understand why they subdivided off a lot for a new single family house lot, and then it all of a sudden creates a situation where the owner doesn't have reasonable use of the property, he said he can't get to the hardship here. He said he also didn't see how they can get to the spirit and intent of the ordinance, clearly, the density requirements are there for a reason. He said that the ordinance was changed for the lot sizes for duplexes some years ago. He said that they clearly have viable use of the property. He said he doesn't see how this meets the public interest, and doesn't see how substantial justice is served. He said that if the variance were to be granted, there would be an additional residential unit on the street, that would not otherwise be allowed, and that would bring additional vehicles and additional parking issues.

Mr. Shaw agreed with Mr. Minkarah. He also agreed in that he didn't see any hardship. He said that the real intent was to end up with three units on the original lot, in which it's now two lots, but ultimately there is no reason why a single-family can't and won't be built on that newly created lot, and the end result was an intent to put three dwelling units here. He said he agreed with Mr. Minkarah's statements, and cannot support the request.

Mr. Lionel said he appreciated Mr. Minkarah's and Mr. Shaw's comments, and said that the ordinance has changed in that now,

more land is required for a duplex than in years past. He said that he didn't agree with the hardship, and this is a self-created hardship by subdividing the lot and trying to essentially add two units to what had been a single-family lot. He said he doesn't see a compelling reason to approve this.

Mr. Currier said that his thoughts are in line with Mr. Minkarah's. He said that if this were approved, he said that the garages are a tasteful component of the design, and appreciated the architectural rendering. He said he is stuck on the hardship as well. He said the house has been here for over one hundred years, and doesn't see how a hardship is now here after all that time, especially after the single family lot was just created. He said that the request doesn't meet the hardship. He said it does not address the spirit and intent of the ordinance as well.

Mr. Boucher said he struggled with this. He said that the subdivision of the new single-family lot is part of our package, along with the Planning Board minutes. He said that this is a self-imposed issue. He said that he didn't think it meets the character of the neighborhood. He said that he cannot support this application.

Mrs. MacKay said that she concurs with other Board members statements, and said that she does not see a hardship in this case.

Mr. Currier said that even though it's not before the Zoning Board, he said that the newly subdivided lot, which looks like a flag lot, is out of character with the neighborhood. He said he would not have supported it if it came before the Board.

**MOTION** by Mr. Currier to deny the variance application on behalf of the owner as advertised. He said that the Board finds that the variance is not needed to enable the applicants proposed use of the property, as the Board finds that it does not meet the hardship criteria, in that the very recently created lot, which is undersized, is not necessary, given the fact that it was an oversized lot that was just recently subdivided, and the totality of how this lot has played out.

Mr. Currier said that this request is not within the spirit and intent of the ordinance to allow this minimum land area, given the recent subdivision of the lot.

Mr. Currier stated that the Board hasn't stated one way or another about the effect of property values of surrounding parcels.

Mr. Currier said that the Board finds that the request is contrary to the public interest to allow the overall increase in density, given what was once one large lot, which is now two lots, and one of the two lots is proposed to go to a duplex.

Mr. Currier said that the request for substantial justice is not met.

**SECONDED** by Mr. Lionel.

**MOTION CARRIED UNANIMOUSLY 5-0.**

At this time, Mr. Shaw had to leave the meeting (8:30 p.m.). Mr. Minkarah will be voting.

**7. Teresa Richard (Owner) 10 Forest Park Drive (Sheet 50 Lot 7) requesting the following: 1) special exception from Land Use Code Section 190-15, Table 15-1 (#3) to allow an accessory (in-law) dwelling unit; and, 2) variance from Land Use Code Section 190-32 to exceed maximum size of accessory dwelling unit, 750 sq.ft permitted - 900 sq.ft proposed - to enlarge one-car garage into a two-car garage and construct attached accessory dwelling unit in back of garage. R9 Zone, Ward 6.**

Voting on this case:

JP Boucher, Chair  
Steve Lionel, Vice Chair  
Jack Currier  
Mariellen MacKay  
Jay Minkarah

Teresa Richard, 10 Forest Park Drive, Nashua, NH. Ms. Richard said that her parents have had some medical issues, and it is difficult in their current living arrangement to maneuver on stairs. She said that she'd like to construct an accessory dwelling unit, which would entail removing an existing breezeway and small one-car garage, and will build a den/breezeway and two-car garage, with perhaps a bonus room on top of the garage, it may be a master bedroom or second bath.

Ms. Richard said that in back of the two-car garage, would be the accessory dwelling unit for her parents, one bedroom, one bath, and a combination living room, with a kitchen, so that it's all on one level. She said that she's been working with her architect, and it will keep the integrity of the street and the homes. She said it would have an entrance on the side, where she and her parents could walk down through the garage, and there would be an entrance to her house, and an access towards the back to the apartment. She said that if you're looking at the house from the street, it would look the same except it would be a two-car garage.

Ms. Richard said that the special exception is because she needs to make things a little oversized in case they have to go back to a walker or wheelchair, so a little extra space is needed, and that's where the extra 150 square feet comes in.

Ms. Richard said that the unit meets all lot setbacks.

Mr. Boucher asked to explain the extra square footage over the 750 square feet.

Ms. Richard stated that they have to have an oversized bathroom, in case they have to be in a wheelchair, and the bedroom needs to be a little bit bigger as well. She said that they've both progressed to where they need assistance and the extra room will be helpful for handicap access.

Mr. Minkarah asked if the 900 square feet was given to her by the architect.

Ms. Richard said it was.

Mr. Minkarah said that the 900 square foot description seems high.

Ms. Richard said it is approximately 900, it may be in the high 800's.

Mr. Lionel asked if there was any attempt to design the accessory dwelling unit to fit within the ordinance.

Ms. Richard said that there was, but after the design was thought of and planned, with an entrance from the bedroom to the

bathroom, and primarily for just a little extra space for them in the future, it exceeded the 750 square foot limit.

Mr. Currier said that he believes that the addition is within the character of the neighborhood, as there are other larger houses nearby. He said he is supportive of the special exception. He said he is struggling with the 900 sq.ft versus the 750 sq.ft, and feels that the 750 sq.ft limit could be met.

Mr. Lionel said that he is fully supportive of the special exception. He said in looking at the drawing, it doesn't appear as if it is 900 sq.ft, it appears less, in the mid 800's.

Mr. Minkarah said he is struggling with the size, and it's not like it's a conversion of existing space, its new construction. He said he is supportive of the special exception.

Mrs. MacKay said that 750 sq.ft is not bad for an apartment. She said that the applicant suggested wider entrances for ADA maneuverability and looking to modifications now, and while 900 sq.ft does seem like a lot, it looks as if the area is about 850 sq.ft, and wondered if the applicant just put down 900 sq.ft to be safe. She said she is supportive of the special exception, and would be supportive of 850 sq.ft for the unit.

Mr. Boucher said he is in favor of the accessory dwelling unit. He said that the plan could be modified to 750 sq.ft, but doesn't know if he'd notice the difference whether it's 750 sq.ft or 900 sq.ft. from looking at the house from the front. He said he would be amenable to an 850 sq.ft size as Mrs. MacKay mentioned.

Mr. Currier said that the Board has the design, but it's not clear exactly the size of it, perhaps it can be tabled to determine the size, and perhaps the owner can either come back with a revised figure, or just meet the ordinance. He said that perhaps the Board can vote on the special exception, and table the variance.

**MOTION** by Mr. Currier to approve the special exception portion of the request as advertised. He said that it is listed in the Table of Uses, Section 190-15, Table 15-1 (#3).

Mr. Currier said that the use will not create undue traffic congestion or unduly impair pedestrian safety.

Mr. Currier said that the Board finds that the request will not overload public water, drainage or sewer or other municipal systems.

**MOTION** by Mr. Currier to re-open the public hearing to go over the special regulations.

**SECONDED** by Mr. Lionel.

**MOTION CARRIED UNANIMOUSLY 5-0.**

Mr. Boucher went over the special regulations for an accessory dwelling unit with Ms. Richard, and per oral testimony, all will be satisfied, except for the variance for the square footage, in which the variance is submitted.

Mr. Boucher said that the variance could be tabled to the April 9, 2019 meeting to go over the size of the unit, and stated that the Board is looking for detailed information and an exact number of the size of the unit, or if there are any changes proposed to the size.

Ms. Richard said that the April 9<sup>th</sup> date is fine.

Mr. Currier said that per testimony, the special regulations will be satisfied.

Mr. Currier said that the use will not impair the integrity or be out of character with the neighborhood, or be detrimental to the health, morals or welfare of residents.

**SECONDED** by Mrs. MacKay.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MOTION** by Mr. Currier to Table the variance request as advertised to the April 9, 2019 meeting, so that the applicant can clarify the exact square footage on the plan, also, the applicant can consider if there can be a lesser square footage or perhaps no variance needed.

**SECONDED** by Mrs. MacKay.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MISCELLANEOUS:**

**REHEARING REQUESTS:**

None.

**MINUTES:**

3-12-19:

**MOTION** by Mr. Boucher to approve the minutes as presented, waive the reading, and place the minutes in the file.

**SECONDED** by Mr. Currier.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**REGIONAL IMPACT:**

The Board did not see any cases that would have Regional Impact.

**ADJOURNMENT:**

Mr. Boucher called the meeting closed at 9:02 p.m.

Submitted by: Mrs. MacKay, Clerk.

CF - Taped Hearing