

EXPANDED DRAFT MEETING SUMMARY
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ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
June 13, 2023

A public hearing of the Zoning Board of Adjustment was held on Tuesday, June 13, 2023 at 6:30 PM, both in person at City Hall and via Zoom.

Mariellen MacKay, Chair, asked for a Roll Call:

Mariellen MacKay, Chair
Rob Shaw, Vice Chair
JP Boucher, Clerk
Jack Currier (on Zoom)
Jay Minkarah
Josh Nehiley

Carter Falk, Deputy Planning Manager/Zoning
Kate Poirier, Planning Coordinator

Mrs. MacKay explained the Board's procedures, saying that real-time public comment can be addressed using Zoom, or by telephone, or in person. Mrs. MacKay said that real-time comments via audio will be addressed at the conclusion of the public hearing, and the public is encouraged to submit their comments for future meetings via email to the Planning Department, which is Planningdepartment@nashuanh.gov, or by mail, at P.O. Box 2019, Nashua, NH, 03061. Mrs. MacKay identified the points of law required for applicants to address relative to variances and special exceptions. Mrs. MacKay 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.

- 1. Gregory & Christina Sullivan (Owners) Brian & Donna Sullivan (Applicants) 10 Dunlap Drive (Sheet G Lot 459) requesting special exception from Land Use Code Section 190-16, Table 15-1 (#3) to allow an accessory (in-law) dwelling unit in basement of home. R18 Zone, Ward 2.**

Voting on this case:

Mariellen MacKay
Rob Shaw
JP Boucher

Jack Currier
Josh Nehiley

Brian Sullivan, 650 West Hollis Street, Nashua, NH. Mr. Sullivan said that the property is his son's house, and they'd like to install an in-law apartment on the bottom floor. He said that he's filled out the affidavit.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Nehiley said that he is in favor of the application.

Mr. Shaw said that he is in favor of the application.

Mr. Boucher said that he is in support, it meets all the criteria.

Mr. Minkarah said that he is also in support.

Mr. Currier said that he's in favor too, and the Board has the signed affidavit from the owners.

Mrs. MacKay said that she is in favor.

MOTION by Mr. Shaw to approve the special exception application on behalf of the owner as advertised. Mr. Shaw said that it is listed in the Table of Uses, Section 190-15, Table 15-1 (#3).

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

Mr. Shaw said that the use will not overload public water, drainage or sewer or other municipal systems.

Mr. Shaw said that all special regulations are fulfilled, the nine criteria for an ADU are met with the signed affidavit.

Mr. Shaw 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 the residents.

SECONDED by Mr. Nehiley.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

2. Normand & Mary Lavallee Irrevocable Trust (Owners) Normand Lavallee (Applicant) 115 Shore Drive (Sheet E Lot 854) requesting special exception from Land Use Code Section 190-112 to work in the 75-foot prime wetland buffer of the Nashua River to remove four trees. R9 Zone, Ward 5.

Voting on this case:

Mariellen MacKay
Rob Shaw
JP Boucher
Jack Currier
Jay Minkarah

Mary Lavallee, 115 Shore Drive, Nashua, NH. Mrs. Lavallee said that they are here to follow up on their request to remove trees, they've been to the Conservation Commission already, with a favorable recommendation. She said that they requested to remove nine trees, but reduced it to four trees. She said that they consent to the Conservation Commission stipulations of approval.

Mr. Lavallee said that the original request was to remove nine trees, but only four were approved. He asked if they could come back and re-evaluate to see if they can cut some more trees later. He said that the trees are within 40 feet of the house.

Mr. Falk said that if they want to remove additional trees, they'd have to go back to the Conservation Commission, and then back here to the Zoning Board.

Mr. Shaw asked if the four trees to be remove have been selected.

Mr. Lavallee said that two have been selected, and they're going to leave the other two to the arborists to judge, but they're all within the same distance from the house.

Mr. Nehiley asked if the root cause of this application is for

safety in case a tree falls on the house.

Mrs. Lavallee said that a lot of the upper branches fall down and hit the lower branches, which is a hazard, and are afraid someone is going to get hurt eventually. She said that a lot of the trees are facing her neighbor's house, and it is a safety issue and an accident waiting to happen. She said that they still have a lot of trees.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS, COMMENTS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC HEARING:

Mr. Boucher said that he supports the application, it was very complete.

Mr. Minkarah said that he supports the application, and it's pretty straightforward.

Mr. Shaw said that he is in support, and the criteria has been met.

Mr. Currier said that he's in support of the application, this is an older property and all the properties along Shore Drive were developed before the wetlands criteria came into play.

Mr. Nehiley said that he is in support of the application.

Mrs. MacKay said that she is in support of the application as well.

MOTION by Mr. Shaw to approve the special exception application on behalf of the owner as advertised. Mr. Shaw said that it is listed in the Table of Uses, Section 190-112.

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

Mr. Shaw said that the use will not overload public water, drainage

or sewer or other municipal systems.

Mr. Shaw said that all special regulations are fulfilled, the nine wetlands special conditions, as well as the Conservation Commission stipulations as well.

Mr. Shaw 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 the residents.

Mr. Shaw said a special condition is that this was recommended for approval by the Conservation Commission on 5-2-2023 with seven stipulations of approval.

SECONDED by Mr. Minkarah.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

3. Joshua & Hayley Klein (Owners) Hayley Klein (Applicant) 79 East Stark Street (Sheet 47 Lot 302) requesting special exception from Land Use Code Sections 190-36 (B) and 190-47 (B) for a major home occupation for an in-home child-care facility for up to 6 children. RA Zone, Ward 3.

Voting on this case:

Mariellen MacKay
Rob Shaw
JP Boucher
Jack Currier
Josh Nehiley

Hayley Klein, 79 East Stark Street, Nashua, NH. Mrs. Klein said that she is seeking approval for a child-care facility at their house, which they bought about three years ago. She said that her mother moved in with them to help with raising their child. She said that she saw a need for neighborhood help with child care, as families have grown and added children. She said that they'd like to have up to six children. She said that some of the parents live close by, and they can walk to the house, so traffic won't be impacted. She said that they have a double-sized lot, with a nice fenced-in back yard, and the kids are all pre-school or younger children, so half of them are in diapers, and it won't impact the utilities.

Mr. Currier said that the affidavit is signed by the applicant, and is in the record.

SPEAKING IN FAVOR:

Kayla McEwen, 4 Edson Street, Nashua, NH. Mrs. McEwen said that they are grateful that the Klein's offer the child care service and to have them in their lives.

Liz Alayo, 6 Farley Street, Nashua, NH. Mrs. Alay said that it was very difficult to find child care during Covid, and is in support of the application.

Michelle Germain, 73 Atherton Avenue, Nashua, NH. Mrs. Germain said that it was difficult to finding a spot for someone to watch their daughter, and this has been an invaluable resource to the community.

Melissa Corelli, 16 Avon Drive, Nashua, NH. Mrs. Corelli said that they are in support, they are a lovely family to trust their child with, they are great people.

Mrs. MacKay read a letter in support from the following:

Bob & Cathy Mook, 86 East Stark Street, Nashua, NH.

Joe & Hircia Pellegrino, 101 Atherton Avenue, Nashua, NH

Bruce Browne & E. Shelley Winniman, 89 Atherton Avenue, Nashua, NH

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Minkarah said that he supports the application, they meet the criteria, and have the support of the neighbors and it is a necessary service.

Mr. Shaw said that he supports it as well, the criteria is met.

Mr. Currier said that it meets the criteria, and the neighborhood is in support.

Mr. Nehiley said that he is in support of the application, it is a large lot, with no parking issues, and half of their clients walk to their house, so there is no traffic issues, and it really came across that these folks are a valued part of the neighborhood.

Mr. Boucher said that he is in support of the application.

Mrs. MacKay said that she is also in support of the application, and thanked all the people who came out in person for support.

MOTION by Mr. Shaw to approve the special exception application on behalf of the owner as advertised. Mr. Shaw said that it is listed in the Table of Uses, Sections 190-36 (B) and 190-47 (B).

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

Mr. Shaw said that the use will not overload public water, drainage or sewer or other municipal systems.

Mr. Shaw said that all special regulations are fulfilled, and the affidavit was signed.

Mr. Shaw 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 the residents.

SECONDED by Mr. Nehiley.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

4. Andrew & Kayla Coukos (Owners) 1 Edwards Avenue (Sheet 120 Lot 44) 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 in the basement; and, 2) variance from Land Use Code Section 190-32 (B)(1) to exceed maximum size of accessory dwelling unit, 750 sq. allowed - 1,105 sq.ft proposed.
RA Zone, Ward 6.

Voting on this case:

Mariellen MacKay

Rob Shaw

JP Boucher

Jack Currier

Jay Minkarah

Andrew Coukos, 1 Edwards Avenue, Nashua, NH. Mr. Coukos said that when they were considering buying the house recently, they were happy that the basement was already finished with a kitchenette, and it looked like someone had been living there, but they found out that it was never allowed, and he wants to do things the right way. He said that they've gone to over 20 homes in the area to introduce themselves, brought cookies, and a flyer introducing themselves to the neighborhood. He said that in speaking to the neighbors, they found out that the previous owners did use the basement and knew if they wanted to keep the stove, they'd have to come before the Board.

Mr. Coukos said that the basement is technically 1,105 square feet, it has a three-quarter bath, a laundry area, kitchen, and living area, it is spread out corner to corner. He said that they meet all nine criteria in the affidavit, and have applied for the variance to exceed the 750 square feet in area. He said that the ADU that is proposed would not change the character of the house, as if the basement used 750 square feet or 1,105, it would look and function the same.

Mr. Minkarah said that in looking at the floor plan, and asked if it would be altered.

Mr. Coukos said that it is an open space, the family room does not have a full wall dividing the space, and if someone were to live there, it would essentially be a studio space.

Mr. Minkarah asked where the furnace is located.

Mr. Coukos explained that it is located in the laundry area, the wall next to the kitchen, it's the wall on the far side of the stairs, it's an unfinished area and there are other utilities there too.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS, COMMENTS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Shaw said that he's leaning in support of both the special exception and the variance, it is commendable that the owner is trying to come forward with this, and there is no practicable way to eliminate part of the space to make it meet the 750 square foot requirement, and sees no issue in granting this.

Mr. Currier said that it meets the criteria for the special exception, and it's a basement proposal, and to wall off a certain portion would not be reasonable to ask of the owner, and the variance therefore meets the criteria.

Mr. Nehiley said that he is in favor of the application, they have a separate entrance in the back yard, and appreciates the fact that the applicant is trying to bring this into compliance. He said that parking is not an issue, they have a good sized driveway and a garage, the affidavit is signed, and they've done everything possible as an applicant.

Mr. Boucher said that he is in favor of the application, it would not be reasonable to make them reduce the size of the basement, and supports both the special exception and variance.

Mr. Minkarah said that the basement is over the 750 square foot maximum size, but a portion of it would not be exclusively devoted to the ADU, as it is used for the utilities.

Mrs. MacKay said that she is in favor for all of the aforementioned reasons.

MOTION by Mr. Shaw to approve the special exception application on behalf of the owner as advertised. Mr. Shaw said that it is listed in the Table of Uses, Section 190-15, Table 15-1 (#3).

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

Mr. Shaw said that the use will not overload public water, drainage or sewer or other municipal systems.

Mr. Shaw said that all special regulations are fulfilled per testimony, with the exception of item #1, in which a variance has been applied for.

Mr. Shaw 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 the residents.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

MOTION by Mr. Shaw to approve the variance application on behalf of the owner as advertised. Mr. Shaw stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance, it was found by the new owner that the space has already been finished out from the previous owner, and the amenities in the basement space are spread out and there is no reasonable approach that could carve back the square footage to meet the ordinance.

Mr. Shaw said that the request is within the spirit and intent of the Ordinance.

Mr. Shaw stated that the Board does not believe the request will negatively impact property values.

Mr. Shaw stated that the request is not contrary to the public interest, and substantial justice will be served to the applicant.

SECONDED by Mr. Minkarah.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

5. Peggy Ann Simone & William Charles Martin (Owners) Attorney Andrew H. Sullivan (Applicant) 904 West Hollis Street (Sheet D Lot 341) requesting the following: 1) variance from Land Use Code Section 190-16, Table 16-3 to encroach 14 feet into the 20 foot required front yard setback to maintain an existing front porch; 2) variance from Land Use Code Section 190-31 (A) to encroach 6 feet into the 6 foot required left side yard setback to maintain an existing 16'x20' shed, and, to encroach 1 foot into the 6 foot required left side yard setback to maintain an existing 12'x12' shed; 3) special exception from

Land Use Code Section 190-15, Table 15-1 (#3) to allow an accessory (in-law) dwelling unit above existing garage; and, 4) variance from Land Use Code Section 190-32 (B)(1) to exceed maximum size of accessory dwelling unit, 750 sq.ft allowed - 1,472 sq.ft proposed. R9 Zone, Ward 5.

Voting on this case:

Mariellen MacKay

Rob Shaw

JP Boucher

Jack Currier

Josh Nehiley

Attorney Andrew Sullivan, Bedford, NH. Attorney Sullivan said that the area above the garage is actually 875 square feet. He said that the accessway to the bathroom is 103 square feet through the tower, and the bathroom is 93 square feet, which is shared with the main house, so by adding the 875 square feet plus this 196 square feet equals 1,072 square feet. He said that the actual space above the garage is 875 square feet. He said that going through the bathroom is actually the first access, the second one is on the right side of the garage.

Mrs. MacKay asked how was this advertised, and how does this new information change anything before the Board tonight.

Mr. Falk said that the figures just identified by Attorney Sullivan are much smaller, and since it is smaller, they may proceed with the request and it does not need to be re-advertised.

Atty. Sullivan pointed out the site plan. He said that there are two sheds on the subject lot, and the third shed nearby, which is over the property line, is the neighbors shed. He said that the owners bought this house less than two years ago, and the sheds were there, the front porch was there, and nothing has been added or taken away. He said that they bought it, and living in the house is the owner, her son, his wife, her daughter is in the ADU with her son, it's a big family and a big house. He said that they bought it assuming it was a legal ADU, all brought up to code, and they came to find out that it is not.

Atty. Sullivan said that the variance is two parts, for the size of the ADU and the variance for the sheds. He said that the front porch has been there for a very long time, and the sheds, who

knows how long they've been there. He said that the house is on a big lot, it supports easily six cars, plus the garage. He said that the sheds have been there a long time, and they are difficult to see, and the porch has been there for decades. He said it would be a hardship to remove the sheds and the porch, they've been there for so long.

Atty. Sullivan said that for the ADU, due to the configuration of the garage, and the second floor, you'd have to chop it down and have a useless room to meet the ordinance. He said that it will not have any impact on the neighborhood at all. He said that the house will look the same should the Board approve this.

Atty. Sullivan said that his packet lays out all the criteria, it has 150 feet of lot frontage, and has 0.41 acres of land. He said that the lot meets all the dimensional criteria. He said that for the ADU, it shares a bathroom with the main house. He said that the ADU is accessible from the outside and inside through the bathroom from the main part of the house. He said that the affidavit is signed, and the packet is complete. He said that it is a big family, and they are all adults, and need the ADU. He said that it is somewhat funky to have access through the bathroom, but there is no other alternative, and it works for them, and the family really needs it.

Mr. Boucher asked about the square footage.

Atty. Sullivan said that the garage is 25'x35', and upstairs, the main portion of the ADU is also that size. He said that the tower room is 103.5 square feet, and the bathroom is 93 square feet, for a total size of 1,072 square feet.

Mr. Boucher asked if the bathroom, in this configuration, be included in the ADU size.

Mr. Falk said it would, as it would be the bathroom for the ADU. He said that this is a unique floor plan, and even though it's shared, he said staff would count it, it's a dual use. He said that he'd use the bathroom, as well as the tower room, into the entire square footage of the ADU, a total of 1,072 square feet. He said that this is the only bathroom for the ADU, and you have to use the hallway to get to the bathroom.

Mr. Minkarah asked what triggered this coming to the Zoning Board.

Atty. Sullivan said that it came from the Building Department. He said that they're trying to resolve this, they are here to gain approval and follow up with permits. He said that they will comply with anything the City wants.

Mr. Shaw asked about the encroachment of what looks like the original dwelling into the setback is not actually being addressed through the variance application and asked if it is considered grandfathered.

Mr. Falk said that is correct, he said that there has been a lot of building activity going on here, and with the porch, it looks like it's had a new door, windows, siding, roof, and it looks like there has always been some kind of construction going on here. He said that he didn't know why they applied for the variances for the sheds and the porch, as they've always shown up on City aerials going back pretty far. He said that it's nice that they applied for them, even though there was no action on the City's part making them do so.

Mr. Currier asked how they got to the 1,472 square feet figure, beyond the 1,072 sq.ft.

Atty. Sullivan said that it must have been a mistake or typo, but it should be 1,072 sq.ft.

SPEAKING IN FAVOR:

No one.

SPEAKING WITH QUESTIONS, COMMENTS OR CONCERNS OR OPPOSITION:

Michele Sayers, 3 Yorkway Drive, Nashua, NH. Ms. Sayers said she abuts to the back. She asked about the second floor bathroom, and was not able to find evidence of a building permit for it, and also has concerns that above the garage, when it was originally permitted, it was supposed to be storage space, not an ADU with bedrooms, and did not find any additional septic designs for it. She said that this home is not on City sewer, it has its own septic, and the last permit she can find is from 1973. She also commented on the sheds, they used to have code enforcement issues with cleanliness and rodents in them and they had many animals on the property.

Mrs. MacKay said that the septic questions are beyond the purview

of the Zoning Board.

Ms. Sayers said that she called the State, and was informed that they'd need to have updated septic plans submitted, because the original permit was for the garage, and now, there would be bedrooms added.

Mr. Falk said that individual septic system designs are reviewed by the City Department of Health and the State as well, it is not something that the Zoning Board reviews.

Mr. Currier asked if the sheds are in worse condition than from years ago when Code Enforcement got involved.

Ms. Sayers said that they were supposed to bring out an exterminator, since the sheds had so many rodents and wildlife. She said that she believed that the sheds were supposed to be removed. She said that these issues were with the previous owner. She said that the sheds have not been improved.

Geoff Whitman, 1 Yorkway Drive, Nashua, NH. Mr. Whitman said he is also a direct abutter. He said that he really has no complaints, just wants to make sure he wasn't being asked to abandon or give land away because of his shed. He said that their sheds have been there since he moved in about 18 years ago. He said that there have been multiple owners here, and it looks like they bought something that was false advertising. He said he has no complaints on what they propose, he just wanted to make sure about the sheds.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Sullivan said that regarding the sheds, he said that his clients don't use them, and if the City requires them to take them down, they'll take them down. He said that as far as any unpermitted improvements, that is why they're here, they want to comply and don't want to do things twice. He said that they'll do whatever it takes to bring it up to Code compliance.

SPEAKING IN OPPOSITION OR WITH QUESTIONS, COMMENTS OR CONCERNS - REBUTTAL:

Ms. Sayers said that she is ok with anything they are applying for, if anything, they have improved the property. She said that she was concerned with the septic issues, and understands that the sheds have been there for many years.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Currier said that he was initially hung up on the 1,472 square feet, and is relieved with the 1,072 square foot number. He said that he believes that the tower room should be included in the ADU area, also, it is prudent in including the bathroom in the ADU total size count as well. He said that 1,072 is much less than advertised, but is still quite a bit above the 750 square foot limit. He said that since it is all set up the way it is, it's all existing, with the 1,072 square feet with the two bedrooms and bathrooms, that it is a reasonable request. He said that nothing changes with Mr. Whitman's property as far as his shed goes if this is approved. He said that sheds can always be moved, and has no issue with the sheds. He said that one of the most common requests that the Board has is for sheds within the 6 foot setback, as a lot of folks want to utilize the most of their property. He said that the front porch, to his recollection, has been there for quite some time, well over 30 years. He said that the current owners are trying to get the property up to Code, and is finding support for the application.

Mr. Nehiley said that this is a fascinating house, and it was a great packet that he put together. He said there is a need for this type of property in the City, especially with multiple generations living at this house. He said that he is in favor of the application, there is enough parking, for more than six cars, and these folks would have quite an expense if this was not supported. He said that he'd love to see the sheds go away if they're not using them. He said he's in favor.

Mr. Boucher said that he was originally not comfortable with the square footage of the ADU. He said that after hearing the testimony, he's going to support the application. He said that he's been aware of this house for all its transformations and construction. He said the house predates a lot of the existing zoning, and has a wide driveway, and the property is very unique. He said that he has no issue with the porch or the sheds.

Mr. Minkarah said that he agrees with what Mr. Boucher said, as initially, the size of the ADU gave pause, and now can support the application. He said that he is ok with the porch, it seems like there was always some sort of a porch there with an encroachment. He said that he'd rather see the sheds come down, but if they're fixed up or repaired that's fine too. He said with regards to the

ADU, it came in initially as double the size of the allowed size, but the shared bathroom is the problem, if it was taken away, there'd be no bathroom on the second floor, and there's no full bathroom in the house whatsoever. He said he sees no reasonable way of carving it up. He said that he hopes that the Building Department will require an updated septic system plan as part of the building permit to bring the property into compliance, as this house has gone from two bedrooms to five bedrooms, which is significant, and a valid concern brought up by the abutter.

Mr. Shaw said that he is in support, and agrees with a lot of the testimony already discussed. He said for the sheds, technically, Mr. Whitman's shed actually looks like it encroaches on the subject property, and appreciates that they are here trying to bring everything up into compliance. He said that the septic issue definitely should be addressed, but as said before, it is not up to this Board.

Mrs. MacKay asked that if the variances are granted for the sheds, and the owners choose to take them down, and if they want to rebuild them, and if they have this variance, could they build them in the same location.

Mr. Falk said that the Land Use Code states that if you have a nonconforming structure damaged by an act of God, or is unsafe, or burns down, it may be rebuilt in the same location, as long as it does not increase the nonconformity. He said he is not sure if the sheds are unsafe for someone to enter, or if they're just unsightly. He said that one of the building inspectors needs to take a look at it and see what condition it's in.

Mrs. MacKay said that she is in support of the application, and is happy to see the actual size is much less than what was advertised.

MOTION by Mr. Shaw to approve the special exception application on behalf of the owner as advertised. Mr. Shaw said that it is listed in the Table of Uses, Section 190-15, Table 15-1 (#3).

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

Mr. Shaw said that the use will not overload public water, drainage or sewer or other municipal systems, he said that the septic system was discussed, but it's not a municipal system.

Mr. Shaw said that all special regulations are fulfilled, the nine criteria for an ADU are met with the signed affidavit, with the exception for the area of the ADU, for which a variance application is submitted.

Mr. Shaw 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 the residents.

SECONDED by Mr. Nehiley.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

MOTION by Mr. Shaw to approve the variance applications on behalf of the owner as advertised, with all taken collectively. Mr. Shaw stated that the variances are needed to enable the applicant's proposed use of the property, given the special conditions of the property, and cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance, it was found by the Board that the first two variances were structures that were there for a very long time, and there was thought that the porch was there for much longer than originally thought. He said that the sheds are near the and right at the side yard setbacks, and the neighbor has a shed similarly located by the property line as well, and there's no real issue or concern with maintaining the sheds there. He said that for the ADU variance, there has been existing use of the space for a while, and this will bring it into a level of compliance, and the ADU is unique in that the bathroom is shared between the ADU and the main house as well as the tower room connecting the ADU and the house, and to try to carve out space in the area above the garage does not provide any benefit, these are special conditions in the design of the structure.

Mr. Shaw said that the request is within the spirit and intent of the Ordinance.

Mr. Shaw stated that the Board does not believe the request will negatively impact property values.

Mr. Shaw stated that the request is not contrary to the public interest, and substantial justice will be served to the applicant.

SECONDED by Mr. Nehiley.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

6. Robin J. Simons (Owner) 2 Keats Street (Sheet B Lot 281) requesting variance from Land Use Code Section 190-17 (E)(1) to exceed maximum driveway width, 25 feet existing, an additional 20 feet requested (on Shelley Drive) for a total driveway width of 45 feet, to park a camper. R18 Zone, Ward 8.

Voting on this case:

Mariellen MacKay
Rob Shaw
JP Boucher
Jack Currier
Jay Minkarah

Robin Simons, 2 Keats Street, Nashua, NH. Ms. Simons said that she wants to cut some curbing so that she can pull her camper into the only flat part of her yard.

Mr. Minkarah asked if the existing driveway is being widened.

Ms. Simons said it would be a new driveway.

Mr. Minkarah asked if the lot is a separate lot.

Ms. Simons said that she thought it was two lots, but doesn't want to make it two lots. She was told that she would have to make it a driveway, and all she wants to do is pull the camper in on the only flat part of the property.

SPEAKING IN FAVOR:

Patrick O'Flauncey, 2 Keats Street, Nashua, NH. Mr. O'Flauncey said that he is the one driving the camper. He said that there is a very old tree on the property that has to be maneuvered around to the flat spot. He said that he just wants to back the camper into the level part of the land, so this would be the second driveway opening.

Mr. Currier asked where the exact location of the driveway would

be located.

Mr. O'Flauncey said it's about 20 or 30 feet further down. Its parked now where the swimming pool was filled in. He said it's up from the stream.

Mr. Currier said that he now can see it, it's on the photo identified by the two black lines. He asked if it can be parked without creating a wider driveway. He said it's a large request, and is struggling with it, and isn't finding much uniqueness with the land, and asked if it could be parked to the left around the maple tree.

Mr. O'Flauncey said that he actually has to stop traffic down the large hill by Shelley Drive, to maneuver the camper around the large maple tree and the fence to get it into that pool area where it can be parked. He said that they want to park it by the wood line.

Mr. Shaw asked if the 20 foot request could be reduced to 12 or 16 feet, or some lesser number.

Mr. O'Flauncey said that the 20 feet number is just a number that they came up with, with less of trying to angle it in there off the street, and if the Board wants a slimmer number, they can still get it in there.

Mr. Boucher asked how long the camper is.

Mr. O'Flauncey said it is 33 feet, and it's a fifth wheel, double axel.

Mr. Boucher asked if it was a lesser number than 20, what would it be.

Mr. O'Flauncey said that he'd try for 12 feet, but 10 feet would work.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Mr. Nehiley said that he is a firm believer in consistency from this Board. He said that there have been a couple other similar requests that have been turned down. He said he can't get there with this, it's not a safety issue, and there could be additional paving done by the existing driveway.

Mr. Boucher said that the big tree is there, and when excavation starts, it will impact the roots. He said that he could be comfortable with a reduced width of 12 feet. He said that the street is wide enough to have a 12 foot extra driveway, and it won't look too much out of character.

Mr. Minkarah said that this is not a situation where it is a safety issue. He said that some of these requests make sense if it's a secondary street and is needed for access. He said that it is a double lot and if a driveway were to be put in, it would be similar to the spacing to the other driveways in the neighborhood, and can see an argument where it was there to access a shed or for a garage or some other purpose, a second driveway could be there to make reasonable use of that portion of the lot. He said he'd prefer a second driveway as opposed to a wider driveway like a parking lot.

Mr. Shaw said that something like 12 feet would look like a standard driveway. He said that Shelley Drive is a fairly busy feeder street into this neighborhood, and because of the downhill nature of the street, traffic can get going here pretty fast. He said that brings up a safety concern when bringing the camper in and out, and anything that can be done to make it easier and quicker and more accessible, and less of a production and impact and potential for accidents. He said that he can see some justification for relief just based on safety concerns.

Mr. Currier said that he has been struggling with this application. He said that there are no neighbors opposing this. He said that the fact that it is a double sized lot, and if the second lot were developed, the driveway would be equivalent to the spacing along the street. He said that he is not on board with a 20 foot wide driveway, but a more narrower one could be supported, perhaps at 10 feet wide, may work.

Mrs. MacKay said that it is a double lot size property, and said that her neighbor has a similar sized camper, and has watched them try to back it in their driveway and knows how difficult it is, how to maneuver it in and out.

Mr. Currier asked if the Board collectively is comfortable with a width of the driveway. He said that he is feeling that 10 feet is two feet wider than the camper, and any situation where you have a trailer, you have to pull over the lane and back up, and

feels that 10 feet is reasonable.

Mr. Minkarah said that from his perspective, 12 feet is ok.

Mr. Boucher said that he's driven these, and knows what it takes to maneuver them. He said that he believes that 12 feet is reasonable, and appreciates the discussion about having it be narrower, but on that street, no one may notice the difference between 10 and 12 feet, and 12 feet may be safer.

Mr. Shaw said that he'd prefer to go with 12.

Mr. Nehiley said that 12 feet is ok.

Mr. Currier said that he's ok with the conversation.

MOTION by Mr. Shaw to approve the variance application on behalf of the owner as advertised, and with discussion by the Board, that the proposal will be for 12 feet. Mr. Shaw stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the Board noted that the property is a double lot and that this driveway will be further down towards the creek, and will have somewhat the appearance of where a driveway may be placed if there was an additional structure, and the discussion about the width was that it is a reasonable need, with having the camper not drive over the curb and to try to provide limited relief to make it easier to get in and out of the driveway so that traffic is not impeded on Shelley Drive.

Mr. Shaw said that the request is within the spirit and intent of the Ordinance.

Mr. Shaw stated that the Board does not believe the request will negatively impact property values.

Mr. Shaw stated that the request is not contrary to the public interest, and substantial justice will be served to the applicant.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING

MISCELLANEOUS:

REHEARING REQUESTS:

None.

REGIONAL IMPACT:

The Board did not see any cases of Regional Impact on the next agenda.

MINUTES:

5-23-2023:

MOTION by Mr. Shaw to approve the minutes, waive the reading, and place the minutes in the file.

SECONDED by Mr. Nehiley.

MOTION CARRIED UNANIMOUSLY 5-0 PER ROLL CALL OF THE VOTING MEMBERS.

ADJOURNMENT:

MOTION by Mr. Shaw to adjourn the meeting at 8:52 p.m.

Submitted by: Mr. Boucher, Clerk.

CF - Taped Hearing