

EXPANDED DRAFT MEETING SUMMARY
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ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
July 23, 2019

A public hearing of the Zoning Board of Adjustment was held on Tuesday, July 23, 2019 at 6:30 PM in the Auditorium, 229 Main Street, at City Hall.

Members in attendance were:

JP Boucher, Chair
Mariellen MacKay, Clerk
Rob Shaw
Jay Minkarah
Efstathia Booras
Steve Lionel

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, as well as the projector in front of the stage for plans to show the audience.

1. Theresia Manner (Owner) 15 Adams Street (Sheet 64 Lot 11) requesting variance from Land Use Code Section 190-31, to encroach 3 feet into the 6 foot required side yard setback to erect a 6'x10' garden shed. RA Zone, Ward 2.

Voting on this case:

JP Boucher
Mariellen MacKay
Rob Shaw
Efstathia Booras
Steve Lionel

Theresia Manner, 15 Adams Street, Nashua, NH. Ms. Manner said that she currently has a lean-to shed against her house, but it is falling apart and needs to be removed. She said that she wants a nicer, permanent shed in the corner, not against the house. She said it would encroach into one setback, where six feet is required, and three feet is proposed. She said that if it met the setbacks, it would take up more of the yard. She said that many of her neighbors also have sheds, and the shed will actually be 6'x8', so a little smaller than advertised. She said it would come from Reeds Ferry Sheds. She said that her neighbors have sheds that are close too, and there is fencing.

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. Boucher to approve the application on behalf of the owner as advertised. He said that the Board believes that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought cannot be achieved by some other method reasonably feasible other than the area variance, the Board stated that it is a smaller sized lot, and is narrow, and the shed would be in a reasonable location in the corner of the lot

Mr. Boucher said that the Board feels that it is within the spirit and intent of the ordinance, he said that the owner stated that the shed would actually be 6'x8'.

Mr. Boucher said that it would not adversely impact surrounding property values.

Mr. Boucher said that the request is within the public interest, and substantial justice is served.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

2. Ashok G. & Nila Chitalia (Owners) Elite Builders (Applicant) 3 Appaloosa Place (Sheet B Lot 2127) requesting variance from Land Use Code Section 190-16, Table 16-3, to encroach up to 4 feet into the 10' required right side yard setback to construct an attached home addition and 23'x23' two-car garage. R9 Zone, Ward 8.

Voting on this case:

JP Boucher
Mariellen MacKay
Rob Shaw
Jay Minkarah
Steve Lionel

Graham Wylie, Elite Builders, Sandown, NH. Mr. Wylie said that the request is to construct a two-car garage, along with a 20'x20' rear home addition. He said that only the garage would encroach into the setback, and only one corner. He said that the lot line goes at an extreme angle, and there is a ten foot setback, and it would be four feet short. He said that they've looked at moving the garage forward on the lot, to avoid the angle of the property line, but on the corner of the house, there is a gas meter, which would require a large expense to relocate.

Mr. Wylie said it would be a one-story garage, with storage in the rafter area, but no living space or a walk-up or anything like that above.

Mr. Shaw said most standard garages are 24 feet wide, and this one is 23 feet, and asked what their thought process was.

Mr. Wylie said that they scaled it back to 23 feet just to try to get as much room to the lot line as possible, if it's shrunk any more, it would end up being a large one car garage. He said that they did the best they could to keep it as tight as possible.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Nathan Sicard, 13 Boluc Street, Nashua, NH. Mr. Sicard said that the encroachment would entail lifestyle changes, it's a big addition and will be closer to his property. He said that a solution would be to run a 6 foot or 8 foot tall fence along the property line of his lot and at 15 Boluc Street would really help with privacy. He said that this would make everything better.

Mr. Shaw said that any fence over 6 feet in height would require a variance.

John Goodwin, 15 Boluc Street, Nashua, NH. Mr. Goodwin said that between the subject property and his lot, there is a gully, the land is lower, and they are getting soil erosion from their lot, and with the addition, it will only become worse. He said that they've asked them to use some of the fill from the excavation for the garage and the addition, and use that to grade the property so that the depression area is flat. He said that if they do this, they'd be happy to support the application.

Mr. Lionel said that any construction cannot add to the stormwater or drainage runoff to abutting lots.

Mr. Wylie said that would be acceptable.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Wylie said that they would agree to grade out that area, as there is a substantial gully as shown on the pictures. He said that they could grade it out, seed it, and that would appease the abutter. He said that they would also agree to install a six foot high fence after construction, it is reasonable to do that.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Sicard asked where the fence would start and stop, as there are two properties that have concerns.

Mr. Boucher said it would be best to have the applicant come back up and go over the exact location and length of the fence.

MOTION by Mr. Shaw to re-open the public hearing to ask about the placement of the fence.

SECONDED by Mrs. MacKay

MOTION CARRIED UNANIMOUSLY 5-0.

Mr. Wylie said it could go in the back right corner of the subject lot, and continue the fence as far as they can towards the street.

Mr. Boucher said it would be approximately 150 feet.

Board members all expressed support, with the two stipulations as discussed.

MOTION by Mr. Shaw to approve the application on behalf of the owner as advertised. He said that the Board believes that the variance is needed to enable the applicant's proposed use of the property, the primary issue here is to try to accommodate a two-car garage and the location of the house on the lot, with the odd shape of the lot, with the home having gas lines near the front corner of the house preventing the garage from being placed forward, and the applicant has reduced the width of the garage, leaving a limited encroachment only in the rear corner of the proposed structure, and it would be even less as it comes forward along the property line.

Mr. Shaw said that the Board feels that it is within the spirit and intent of the ordinance to support the applicant's use of the property.

Mr. Shaw said that it would not adversely impact surrounding property values.

Mr. Shaw said that the request is within the public interest, and substantial justice is served.

Mr. Shaw said that the applicant is in support of two stipulations that were requested by the abutters, one is to erect a six foot tall stockade fence essentially along the entire right side property line, as well as using fill to grade out the gully area as discussed and agreed to with the abutters.

SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0.

**3. Janet R. Georges (Owner) Gottesman & Hollis P.A. (Applicant)
67 Groton Road (Sheet D Lots 134 & 323) requesting variance
from Land Use Code Section 190-17 (B) to allow four principal
structures on one lot - one permitted. R40 Zone, Ward 5.**

Voting on this case:

JP Boucher
Mariellen MacKay
Rob Shaw
Efstathia Booras
Steve Lionel

Attorney Morgan Hollis, Gottesman & Hollis P.A., Nashua, NH.
Atty. Hollis passed out some photos to the Board members. Atty. Hollis said he also provided a letter from Chet Rogers, a property appraiser. He said that the site consists of two properties, he said that the second picture depicts the current boundary layout.

Atty. Hollis said that there is a single house on lot D-323, and there is a house and pool that are next door at lot D-324. He said that altogether, there are about 7.6 acres. He said that the lot has sufficient acreage to put four single-family homes on the open space area of the larger lot. He said that City Planning staff recommended that they preserve as much open space as they can as well as the view and viewscape. He said that the property has a lot of frontage, but the current driveway has a problem with regards to site distance visibility, as the height of the road towards the left of the property starts dipping down. He said that there is really only one place along the frontage to put in a road.

Atty. Hollis said that the road would be a private road, a public road would not make sense due to the curve in the road and the drop in the topography.

Atty. Hollis said that the proposal is for four detached single-family condominium units, they would be located on a lot that is 160,000+ square feet in size, so each house would have a density of 40,000+ per unit. He said they would be serviced by a

private road. He said that the intent was to save the existing house and barn and its existing driveway. He said that a lot line adjustment will be done to include the pool.

Atty. Hollis said that this request will not be contrary to the public interest, as to allow four structures on this large lot is in the public interest, as it preserves the valuable viewscape. He said that this property is near Groton Woods, which is a cluster development where open space was preserved, and this request is similar in character. He said that the units would be more than one hundred feet from the street, and most of the large stone wall would be intact. He said that in terms of density, it would be similar to other lots in the Groton Woods condominium. He said it would have a private way, which is less roadway for the City to maintain, and less pavement. He said that there is adequate area for septic systems for each unit, and municipal water goes to Hadley Woods, and Groton Woods, so it would just be extended across the street from Hadley Drive to this project. He said that there is no threat to health, safety and welfare, and there is appropriate site distance.

Atty. Hollis said this request will observe the spirit and intent of the ordinance, as the lots will have sufficient area for sewer and water. He said that each home would have over 40,000 square feet of land. He said that there will be adequate space, and all views will be respected.

Atty. Hollis said that substantial justice would also be done, as this will accomplish the goal of the owner to keep the two properties essentially as is, maintain the viewscape, and keep a fair and reasonable use of the excess land with what the current zoning is. He said that there will be adequate buffers.

Atty. Hollis said that the request will not adversely impact the property values of surrounding parcels as the homes would be at least one hundred feet back from the road, a large fence will be there to screen it, and there are many existing mature trees, and a private way for access, also, the appraisal from Chet Rogers indicates that this will not negatively impact anyone's property values.

Atty. Hollis stated said that he's made the case that this is a rather unique property, just by virtue of what is existing out there, it's a large lot, has a shared driveway, large stone

wall, and the request is a creative way to use the excess land without over-developing the lot, and the unique issue of the property is that there really is only one area where a driveway could go for access. He said that because of the uniqueness of the property, there is no fair and substantial relationship for the purpose of keeping one house on one lot, as each house would have the benefit of 40,000 square feet of land, which is in the public interest. He said that the proposed use is reasonable.

Mr. Lionel asked if there are any regulations regarding disturbing the stone wall.

Atty. Hollis said that there is something when it's on a scenic way, but it's not applicable here.

Mr. Minkarah asked about a landscape easement that was mentioned.

Atty. Hollis said that they will be proposing a landscape easement to Lot 323, which will just keep it as open space, as it is in front of that house. He said that the goal is to not have another unit here in the front.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Bill Griswold, 21 Hadley Drive, Nashua, NH. Mr. Griswold asked what the buildings would look like.

SPEAKING IN FAVOR - REBUTTAL:

Paul Chisholm, Keach-Nordstrom Associates, Inc. Mr. Chisholm said that they don't have any specific home models picked out yet, he said that they were just showed in a 40'x60' footprint. He said that the homes will be what the market bears, but whatever they are, they'll fit in with the character of the neighborhood.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

No one.

Mr. Lionel said that this is an excellent use of the property, and meets the points of law.

Mr. Minkarah said that the property has a nice historic character to it, with the stone wall and barn, and said the request will preserve the character of the property and it is a reasonable use.

Mr. Shaw said that the request is reasonable, and the private road is a good solution.

Mrs. MacKay said that keeping the barn and landscaping is commendable, it will be aesthetically pleasing, and they've thought of the neighbors and the City.

Mr. Boucher said that he is in support as well, and appreciates that they'll keep the two existing houses and the barn intact.

Ms. Booras said that she is in support of the request as well.

MOTION by Mr. Lionel to approve the application on behalf of the owner as advertised. He said that the Board believes that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, it is a large tract of land and the desire to maintain the view and other benefits for the public and the owners are commendable, and the benefit sought cannot be reasonably achieved by some other method reasonably feasible for the applicant to pursue, as there were various discussions of other possibilities, and the variance is actually the best possible use.

Mr. Lionel said that the Board feels that it is within the spirit and intent of the ordinance.

Mr. Lionel said that there is testimony that it would not adversely impact surrounding property values.

Mr. Lionel said that the request is within the public interest, and substantial justice is served.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

4. Gabhaltais Teaghlaigh, LLC (Owner) Laura Smith (Applicant) 9 East Pearl Street (Sheet 34 Lot 20) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#135) to allow a tattoo parlor in a portion of an existing building. RC Zone, Ward 4.

Voting on this case:

JP Boucher
Mariellen MacKay
Rob Shaw
Jay Minkarah
Steve Lionel

Nicholas & Laura Smith, 246 Daniel Webster Highway, Merrimack, NH. Mr. Smith said that they are requesting the variance for the body arts studio, in which they would do standard tattoo work but also paramedical and restorative tattoos, and cosmetic and tattoo removals as well. He said that they would also be doing body piercing. He said that they already have an established professional business with over thirty years combined experience, and have been working in the City for over six years.

Mr. Smith said that several members of their staff have worked with Positive Street Arts, and the Breast Cancer Awareness Foundation, as well as the MDA, donating services and raising awareness. He said that they are community driven, and don't feel that they'd have any negative impact on the local community. He said that they will be doing a community outreach program in which they will be visiting several high schools in Nashua teaching students the importance of being tattooed and pierced only by a licensed trained professional, in a clean environment. He said that they will also be working with local hospitals to let them know that there is a cosmetic paramedical tattoo artist that will be able to accept health insurance as well as charitable situations. He said that they will be following proper health procedures, are a community-based service.

Mr. Lionel asked if there are any other professional services being offered in the building.

Mrs. Smith indicated that there are none to her knowledge.

Mr. Smith said that they would be occupying Unit 9A, and believes that there is no one else there currently.

Mr. Boucher asked about the amount of traffic that they expect.

Mr. Smith said that in a typical day, they could have between two or three to as many as ten or twenty clients. He said that it is not a high-traffic use, parking is sufficient nearby, and the parking lot is shared with whatever business would be in the building.

Mr. Boucher asked to explain the paramedical portion of the business.

Mrs. Smith said it is for helping people with appearance altering situations like breast cancer, to give them a part of their identity and looks back.

SPEAKING IN FAVOR:

Bill Gately, 9 East Pearl Street, Nashua, NH. Mr. Gately said he owns the building, and is in favor. He said that he loves the City, and the prior business was an architectural company. He said that it is a beautiful building. He said that the proposed tattoo parlor are artists, they are very thoughtful with what they offer. He said that they would not have neon signs, and most all their customers are by appointment only, not walk-ups. He said that their use is somewhat similar to the former architectural business, instead of designing buildings, they are designing art on people. He said that they have a very valid business plan, and they also do tattoo removal. He said that this area is a mixed use area, and is in support of the application.

Mr. Boucher read a letter of support into the record from Russell Bartlett, who manages properties for Mr. Gately.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Mr. Boucher read a letter of opposition into the record from Ed Richards, 435 Cutts Avenue, Portsmouth NH.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Smith said that he doesn't believe that he will have any negative impacts to the neighborhood. He said that they are quite selective about their clientele, they will not work on anyone who is drunk.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

No one.

Mr. Minkarah said that a variance runs with the land. He said that he agrees with the concerns expressed from the abutter in opposition. He said that the RC zone is a residential district, office uses are allowed as conditional uses, and you can certainly see that in the neighborhood. He said that in the neighborhood, there is one nonconforming commercial use, but otherwise, this zone allows for residential uses. He said that tattoo parlors are allowed in multiple other zoning districts, including zones that have vacancies. He said he doesn't see anything uniquely different about this property that warrants the granting of a use variance.

Mr. Lionel said that what it really boils down to is that this is a residential zone, and this business is not something that the ordinance allows in that zone, and there is nothing unique or unusual about this property to justify a use variance.

Mr. Shaw said that it sounds like a really good business, but doesn't see anything compelling to support this request. He said he isn't convinced that there is enough to justify the Board supporting this, which is a use that is not allowed by right.

Mr. Boucher said the application was a positive one, and even though the applicant mentioned some financial benefits, the Board cannot consider financial aspects of an application. He said that it seems like a good business, and the applicant did a good job in describing what they want to do. He said he didn't know if the application is strong enough to support. He said he's concerned that the variance would run with the land, and the concern about a future use.

Mrs. MacKay said that the Board received one letter from someone who had an issue. She said that there was one letter of support and the owner here in support. She said she's wondering if it's the connotation that goes with tattoo parlors that may have some

of the negative commentary, or impact. She said that they mentioned the health benefits of what this business wanted to do, that they accept health insurance, and it's a mixed use. She said that the building is already there, it is open to business, and supports the application.

Mr. Minkarah said that there is no hardship, and there is nothing unique about the property. He said because of that it cannot meet the spirit and intent of the ordinance.

Mr. Shaw said that they have a nice business proposal, and it may be a net positive for the City and their clientele. He said that there just may not be the justification to support this in an RC zone. He said there isn't a compelling hardship, and the Board should be following the zoning rules for this property and this case.

Mr. Lionel said that it sounds like a great business, and would love to see them operate somewhere successfully in the City. He said that the main reason the Board is here is to grant a variance means that we need to find some particular good reason to override the ordinance.

MOTION by Mr. Shaw to deny the use variance application on behalf of the applicant as advertised. He said that there were not any special conditions of the property and the property still can be used for other uses in the RC zone, and the tattoo parlor is allowed in multiple other zones, and there is opportunity for the property to be used for a use that is permitted.

Mr. Shaw said that the request would not be in the spirit and intent of the ordinance to allow this use.

Mr. Shaw said that a letter was submitted concerning the possible negative effects to adjacent property values.

Mr. Shaw said that this request would not be within the public interest, and substantial justice would not be served to allow this use at this property.

SECONDED by Mr. Minkarah.

MOTION CARRIED 4-1 (Mrs. MacKay).

5. MANH Properties, LLC (Owner) 9-11 Worcester Street (Sheet 35 Lot 52) requesting variance from Land Use Code Section 190-16, Table 16-3 for minimum land area, 10,454 sq.ft required, 9,278 sq.ft existing - to convert an existing two-family dwelling into a three-family dwelling. RC Zone, Ward 4.

Voting on this case:

JP Boucher
Mariellen MacKay
Rob Shaw
Jay Minkarah
Steve Lionel

Attorney Jeff Zall, 221 Main Street, Nashua, NH. Atty. Zall said that his client just purchased the building, and is requesting to add a third unit in the basement. He said that on two separate occasions, this property had previously attained variances to add a third unit in the basement. He said in 1977, it was purchased as a three-unit apartment building, and prior to that, the third unit had been added to the basement without obtaining a variance.

Atty. Zall said that during the 1980's, it was determined during an inspection, or a financing, that the basement was not legally permitted, and in 1987, the owner at that time obtained a variance for the third unit in the basement. However, the owner did not obtain the necessary building permits to complete the basement apartment and have it brought up to Code.

Atty. Zall said in 2002, the building changed ownership again, and the new owner thought that they were purchasing a three-unit building, but learned that the variance for the third unit lapsed, and in 2003, the Board again granted a variance for the third unit, however, the owner found that it was too costly to do the work, and the variance also lapsed.

Atty. Zall said that the current owner knew it was a two-unit building, and the Assessment records in the city going back to the 1970's indicate it was a three-unit building all along. He said that the Assessment records didn't change until 2009, when it was shown as a two-unit building. He said that his client is now asking for the variance to finally finish the third unit, and to do what is necessary to bring it up to Code.

Atty. Zall said that the property is in the RC zone, where multi-family is permitted. He said that the density requirement for three units in this zone is 10,454 square feet of land. He said that it equates to 3,484 square feet per unit. He said that the existing lot size is 9,278 square feet, which results in a density of 3,093 square feet per unit, which is substantially close to the requirement. He said that the neighborhood has a mix of single family homes, two family and multi-family units, and not one of the multi-family developments has the density to meet the ordinance.

Atty. Zall said many of the densities in the neighborhood are less than 2,000 square feet per unit, and none have densities greater than the proposed case. He said that the essential character of the neighborhood is multi-family, with densities well below the proposed case. He went over the applicable points of law, stating that the use is reasonable, it's permitted in the zoning district, and the Board has supported this request in the past.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Brian Guidi, 7-7½ Worcester Street, Nashua, NH. Mr. Guidi asked what the prospective tenants to the building would be, and if tenants would be allowed to sub-let the units in the building.

Mr. Guidi said that he shares a small area of land between the homes, it's a walkway for them, and goes through their stairs, which is a side entry to their house. He said that sometimes their tenants put their trash bins right there, and it's right outside his bedroom windows, and is requesting that they place the bins to be respectful of the abutting owners, and to keep their trash in separate bins on their land. He said that sometimes they park vehicles right at the end of his driveway, and they shouldn't be there when trash collection comes by.

Mr. Shaw asked about his level of support for the extra unit.

Mr. Guidi said that he supports it, and it has been used as three units in the past.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Zall said he is not sure about the owners telling his tenants about sub-letting their unit. He said that his client has purchased a handful of units in the area, and is a very good landlord, and always tries to get tenants that won't cause trouble for anyone.

Atty. Zall said that they would agree to a condition of approval that trash bins be kept on the other side of the property. He said that on the left side of the property, there is plenty of room for trash bins.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Guidi said that Atty. Zall's response is fine with him.

Board members all expressed support for the request.

MOTION by Mr. Boucher to approve the application on behalf of the owner as advertised. He said that the Board believes that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought cannot be achieved by some other method reasonably feasible other than the area variance, the Board stated that the property was approved as a three-unit property in the past, and it was approved by previous Boards. He said that there would be no physical changes to the footprint of the home, although there would be some improvements to the garage. He said it has been taxed as a three-family in the past as well.

Mr. Boucher said that the Board feels that it is within the spirit and intent of the ordinance, he said that it is a fairly large lot for this zone.

Mr. Boucher said that it would not adversely impact surrounding property values.

Mr. Boucher said that the request is within the public interest, and substantial justice is served.

Mr. Boucher said that for a special condition, all trash kept on the left side of the property, and no trash kept between subject property and 7-7½ Worcester Street.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

6. Albert & Marylyn Todd (Owners) 4 Greeley Street (Sheet 67 Lot 60) requesting the following variances: 1) from Land Use Code Section 190-16, Table 16-3, for land area, 5,597 square feet existing - 18,669 square feet required; and, 2) from Land Use Code Section 190-17 (B), to allow two principal structures on one lot, one permitted - both requests to add two multi-family units in existing barn. RB Zone, Ward 3.

Voting on this case:

JP Boucher
Mariellen MacKay
Rob Shaw
Jay Minkarah
Steve Lionel

Marilyn & Albert Todd, 4 Greeley Street, Nashua, NH. Mrs. Todd said that the variance is to turn the barn into a two-family structure, also, a variance for two principal structures on one lot.

Mrs. Todd said that the barn is 200 years old with very little life left. She said it is part of Nashua's history, as it was used as the Nashua Milk House. She said that it has a granite foundation, and it is unsafe where the structure meets the foundation. She said that the barn has a chance to be restored with these variances, and it needs to be done sooner than later. She said that the barn would be supported on the inside as indicated by her structural engineer.

Mrs. Todd said that the Historic District has approved the case to ensure that it conforms to the neighborhood. She said that the immediate neighborhood mainly consists of multi-family properties, in fact, single-family houses only account for 28% of the neighborhood. She said that this request is very similar to when the Board approved 14 Abbott Street in 2017, which is directly across the street. She said that if this is approved,

it would conform to the density within the neighborhood. She pointed out a drawing of 35 properties close by to hers, and their density would be similar or less than others in the neighborhood.

NOTE: Audio quality is poor, difficult to make out discussions..

Mrs. Todd said that altogether, the barn is about 3,600 square feet in size for the three floors. She said that their house is basically a starter sized house, and would be a detriment to the site if the barn cannot be improved and put to good use.

Mrs. Todd said that the variance for two principal structures on one lot is reasonable, as both structures currently exist, and the barn has been there for over 200 years. She said that the barn has been sitting there unused basically since the 1970's. She said that if the foundation cannot be fixed, they will have no choice but to sell the property as is.

SPEAKING IN FAVOR:

Kevin Whitaker, 45 Amherst Street, Nashua, NH. Mr. Whitaker said he'd rather see the building be improved and not go to waste, and is in support of their request.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Vilai Singhsri, 11 Merrimack Street, Nashua, NH. Mr. Singhsri said he's been at this house since 1994. He said he is happy that they are fixing up the barn. He said he is not happy about the density, and the population in the area. He said that it is congested, and people block his driveway. He said that their barn is five feet away from his driveway. He said he is concerned that their fire escape may hang over to his property, and it may be hard to park cars in his driveway. He said he is concerned about the liability. He said he is concerned about the traffic in the City, and the ever-growing density, especially in his neighborhood. He said that the City is getting overgrown with density, and the City is getting too busy with traffic, and the taxes are going higher and higher.

Mr. Boucher read a letter of concern into the record from Brandon Husky, 12 Greeley Street, Nashua NH.

SPEAKING IN FAVOR - REBUTTAL:

Mrs. Todd said that she would hold tenants to the highest standard. She said that she wouldn't put any windows on the back of the barn to respect the neighbor's privacy. She said that she never parks on Merrimack Street, but does occasionally park at the driveway across the street, and the owner at that house, Mr. Crowley, has suggested that they park in his driveway so that the property looks occupied and lived in. She said that the fire escape will not be in Mr. Singhsri's property.

Mr. Boucher said that it is his understanding the Historic District Commission has approved this, with specific conditions for approval.

Mr. Falk said that the Historic District Commission did approve this last night, with specific conditions for the roof, siding, corner boards, windows, doors, and if anything is different from what was approved, they would have to go back to the Commission for review.

Mr. Boucher asked how they can justify the density.

Mrs. Todd said that she reviewed the City Assessor's website, and reviewed all the lot sizes and divided by the number of units, and that is how she got the spreadsheet, as shown in the power point presentation. She said that it's all over the place, one house has 22 units.

Mr. Boucher asked if she knows if any of the nearby properties have two principal structures.

Mrs. Todd said that the house right next door to hers does, the property is currently abandoned, but it has one single-family house and the building behind it is a three-family house, for a total of four units, she said that it is owned by HUD, and it's been abandoned for six years now.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Singhsri said that they could move the fire escape to another part of the barn, as no matter what, someone will come down it and will go in his yard, and is concerned about that. He said that they don't have enough parking spaces, it is lacking. He said that he is concerned about the population, and the density, and no parking.

Mr. Minkarah said that he knows this neighborhood very well. He said that this is perhaps the oldest part of Nashua, and there are very few if any properties around here that conform to current zoning requirements, they're all over the place with lot sizes, setbacks, shape, anything. He said that what makes this property stand out is that it has this historic barn, it's an odd shaped small lot, but there are a few other ones in the neighborhood that have barns like this, and either they can put it to some productive use or they'll lose them. He said he commends the applicant's plan to restore the barn and put it to good use, it will require a significant investment. He said he appreciates the comments about density and parking. He said that overall, it will be a net positive to the neighborhood.

Mr. Lionel said that the density is not out of character for the neighborhood, it is a very unusual property with special conditions and it is an excellent use for the property. He said he understands the concerns from the neighbor about parking, but believes that the applicant will work to mitigate those, and likes the fact that the applicant lives at the property. He said he is in support.

Mr. Shaw said that the barn structure makes the case very compelling, to make it something functioning. He said that there is very little that they could do to this structure, and this will help to preserve the barn and keep the historic aspects to it is sufficient justification to support the density and it won't be so much different from a lot of what else is going on in this area. He said he concurs with what other Board members have stated.

Mrs. MacKay agreed, but her biggest concern is from the neighbor about the fire escape, where someone would come down and end up on his property. She said that there should be something where the fire escape does not end up on the neighbors lot.

Mr. Boucher said that the fire escape would not be a main source of egress, and it would all be on their lot. He asked about the second principal structure on the lot, which is a small lot.

Mr. Minkarah said that the property next door does have two principal structures. He said that what is compelling is that they are not building a new structure, the barn and house on the lot already are there. He said that the density that is

proposed is not out of character, there is a lot of higher density around here. He said that the two principal structures on this lot is unusual, but there is an example right next door.

Mr. Falk said that the reason they are here is due to the two proposed units in the barn. He said that they could renovate the barn consistent with the plans and drawings that went to the Historic District. He said that the two kitchens proposed that are required for each unit, will be two living units, and there is the variance for the density, and since it will be used for a residence, it will become a principal structure instead of an accessory barn. He said that they could still fix the barn up, with new siding, a new roof, aesthetically, but the Historic District has no jurisdiction over what they do inside the barn.

MOTION by Mr. Shaw to approve the application on behalf of the owner as advertised, with both requests considered collectively. He said that the Board believes that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, he said that the special conditions of the property is that it has an old, historic barn and they are trying to find the means to make that structure viable and structurally sound, and the benefit proposed cannot be achieved by some other reasonably achieved by some other method reasonably feasible for the applicant to pursue.

Mr. Shaw said that the Board feels that it is within the spirit and intent of the ordinance.

Mr. Shaw said that there was no testimony either way that it would adversely impact surrounding property values, however, there will be a significant investment made into the property.

Mr. Shaw said that the request is within the public interest, and substantial justice is served.

Mr. Shaw said that for special conditions, this approval is per the 7-22-19 Historic District Commission approval, including all their stipulations of approval.

SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

MINUTES:

7-9-19:

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

SECONDED by Mr. Shaw.

MOTION APPROVED UNANIMOUSLY 5-0.

REGIONAL IMPACT:

An Agenda is not ready yet, as there is an extra week in the schedule. Mr. Falk will email an Agenda as soon as it is available.

ADJOURNMENT:

Mr. Boucher called the meeting closed at 9:26 p.m.

Submitted by: Mrs. MacKay, Clerk.

CF - Taped Hearing