

EXPANDED DRAFT MEETING SUMMARY
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ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
February 14, 2023

A public hearing of the Zoning Board of Adjustment was held on Tuesday, February 14, 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
Steve Lionel, Vice Chair
Jack Currier, Clerk
JP Boucher
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 we 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. Sean J. & Kathryn L. Millette (Owners) 11 Colleen Road (Sheet C Lot 1018) requesting variance from Land Use Code Section 190-264 for accessory use area, 40% permitted, 60% proposed, to maintain an 8'x40' storage container. R9 Zone, Ward 9.**

Voting on this case:

Mariellen MacKay
Steve Lionel

Jack Currier
JP Boucher
Josh Nehiley

Sean Millette, 11 Colleen Road, Nashua, NH. Mr. Millette said that they wanted to have a pool shed near their pool, to store supplies and have a changing room, sitting area, and storage for winter for patio supplies. He said that they did call the Zoning office to get it, but they were under the impression that they could have it for temporary storage.

Mr. Millette said that the request will not be contrary to the public interest, as it will be in the back corner of the lot, it is blocked by a hill and the neighbors fence, and not many people can see it. He said that they'll put windows in it and make it look nicer. He said that it will not change the character of the neighborhood. He said it will observe the spirit of the ordinance because the lot is considerably larger than others in the neighborhood, the size of it is small compared to the size of the yard, it is less than 1% of the whole yard, and the house came with the pool.

Mr. Millette said that by having this will boost the property values within the neighborhood. He said that substantial justice would be done to the property because, with the size of the pool, to have the pool house would complete the back yard, and to use it as a changing room, and a place to store patio equipment will be great.

Mr. Millette said that property values of surrounding parcels will not be impacted, and property values will be increased. He said that the property is a special condition, as the front door faces the neighbor's house, it does not face the street, and the out buildings do not overcrowd the yard.

Mr. Lionel asked to confirm the proposed location of the container, right now it is right next to the pool.

Mr. Millette said it will be moved back to the back of the yard.

Mr. Lionel said it can be seen from the street. He said it looks like it's been there for a year.

Mr. Millette said that they had it there under the guise that it was a temporary structure, and thought that they just needed to

pull a permit to make it a permanent structure. He said that they will put windows in it, flower boxes on it, and make it look like a shed.

Mr. Minkarah said that it is fairly large, and asked why he went with this storage container rather than a traditional shed.

Mr. Millette said he had an opportunity to get it from his work.

Mr. Currier asked if the shed in front of the house is his or the neighbors.

Mr. Millette said that there are two sheds, one is his, one is the neighbors.

Mr. Currier asked if they could use that existing shed for the winter storage and pool items.

Mr. Millette said no, as it's in the front yard, and it's used for lawnmowers, kids bikes, and tools, yard equipment.

Mr. Currier asked if other neighbors can see the storage container or not.

Mr. Millette said that some neighbors can see it.

Mr. Boucher asked when it's moved to the back property line, and when the foliage is in, if it will be shielded.

Mr. Millette said that it will be shielded, but there is one neighbor that sits on top, and maybe someone on Tenby Drive. He said the yard is pretty private in the summer.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Scott Cote, 39 Tenby Drive, Nashua, NH. Mr. Cote said that the shipping container arrived in their yard in December, 2021. He said that they were informed that it was a temporary use, while garage renovations were under way. He said that after a year passed, they realized it was not so temporary. He said that he has had several correspondences with the Code Enforcement

Department.

Mr. Cote said that by approving this variance, it would set a precedence that will allow a pre-manufactured shipping container to establish accessory use area, which is contrary to the public interest. He said that the character of the neighborhood was altered when the container was delivered. He said that the spirit and intent of the ordinance is to provide a balance of accessory use space to the property. He said that the applicants property can meet the 40% permitted under the ordinance, if the shipping container is removed from the equation. He said that the hardship has to be with the land, not with the shipping container. He said that the property owner can have substantial justice by meeting the accessory use area, there is nothing preventing this, other than the size of the container itself. He said that many neighbors have made significant improvements to their property to increase their privacy from the applicants property. He said that there are no special conditions to allow this, and the owner will have reasonable use of his lot. He showed the Board two photos from his back yard looking at the container.

Mr. Boucher asked if the main concern is the size of the shipping container, or the container itself.

Mr. Cote said two concerns, one is that it is a shipping container, and the other is that it is not within the public interest to have a shipping container exceeding the size allowed for an accessory use. He said that the container is in direct view.

Mr. Boucher asked if the applicant had originally requested something like a Reeds Ferry structure, would that be different from the shipping container.

Mr. Cote said that he has no issues with anyone following the ordinance, which is 40% allowed for accessory use area. He said that this will be 60%.

Mr. Lionel asked to characterize the discussions he's had with the City on this issue.

Mr. Cote said that there have been emails with Code Enforcement, just follow-ups with the status and what the process is.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Millette said that there was nothing going on with the garage, it was brought in for temporary storage, as they were putting some kitchen cabinets in.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Cote said that he has all his messages and correspondence with dates, and date stamped, and is confident of them. He said that a lot of the information was communicated with the neighbors on the use of the garage.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel said that he is having difficulty with this request, he said it does not meet the points of law, it is excessive and unnecessary, and the fact that it is a shipping container makes it worse, as it's unsightly.

Mrs. MacKay asked about the email that Mr. Falk sent.

Mr. Falk said that the previous owner did receive building permits for the pool in 1988 and for the shed in 1995. He said that it looks as if they are right at 40% with the pool and shed.

Mr. Boucher said that he is having difficulty as well. He said that if the applicant came before the Board first, and asking for permission, he said he'd be more open to that. He said that his primary concern is the size of the structure. He said that if there was some sort of overage to service the pool, perhaps would be open to that, but not open to the size it is now.

Mr. Currier said that he is struggling with this application, the property itself can lend itself to some overage of accessory use area for maybe another shed structure perhaps, but what is before the Board is just over the top. He said it's against the spirit and intent of the ordinance and it will impact property values. He said that there is a shipping container on Searles Road, and it looks terrible, and it's not rationale to allow another one.

Mr. Nehiley said that he believes the folks on Tenby Drive are negatively affected by this. He said he would not be happy if

it were in his neighborhood. He said that he is not in favor.

Mr. Minkarah said that he cannot find support for this. He said shipping container or not, a structure of this magnitude with the code overage, at 40 feet long, is just too large.

Mrs. MacKay said that she cannot find support for this. She said that if it were a smaller, standard size shed, perhaps this would be a whole different game, but this is just too large.

MOTION by Mr. Lionel to deny the variance application on behalf of the owner as advertised. Mr. Lionel stated that the variance is not needed to enable the applicant's proposed use of the property, given that there are no special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to achieve, other than the variance.

Mr. Lionel said that the request is not within the spirit and intent of the Ordinance.

Mr. Lionel stated that the Board believes the request will negatively impact property values.

Mr. Lionel stated that the request is contrary to the public interest, and there is no comments substantial justice, the homeowner would want it to remain, but given the testimony, this will be denied.

SECONDED by Mr. Currier.

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

Attorney Prolman, representing Case #2, requested to be moved to the end of the agenda, as he had to present a case at the Board of Alderman meeting.

2. Linear Retail Nashua #9, LLC (Owner) Spectrum Signs & Graphics (Applicant) 270 Amherst Street (Sheet E Lot 268) requesting the following variances: 1) from Land Use Code Section 190-101 (E)(2): to exceed maximum ground sign area for a corner lot with two ground signs, 100 square feet permitted per sign - 145 square feet existing on sign facing Amherst Street, an additional 24.91 square feet

proposed for a total area of 169.91 square feet; and, 2) from Land Use Code Section 190-101 (E)(4): to encroach 17 feet into the 20 foot required setback to add two tenant panels to bottom of existing ground sign. HB Zone, Ward 1.

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
JP Boucher
Josh Nehiley

Nick Jarvis, Spectrum Signs & Graphics, Salisbury, NH. Mr. Jarvis

said that this involves an existing sign. He said that they're just looking to update the sign. He said that the existing sign does not allow enough signage for the tenants in the space. He said that they intend to have four new tenant panels, not two, so it's actually a variance to allow 49.82 sq.ft.

Mrs. MacKay asked how the case is advertised.

Mr. Falk said it was advertised to add an additional 24.91 square feet, for two additional panels. He said that if they want additional signage above and beyond what was advertised, the case cannot be heard, and must be readvertised.

Mr. Jarvis asked Mr. Jared Jammal if they'd like to proceed with the two tenant panels as advertised.

Jared Jammal, Linear Retail Properties. Mr. Jammal said that they are fine to proceed with the two panels, it's a fine addition, but right now, the timing is more important to proceed with the two panels.

Mr. Jarvis said that they'll go ahead with the two additional panels. He said that the panels would go on the bottom for the tenants to advertise. He said that they would replicate the size of the smaller panels already in place, such as the CBD and Verizon panels, they'd be the same size. He said it's an internally illuminated cabinet, they'd have lexan faces, and it all would match. He said that substantial justice would be done to Linear Retail, as they can be able to adequately advertise their existing and future tenants. He said that they have

contracts in place with new tenants, and they need these signs. He said that there is great visibility for the sign, and there is about eight feet of visibility from the ground to the lower panels.

Mr. Currier asked if there are new tenants.

Mr. Jammal said that Linear purchased the property about a year ago, and there were three vacancies at that time. He said that there were only two sign vacancies.

Mr. Minkarah asked how many units are in the complex.

Mr. Jarvis said that there are nine tenant spaces within the lot, so with this variance approved, there would be ten sign panels, and the additional space would be used by Linear Properties.

Mr. Lionel said that the current sign has six panels, and the request before the Board, it would have eight.

Mr. Jarvis said that Aldi has the largest panel on the top. He said that the second one would be Pet Supplies Plus, and then, the six smaller panels below it. He said that they're asking to add the two panels on the bottom of the sign, so there would be a total of ten.

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 is generally in favor, and said that he remembers this case from the beginning. He said that the buildings are set far back from the street, and the request makes sense. He said that the overage will not make a difference to drivers, and the placement of the sign will not block anyone's view.

Mr. Currier said that he agrees with what Mr. Boucher stated.

He said that by adding two small panels, same size, it won't block the sight lines and the request is reasonable.

Mr. Nehiley said that small SUV's can see through there, and it is critical to their business plan to allow all the businesses in the center to advertise their location.

Mr. Minkarah said that he is in support, this area by the former jug handle is a very congested area, given the divided nature of the highway, and if you miss the shopping center, getting back to it is a chore, and it is in the public interest that this request be supported.

Mr. Lionel said that he is in support, the two extra panels are reasonable.

Mrs. MacKay said that she is also in support.

MOTION by Mr. Boucher to approve the variance application on behalf of the owner as advertised. Mr. Boucher stated that the variances are needed to enable the applicant's proposed use of the property, given the special conditions of the property, this property has the retail units set back, so the sign is critical for directional purposes, and the benefit cannot be achieved by some other method reasonably feasible for the applicant to achieve, other than the variance.

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

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

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

SECONDED by Mr. Lionel.

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

3. JNT Investments, LLC, c/o F.W. Webb Company, Robert Mucciarone (Owner) Poyant Signs, Christopher Ramm (Applicant) 1 Redmond Street (Sheet E Lot 141) requesting

variance from Land Use Code Section 190-108 (C)(3) to exceed maximum wall sign area, 150 square feet permitted, 132 square feet existing, one additional 30 square foot wall sign proposed, for a total wall sign area of 162 square feet. PI Zone, Ward 5.

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
JP Boucher
Jay Minkarah

Bethany Leonard, Poyant Signs, 1 Jordan Lane, Fairhaven, MA.
Ms. Leonard said that the proposed sign would be for their trade entrance. She said it is a non-illuminated angle frame, with vinyl graphics, and on this elevation, they have two doors, the door to the right is an office and sales door, and the one where the sign would be above is the entrance to their trade counter, it's where the general contractors go to get their supplies. She said it is important that this entrance be clearly marked so they know where they are going. She said that the sign faces the parking lot, it does not face any other buildings. She said that they do have the main F.W. Webb sign, and that sign does face the highway.

SPEAKING IN FAVOR:

No one.

SPEAKING WITH QUESTIONS OR CONCERNS OR OPPOSITION:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Nehiley said that when he did his site visit, he witnessed a commercial vehicle driving around the parking lot looking where to go, so this sign will be needed just for the safety factor. He said that he is supportive of a non-illuminated sign, that is even better, there will not be any glare.

Mr. Minkarah said that he is in support, the overage is modest, and they need a sign over the entrance.

Mr. Lionel said that he is in support of the variance.

Mr. Currier said that he is in support, the non-illuminated sign is appropriate for the people who are using this door.

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

Mrs. MacKay said that she will support the application for all the reasons mentioned as well.

MOTION by Mr. Boucher to approve the variance application on behalf of the owner as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, this is more of a directional sign for their contractors, to lead them to the correct location, and the benefit sought by the applicant cannot be achieved by some other methods reasonably feasible, other than the area variance.

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

Mr. Boucher stated that the Board believes that there is no negative impact to the property values of surrounding parcels.

Mr. Boucher said that the request is not contrary to the public interest, and substantial justice is found to grant to the applicant.

SECONDED by Mr. Lionel.

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

4. Glenwood Properties, LLC (Owner) Poyant Signs, Christopher Ramm (Applicant) 21 Riverside Street (Sheet 75 Lot 62) requesting variance from Land Use Code Section 190-103 (A)(1) to maintain one off-premises 9.3 sq.ft tenant panel and add an additional 9.3 sq.ft panel on an existing ground sign for the benefit of F.W. Webb Company, located at 1 Redmond Street. PI Zone, Ward 5.

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
JP Boucher
Josh Nehiley

Bethany Leonard, Poyant Signs, 1 Jordan Lane, Fairhaven, MA.
Ms. Leonard said that the proposal is for a non-illuminated panel sign that is on the property of Central Paper. She said that there is an F.W. Webb panel on the sign now, so the request is to maintain the existing panel, and the intent is to update the sign, to update the colors of the sign, and the new F.W. Webb company colors, it's a little bit darker and easier to read, as well as replacing the Central Paper sign to be able to move it up slightly to fit an F.W. Webb company panel in-between the two. She said that F.W. Webb has excellent visibility from Route 3, but once you travel off of Route 3 to find them, they are on a road that is hard to find, and they are the only building on Redmond Street, so they have no visibility from Riverside Street, which is where everyone comes from to access their property, so having that sign at this location is a huge visibility standpoint for them, for customers and contractors to easily know where they're going to not miss the turn and try to figure out where they're going. She said that Central Paper is on board and are 100% okay with having these panels on their sign to help with F.W. Webb with their visibility, the signs are non-illuminated and are small in size, also, they are single-sided, and there is no issues with site visibility.

SPEAKING IN FAVOR:

No one.

SPEAKING WITH QUESTIONS, COMMENTS OR CONCERNS OR OPPOSITION:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Minkarah said that it is a reasonable request, the sign structure is adding a small panel to it, and it's already there, and is necessary to provide direction to the property, and it is not easy to find F.W. Webb.

Mr. Lionel said that he also supports the application.

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

Mr. Boucher said that he is in support.

Mr. Nehiley said that he is in support, it's better to have the sign there to avoid commercial vehicles missing the turn and turning around at the high school, it is in everyone's best interest.

Mrs. MacKay said that she is also in support.

MOTION by Mr. Boucher to approve the variance application on behalf of the owner as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, F.W. Webb is located on Redmond Street, and is not visible from Riverside Street, and this sign provides direction and also for safety of vehicles traveling on this road, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible, other than the area variance.

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

Mr. Boucher stated that the Board believes that there is no negative impact to the property values of surrounding parcels.

Mr. Boucher said that the request is not contrary to the public interest, and substantial justice is found to grant to the applicant.

SECONDED by Mr. Currier.

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

5. Steven Bouchard (Owner) 12 Pierce Street (Sheet 86 Lot 32) requesting the following variances from Land Use Code Section 190-16, Table 16-3: 1) for minimum lot frontage, 50 feet required - 21.38 feet proposed; 2) for minimum lot width, 50 feet required, 21.2 feet proposed; and, 3) to exceed maximum side yard setback, 20 feet allowed, 36.7 feet proposed - all requests to subdivide one lot into two lots and construct one new single-family home. RC Zone,

Ward 4.

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
JP Boucher
Jay Minkarah

Kenneth Lania, Cornerstone Land Consultants, Dracut, MA. Mr. Lania said that he is representing the owner. Mr. Lania said that Mr. Bouchard retained possession of the property after the death of a relative. He said that the parcel is one of the largest parcels in the neighborhood, zoned RC. He said that 5,000 square feet of land is required for a single-family home. He said that the parcel has just over 12,000 square feet of land, with one single-family home on the lot, with 86 feet of lot frontage.

Mr. Lania said that they'd like to construct a second single-family home in the rear of the parcel, by subdividing the lot into two, where the existing home would be on a lot that meets the frontage, width and area requirements. The new lot would have an access driveway going to the rear of the lot, both of the lots would meet the minimum lot size. He said that the new house would be on a lot that would be 6,813 square feet, with 21 feet of frontage. He said that he was not aware that the City has a maximum side yard setback, but submitted a variance for it nonetheless. He said that the side yard setback on one side is 37 feet. He said that they meet the open space requirements for both of the lots, and overall, this is a reasonable request.

Mr. Lania said that this request will not be detrimental to the neighborhood, it is a single-family home and well within the setback requirements, and it will not deter from any of the property values in the neighborhood, as it will be a brand new single-family home, and the owner will be rehabbing the existing house. He said that the house would be for his adult age children to live in. He said that due to the size of the overall lot, the owner actually has room for three dwelling units.

Mr. Currier asked if they have thought of alternative designs, such as enlarging the house.

Mr. Lania said that by right, the applicant could add two new units to the existing house by right, that would fit in the property, this request is only adding one unit.

Mr. Falk agreed that the lot, zoned RC, could fit three units by right, as they do have the appropriate land area, however, staff would need to see a plan to ascertain if it meets parking and all other zoning criteria.

Mr. Currier said that a flag lot shaped lot can be challenging, especially as time goes on with different owners.

Mrs. MacKay asked about the driveways.

Mr. Lania said that the driveway to the north currently serves the existing single-family home, is a joined driveway with the property to the north, it will remain as is, and there will be a new driveway added in to the proposed house.

SPEAKING IN FAVOR:

No one.

SPEAKING WITH QUESTIONS, COMMENTS OR CONCERNS OR OPPOSITION:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel said that the neighborhood is certainly crowded, and is generally not in favor of flag lots. He said that the construction of the second house in the back would have a narrow driveway, and it would essentially remove the back yard of the existing house, and is struggling with the concept.

Mr. Currier said that he empathizes for having a home for his children, but that is not a criteria that this Board uses. He said that he is struggling with the flag lot and the heavy variances it creates, and the second driveway to the house is a challenge in design. He said that he is struggling to find support for this, especially since there are other options.

Mr. Boucher said that it is a tight neighborhood, and there is another lot nearby that is similarly shaped on Pierce Court. He

said that having two separate homes would be a less impactful use, to a degree, and the design and placement of the house looks compact, but the design here shows the front door on the side. He said that he is leaning in support of the application.

Mr. Nehiley said that it is an oversized lot for the neighborhood. He said that overall, it is a very creative way of getting another house in there, and it fits the character of the neighborhood, it's certainly not going to affect the property values, and no abutters have opposed it, and is in favor.

Mr. Minkarah said that he can find support for the application. He said density-wise, it's been noted that it's an oversized lot, and the density proposed is still less than what is allowed. He said that there is no concern from abutters, and the proposed driveway is pretty well-spaced between the two existing driveways.

Mrs. MacKay said that she also finds support for this one.

MOTION by Mr. Boucher to approve the variance application on behalf of the owner as advertised, with all requests considered collectively. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, mainly, the lot is one of the largest lots in the neighborhood, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible, other than the area variance.

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

Mr. Boucher stated that the Board believes that there is no negative impact to the property values of surrounding parcels.

Mr. Boucher said that the request is not contrary to the public interest, and substantial justice is found to grant to the applicant.

SECONDED by Mr. Minkarah.

**MOTION CARRIED 3-2 (Mr. Lionel and Mr. Currier against Motion)
PER VERBAL ROLL CALL OF THE VOTING MEMBERS.**

6. Bowers Street Realty Trust, Constance Gauthier, Trustee (Owner) Traditions A Barbershop/Eddie Content (Applicant) 42 Harbor Avenue (Sheet 19 Lot 78) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#35) to convert a former retail space to a barbershop. RB Zone, Ward 7.

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
JP Boucher
Jay Minkarah

Attorney Andrew Prolman, Prunier and Prolman, 20 Trafalgar Square, Nashua, NH. Atty. Prolman said that the property is in the RB District, which barbershops are not permitted in this zone, however, it would be allowed by right directly across the street in the D-3/MU District. He said that Mr. Content intends to open up his barbershop in the same retail commercial space that has been used at this site for decades. He said that the last use was a convenience store. He said that the barbershop is intended to be open six days a week, 9am - 8pm, with five cutting stations, and no exterior changes are expected to the site other than a new sign for the barbershop.

Atty. Prolman said that the building has 11 apartments, but the focus is not on them, they're all existing, and the request is solely for the barbershop. He said that he did provide a parking chart for the existing tenants. He said that most all the apartments are small units, many with one tenant. He said that five of the units have a long-term lease with Harbor Homes, and even though there are 11 apartments on site, with the barbershop proposed, the parking still works with this site, and the parking for the barbershop will work, actually, the parking requirements for the barbershop is regulated at a 1/500 ratio, where the convenience store is 1/200, so the proposal makes the site more conforming with parking.

Atty. Prolman said that the convenience store had many more deliveries, made daily, and this will be far reduced and fewer with the barbershop.

Atty. Prolman said that the variance is not contrary to the

public interest, they are using the same space that has historically been used for a convenience store. He said that the use will observe the spirit and intent of the ordinance, as the previous retail space parking requirements are reduced. He said that substantial justice will be done for this case, and there will be no harm done to the public. He said that besides the sign, there would be no exterior changes to the outside. He said that for the hardship, in 1992 the Board looked at the weird shape of the lot, there is a triangular piece of property missing, and the building was designed with a cutout there, and there's a long history of commercial uses, with the storefront right on the sidewalk, and all those same factors apply today, and there are no fair and substantive reasons to deny the barbershop, it is a reasonable use.

Mr. Boucher said that the site plan shows ten parking spaces, of which five are occupied now. He asked if any of the vacant spaces are available for the barbershop.

Atty. Prolman said that the parking spaces are not designated, and anyone can use them.

Atty. Prolman said that during the day, the residents that do have cars are out at work, so they're gone, and patrons of the barbershop could use them. He said that street parking is frequently used here as well.

Mr. Boucher said that perhaps a sign that says barbershop parking in the parking area may be good.

Atty. Prolman said that they would look into having a sign by the side of the building, or arrows, that may help with parking. He said that he forwarded the letter of concern in the record to Glen Gauthier, owner, who stated that they've never had anyone from the City, or the Police Department, complaining about parking in front of anyone's driveway. He said it's just a matter of policing.

Mr. Nehiley asked if it is possible to paint arrows on the drive aisle where the parking spaces are.

Atty. Prolman said that they still have to go to the Planning Board for a change of use plan, and they would be happy to have that as a condition of approval. He said that the owner does intend to repave at some point in time.

Eddie Content, 6B Cherry Street, Nashua, NH. Mr. Content said that there are three big windows on the building, and will be able to see outside, so if anyone is parking there in front of the neighbor's driveway, he can have them move. He said that he will be very vigilant in observing the parking. He said that he has a very good clientele, including City Police Officers, and is very mindful of civic and community issues, and is looking forward to being a part of the community.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Letter received from Carolyn Goodwin, 44½ Harbor Avenue, Nashua. Mrs. MacKay said that the context of this letter was discussed by the applicant, the applicant's attorney and the Board, and the letter is in the permanent record.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Boucher said that he is in support of the request, the issues that the neighbor has are valid issues, and by going to the Planning Board, doesn't think that there needs to be any special conditions, and will support the application the way it stands.

Mr. Currier said that he is in support. He said it is a tight property, and the barbershop use is much less intense than a convenience store, and from the testimony heard, there will be a lot of vigilance by the barbershop owner to police the parking.

Mr. Nehiley said that he appreciated the presentation, and likes their vision. He said that he's in support, and parking will be something to keep an eye on, and would recommend that parking lines would be painted, and a sign somewhere in the parking lot. He said that if this were across the street, it would be permitted.

Mr. Minkarah said that he is in support, clearly, this has always had a commercial use, and supports it as it stands.

Mr. Lionel said that he is also in support, and agrees that it

is a less intensive use than the prior convenience store, and there is adequate parking provided.

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

MOTION by Mr. Lionel to approve the variance application on behalf of the owner as advertised. Mr. Lionel stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the property has been used for commercial uses and retail establishment for many years, and this will be a less intensive use, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible, other than the area variance.

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

Mr. Lionel stated that the Board believes that there is no negative impact to the property values of surrounding parcels.

Mr. Lionel said that the request is not contrary to the public interest, and substantial justice is found to grant to the applicant.

SECONDED by Mr. Currier.

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

MISCELLANEOUS:

REHEARING REQUESTS:

None.

REGIONAL IMPACT:

The Board did not see any cases of Regional Impact for the February 28, 2023 meeting.

MINUTES:

January 24, 2023:

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

SECONDED by Mr. Lionel.

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

ADJOURNMENT:

MOTION by Mrs. MacKay to adjourn the meeting at 8:41 p.m.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing

DRAFT