

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

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

Members in attendance were:

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

Carter Falk, Deputy Planning Manager/Zoning

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

1. Linda Lancaster (Owner) 18 Smithfield Terrace (Sheet 56 Lot 138) requesting the following: 1) special exception from Land Use Code Section 190-15, Table 15-1 (#3) to construct an accessory (in-law) dwelling unit in second floor of existing house; and, 2) variance from Land Use Code Section 190-32 to exceed maximum size of accessory dwelling unit, 750 sq.ft allowed - 845 sq.ft proposed. RA Zone, Ward 3. [TABLED FROM 1-22-19 MEETING].

Voting on this case:

JP Boucher, Chair
Steve Lionel, Vice Chair
Mariellen MacKay, Clerk
Jack Currier
Efstathia Booras

Mr. Boucher said that all the testimony from the previous meeting is in the record.

Linda Lancaster, 18 Smithfield Terrace, Nashua, NH. Ms. Lancaster said that there were two concerns from the original meeting, one was the size of the ADU unit, and the size of the unit has been reduced to 689 square feet, so that it is now under the 750 square foot maximum, and that variance is no longer necessary. She said that the concern was the size of the primary unit versus the ADU itself. She said that the ADU will be 689 square feet, and there is 2,371 square feet from the basement and first floor, and the bedroom that was taken out of the ADU on the second floor.

Ms. Lancaster said that the second concern was the staircase on the right-hand side of the house going up to the second story. She said that she tried very hard to find a way to fit an interior staircase into the unit, and there is just no way to put another interior staircase in the house. She said that she submitted a number of pictures of the property, and the existing deck, the new deck, and the stairs will be built out of the same materials. She said that she also submitted some better scaled drawings about how this would look. She said that there is a substantial amount of landscaping, trees, bushes, that will help to block the view of that side of the house, and some additional landscaping can be put in if necessary. She said that it's important that everyone keeps their privacy.

Ms. Lancaster said that for the deck and staircase, if she decided to not have the ADU, to just build a deck and have a second exit from the second floor for safety reasons, it can be done. She said that the deck and staircase is not in any setback, it will be built to Code, with the same materials that the rest of the house has, so it is consistent with a single-family home.

Mr. Currier said that previously, pretty much the whole second floor was the ADU, and in this design, there's a bedroom taken out, and asked if that would be occupied by the occupant of the lower level.

Ms. Lancaster agreed. She said that she will move the wall back from the front of the landing to the back of the landing.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Boucher said that there is some validity to what the applicant is saying. He said the staircase will be somewhat shielded by the trees, and said it's something that's not necessarily typical, but won't really be out of character either. He said that the request is reasonable, it would just be a landing at the top, and would be supportive of the application.

Mr. Lionel said that the staircase still troubles him, and said that the issue is that the ordinance states that they have to maintain the appearance of a single-family home, and you don't see an external staircase leading to a door on the second floor on single-family homes, it is something that you often see in two-family homes. He said he isn't saying no, but doesn't like this.

Mr. Boucher said that the unique situation is that the ADU unit is over the garage, on the second floor. He said if it was on the first floor, and they'd have a side door, it's common.

Mr. Lionel said that the door isn't the issue with him, it's the staircase. He said that you just don't see staircases on the sides of single family homes going up to the second level.

Mr. Currier said that it is commendable that the variance would go away. He said he's struggling with the exterior staircase. He said if you review the language in the ADU ordinance, there are three clarifications to the statement that the ADU shall not alter the single-family character or appearance, like no new entrance in the front, no new curb-cut, and the third one is that the exterior design shall be compatible with the single-family dwelling. He said he is struggling with the exterior staircase on a single-family home. He said that when the State changed the laws about ADU's, they weren't doing it for Nashua, Keene, Portsmouth or Manchester, it was the large country home of the aging couples, or the remaining person who wanted to remain in their big houses out in the country, and the door was open to non-blood people living there, and that gets passed through the State. He said that this property was a cluster subdivision, so the lots are a little tighter, and while there

is screening, and believes that the applicant would maximize the screening of the staircase, he said he's struggling to move the boundary to have an exterior staircase. He said it's moving away from a single-family appearance.

Mr. Minkarah said he struggled with this one as well. He said that given where it's located on the house, he didn't think it would be terribly obvious, and didn't think it would radically alter the character of the home, and appreciates that the materials would match the home.

Mrs. MacKay said that the staircase isn't covered, and it is unobtrusive, and there are a lot of single-family homes with a deck in the back with staircases going up to a deck, and it's usually a door leading up to a kitchen, so, a single-family home can have stairs going up to a deck, so it doesn't bother her. She said that a lot of families with members that have disabilities, and want to keep their young adults in the home, and that is another driving force behind the ADU's. She said that the staircase on the side may not be optimal, but is in favor.

Ms. Booras said that she is in favor of the application, and appreciated that the applicant has taken another look at the plans. She said that she doesn't have an issue with it at all.

MOTION by Mr. Boucher to approve the special exception as advertised on behalf of the owner. He stated that the use is listed in the Table of Uses, Section 190-15, Table 15-1 (#3). He said that the advertised variance is no longer needed, as the size of the unit was reduced to meet the ordinance.

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

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

Mr. Boucher said that all special conditions are met, and on the record is the applicant's affirmation of all the accessory dwelling unit regulations.

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

SECONDED by Mrs. MacKay.

MOTION CARRIED 3-2 (Mr. Currier and Mr. Lionel).

2. City of Nashua (Owner) Kevin Gagne (Applicant) "L" Concord Street (Sheet 48 Lot 3) requesting special exception from Land Use Code Section 190-112 to reconstruct the existing boat ramp at Greeley Park, construct gravel parking lot, ADA accessible pre-loading platform and three bio-retention areas, along with associated site improvements. RA Zone, Ward 3.

Voting on this case:

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

Sarah Marchant, Community Development Director, City of Nashua, and Kevin Gagne, Stantec. Mrs. Marchant said that this is a grant project that the City has been working on for over a year now. She said that the project is to construct a new boat ramp at Greeley Park, and also a new access road to it, that will be gravel and dirt. She said that it is a much needed project, as it is in bad condition now, and this is a great opportunity to improve the only access to the Merrimack River, and it's a key location for both Police and Fire Rescue services, as the next access is in Manchester. She said that it will be safer for a much nicer boat ramp for residents to use.

Mr. Gagne said that he is available to answer any questions that the Board may have.

Mrs. Marchant said it did receive a positive recommendation from the Conservation Commission, with one stipulation of approval, that the City has to maintain the dirt road.

SPEAKING IN FAVOR:

Gene Porter, 77 Concord Street, Nashua, NH. Mr. Porter said that he is a member of two local waterway commissions, and is in full support of the boat launch.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Board members all expressed support for this application.

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

Mr. Currier stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, it will be improved with the straighter access road to get to the boat ramp.

Mr. Currier stated that the use will not overload public water, drainage, sewer or other municipal systems, drainage will be improved with the bio-retention areas.

Mr. Currier said that all special conditions are met, as the nine special wetland regulations have been met or exceeded with the application.

Mr. Currier stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to health, morals or welfare of the residents, it will be an improvement to the neighborhood, and will be more user-friendly.

Special conditions:

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

SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0.

3. David A. & Nicole J. Harrington (Owners) Christopher Guay, Elevation, LLC (Applicant) 9 Hadley Drive (Sheet D Lot 484) requesting variance from Land Use Code Section 190-16, Table 16-3, to encroach 3 feet into the 40 foot required front yard setback to construct a front entry porch. R40 Zone, Ward 5.

Voting on this case:

JP Boucher, Chair
Steve Lionel, Vice Chair
Mariellen MacKay, Clerk
Jack Currier
Efstathia Booras

Christopher Guay, Elevation, LLC., Nashua, NH. Mr. Guay stated that he is here on behalf of the owner. He said that they are seeking a variance of the front 40-foot setback for a proposed front entry. He said that it will be a 5'x9' wood structure, encapsulated with vinyl PVC. He said that on this street, it is quite common to see a house with a front porch, or a portico, which makes this house an anomaly in the neighborhood. He said it will provide a safer access point to the dwelling for the owners and their guests, and will bring the house in style with the rest of the homes in the neighborhood.

Mr. Currier said that it is puzzling to him why this house is situated far up front in the lot, where all the other houses are set back some distance.

Mr. Guay said that the owner is the second owner of the house. He said that most all the other people are original owners. He said that when they laid out the stakes for the houses, most of them were laid out right at the setback, and the story is that they moved their stakes backwards, so they'd have the opportunity to have a front porch.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Currier said that the applicant has kept the proposal to a minimum to accomplish what they want, and the impact is minimized since you can see through it. He said he is comfortable that they meet the criteria.

Mr. Lionel agreed. He also questioned why it's the only house that is right up to the setback. He said he didn't have a problem with this.

Mr. Minkarah also agreed. He said that in this climate, having some sort of covered entry or porch is a reasonable use, and what is proposed is very modest in size, it's about as small as you can build, and it is consistent with the design of other homes in the neighborhood, and this house is closer than others in the neighborhood, and the encroachment is de minimis.

Mrs. MacKay agreed, especially to have a shelter from the weather.

Mr. Boucher agreed with what has been said.

Ms. Booras also agreed with what has been said.

MOTION by Mr. Currier to approve the variance application on behalf of the owner as advertised. He said 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 reasonable use and does not interfere with the landowners reasonable use of the property, it is in a unique setting, and the house is built right up to the front setback line, and is at the bend in the road, and the encroachment is a reasonable request for a covered entryway, and will not look out of character in the neighborhood.

Mr. Currier said that it is within the spirit and intent of the ordinance. He said that it will not negatively impact property values.

Mr. Currier said that the request it is not contrary to the public interest, and substantial justice to the landowner is provided by this three-foot encroachment.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

4. Alcide J. Lizzie, Jr. (Owner) Brad Lizzie (Applicant) 4 Daniels Street (Sheet 122 Lot 504) requesting the following variances from Land Use Code Section 190-16, Table 16-3: 1) to encroach 6 feet into the 7 foot required right side yard

setback; and, 2) to encroach 8½ feet into the 10 foot required rear yard setback, with both requests to construct a roofed walkway building addition. GB Zone, Ward 4.

Voting on this case:

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

Attorney Gerald Prunier, Prunier & Prolman, 20 Trafalgar Square, Nashua, NH. Atty. Prunier said that the property is at the end of Daniels Street, off of West Hollis Street. He said that north of the property is the rail walkway. He passed out some information to the Board.

Atty. Prunier said that the first picture is the front of the building, Lizzie Garage Doors, it's been a business here for over 50 years. He said that the right-hand side is where the walkway is located. He said that the second picture shows what is being done, it's an extension of the roof over the walkway. He said that the third page is a letter of support from the abutter next door to the south, they're the only one that would be impacted by this request.

Atty. Prunier said that the applicant started the project, and it was determined that they need a building permit, and the variance. He said that this will not adversely affect the neighbor, and property values will not be diminished. He said that the spirit and intent of the ordinance will be met, and it's not out of character with the neighborhood, and it will help the applicant with his area from the covered walkway, and to protect some inventory.

Mr. Currier asked if the fence is on the property line.

Atty. Prunier said that the fence is on the property line, and the roof is about a foot off the property line. He said that water would drain off the roof on Mr. Lizzie's side.

Mr. Minkarah asked where the walkway goes to, and the purpose of the roof.

Atty. Prunier said it covers the walkway, and at the end, there is a place where there is some inventory, so it's protected.

Mr. Minkarah asked to verify from the photo, if that is the limit of what is going to be constructed.

Atty. Prunier said it is the limit.

Mr. Lionel asked if there has been any thought about snow sliding off the roof, the gutter won't help with snow.

Atty. Prunier said it's a small roof, there's a bigger roof on the second floor, and this one covers a little piece down below. He said that the big roof has drainage that comes down along the side to the ground. He said that there won't be a lot of rain or snow coming off of it, and whatever comes off of it, will stay on the property.

Atty. Prunier said that the owner stated that they have a rock gulley that takes care of all the drainage in the area.

SPEAKING IN FAVOR:

Letter submitted from 2 Daniels Street in support.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Currier said that the letter from the abutter has him feeling ok with the application. He said he agrees with Mr. Lionel, if there is a big snow event, sees it sliding into the abutter's lot. He said that this business has been here a long time, and it appears to be getting along ok with the abutter, it's at the end of a dead-end street, and that's another factor for support, and it will allow the applicant to maximize the use of the property, and feels support for the application.

Mr. Minkarah said that the encroachments into the setback are substantial, and quite an intrusion. He said that he feels that rain and snow will go into the neighbor's property, and whether the neighbor will appreciate that, is unknown. He said that the abutter may not live there for long. He said what gives him the greatest pause is that it is not certain what the intended use is for, it's not like it is covering an entryway to the property

for access, it's not essential access to a second floor for safety. He said it appears to be covering a walkway that doesn't go anywhere, but to some supplies stored in the back. He said he doesn't understand how this is necessary for reasonable use of the property, perhaps it's a work area back there.

Mrs. MacKay said that if they need parts, or something, they're walking back and forth through there, maybe to get things, and that may be an access issue, to get materials, so it makes logical common sense. She said she doesn't have an issue with it.

Mr. Lionel said he shares a lot of Mr. Minkarah's concerns about the adjoining property, and whether or not the abutter understands what might happen or maybe some future owner would know. He said it looks like the purpose of this may be for just a small amount of protection for some materials in the back of the property. He said he doesn't think it is necessary for reasonable use of the property, as it has been used this way for many years.

Mr. Boucher said he doesn't particularly care for it, and that side of the building is really hard to see. He said it's obvious that they want to protect some materials they have, they've been there for many years as well. He said it's a unique site in that there's really one abutter. He said he doesn't see anything that would prevent him from going against it at this point.

Mr. Lionel suggested a special condition that a snow retention device be installed on the roof, that would go a long way in making him feel better about it, something to keep the snow from falling off the roof.

Mr. Currier said he's favorable to the application as is, and is in favor of Mr. Lionel's suggestion, as it's a reasonable stipulation as it's a higher level of protection for the abutter.

MOTION by Mr. Lionel to approve the variance application on behalf of the owner as advertised. He said that the variance is needed to enable the applicant's proposed use of the property, it is a reasonable request, and not granting it would interfere with the landowners reasonable use of the property, the Board

considered the position of the house and the fence and the long-standing use of the business, and feel that it will not injure the public or private rights of others.

Mr. Lionel said that it is within the spirit and intent of the ordinance. He said that there is testimony from the abutter that they are agreeable to this addition, so it will not negatively impact property values.

Mr. Lionel said that the request it is not contrary to the public interest, and substantial justice to the landowner is provided.

Mr. Lionel said that a special condition attached to this is that when the roof is constructed, that it has a device intended to prevent snow from sliding off the roof.

SECONDED by Mr. Currier.

MOTION CARRIED 4-1 (Mr. Minkarah).

5. JKS Realty, LLC & LJJ Realty, LLC (Owners) "L" Fairmount Street & "L" Hutchinson Street (Sheet 62 Lot 100 & Sheet 127 Lot 131) requesting special exception from Land Use Code Section 190-114 & 284 to encroach into the 40-foot wetland buffer at two separate locations to construct access driveways for a four-building, 183-unit multi-family development. RC Zone, Ward 4.

Voting on this case:

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

Mr. Boucher said that the Board is only to discuss the wetlands special exception.

Mr. Currier said that the applicant has already received a positive recommendation from the Conservation Commission, this is the next step. He said that should this be approved tonight, it will still require Planning Board approval.

Richard Maynard, Maynard & Paquette Engineering Associates, Nashua NH. Mr. Maynard said that this is the first step of many, a lot of aspects need to be designed. He said that the property is a roughly 15-acre property that runs from Baldwin Avenue to the east, to Warsaw Avenue on the west, and the Broad Street Parkway to the north. He said that it is in the RC zone.

Mr. Maynard said that the plan is for multi-family residences, approximately 183 units in several buildings. He said that the proposed layout is only illustrative at the moment, it still needs several design reviews. He said that access to the property is from Baldwin Avenue, with a secondary access from Warsaw Avenue. He said that the property is long and narrow, with two small wetlands roughly placed in the center. He said that there are two areas for development east and west of the water areas, with a proposed connecting roadway that would go between the two wetland areas. He said that these wetlands call for a 40-foot buffer under the regulations.

Mr. Maynard said that the permanent buffer would be 1,927 square feet, and 1,017 square feet, as illustrated on the plot plan in the package. He said that retaining walls would be built on either side of the roadway to eliminate the need for substantial slopes going to the buffer areas.

Mr. Maynard said that there is no waterway connection or physical connection between the two water bodies, they are totally separate. He said that a 48-inch diameter pipeline would be installed under the roadway to allow animals to migrate between the two wetlands, it will not have any water flow through it. He said that the Conservation Commission has walked the site, and has given a favorable recommendation, dated 12-5-18.

Bruce Gilday, BAG Land Consultants, Concord, NH. Mr. Gilday said he walked the parcel, and found that the two water bodies are separate and isolated. He said that there is a crest between the two wet areas, not a sag. He said that all the vegetation and soils here were identified. He said that they did not see any animal that was endangered or threatened at the two wetlands. He said that they are not vernal pools, they are isolated pockets, they're just two small depressions that hold water, and they're also below the water table so they hold water.

Mr. Currier asked about the connection between the two water bodies, and who suggested it.

Mr. Maynard said it is their suggestion, it was proposed ahead of time, it's the right thing to do for critters, as it is not a good idea to have them cross the roadway. He said about one-quarter of the bottom of the pipe would have soil, water will not flow through it. He said that the pipe would be 41 linear feet long, side to side.

Mr. Currier asked what the distance is from edge to edge to the two wetlands.

Mr. Maynard said it's about 90 feet.

Mr. Gilday said he measured 75 feet.

Mr. Maynard said that there are several other steps for this project to go through, as it's a complicated project, and for emergency purposes, the road has to be built for proper access, and emergency access.

Mr. Minkarah asked if there are to be any impacts to the wetlands themselves.

Mr. Maynard said it would only be minor impacts to the outside of the buffer.

Mr. Minkarah asked if there are any plans for discharge or site drainage to the wetlands.

Mr. Maynard said that they are holes, and everything drains to these wetlands, nothing drains offsite. He said that the main facility for drainage is to infiltrate it into the ground with infiltrators.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Debra Wall, 23 Hughey Street, Nashua, NH. Ms. Wall asked if the roadway between the wetlands would be a two-way road, or one-

way, or only for emergency.

Mr. Boucher said that the testimony was that the roadway would be 22-feet wide, which is a two-way street, and it would serve as primary access through the lot.

Ms. Wall asked if it would be less impact on the wetlands if the road were a one-way road. She asked if this would eventually have access to the Broad Street Parkway. She said she has concerns about oil, gas, salt draining off the street into the wetlands.

Gerard Ouellette, 54 Fairmount Street, Nashua, NH. Mr. Ouellette said he is concerned about the access to Baldwin Street, it is very narrow. He said he was concerned about the impacts to the wetlands. He said that the Tannery site should be built before this one. He said that he thinks that the main access should come from the Broad Street Parkway, or some other project. He said that the Tannery site should be done first, it's an odd setup, and a hilly area and way above the parkway.

Sandy Belknap, 40 Fairmount Street, Nashua, NH. Ms. Belknap said that it's important that everyone correctly identifies the street names moving forward. She said that the neighbors don't want an access to the site from Fairmount Street, and Warsaw Street is at the end of Fairmount Street. She said she understands that it's more of a Planning Board issue. She said that the Tannery site and Mr. Plante's project will be excavating a lot of land, and there are a lot more unanswered questions.

David Jeffrey, 49 Fairmount Street, Nashua, NH. Mr. Jeffrey said he believes that a lot of grading will need to be done, and wanted to know how it will impact the runoff into the wetlands. He asked if there has been any consideration to Carver Street, to extend that street. He asked if the plans are available.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Maynard said that it is absolutely essential that they have the roadway connection to develop each side of the lot, it would be a 22-foot wide road, and it must be two-way for emergency purposes, and Baldwin Street will be the primary, if not the exclusive access. He said that this site will not connect to the Broad Street Parkway, it's a limited access roadway, it was

designed and funded Federally to have no connections, it is very difficult to get a connection. He said that there is also a Federal cleanup here, and that may trump the limited access issue. He said that the Tannery site, and its development is 3-4 years out, and there are still a lot of cleanup matters and funding issues. He said that the Tannery site is a totally independent site from the subject site. He said that there are steep grades here, and there will be some site grading, and there is some potential for retaining walls, a lot of these things have not been fully worked out yet. He said that all the drainage will drain towards the middle of the site, to these two little wetland spots, as that is where the groundwater is on the site, 5-10 feet below, they're at the groundwater table elevation. He said that there is adequate access to the site from Baldwin Street.

Mr. Currier asked about the elevations of the site, and asked if the ground level of the proposed units about the same level as Fairmount, or down lower.

Mr. Maynard said it's much lower than Fairmount, at least 30-40 feet lower than Fairmount. He said that the road will be built at about a 10% grade, the maximum allowed. He said that they're not sure if they would be three, four or five story buildings, but at best, you would only see the upper level, and you would also have to look through the trees, as the site would have a 50-foot buffer, it will be difficult to see the buildings, as it would be in a bowl.

Mr. Minkarah asked if there was any consideration given to breaking this up into two projects, with access to one portion from Warsaw and one from Baldwin.

Mr. Maynard said yes, but it wouldn't meet the access standards, as there would be a need for two independent access points to any kind of project of this size, there must be a second means of access.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Ms. Wall said that there were signs on the site about asbestos, some was cleaned up when the Parkway was built, and asked if there still is asbestos there.

MOTION by Mr. Currier to re-open the Public Hearing to ask the

applicant to specifically answer the last question by Ms. Wall about asbestos.

SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0.

Mr. Maynard said that there is no asbestos anywhere near the wetland, or even in the vicinity of the wetlands. He said that if you have asbestos on your property, you are allowed to gather it and bury it some place in a secure location on your property, and it would have to be noted on drawings. He said that the proposed use is a permitted use by Special Exception. He said that the application meets all the criteria.

Mr. Boucher said that the Board has a letter of recommendation from the Conservation Commission, and there was nothing that was a red flag for the special exception. He said that the neighbors are aware that there will be other meetings at different venues, and may even come back here for some things. He said that the application is thorough, and is in support of the application.

Mr. Currier said that he has support for the application. He said that the application has two parts, one that we will deliberate on which is specifically the wetland criteria. He said that when the wetland laws came into being years ago, there is a safety valve for allowing access to developable property through a wetland or wetland buffer, and this site speaks to that. He said that there is a lot of developable land, and, to access it, you have to nick upon the buffers to get to it. He said that it meets the criteria from the Conservation Commission, and while these two wetlands will have more human activity around them, it meets the criteria. He said that it is a fair tradeoff, as there is no one really walking around here, but there is some critter movement between the two, and if a road is put on top of that, so the proposed pipe is a good idea, as critters will avoid where roads are. He said that the development may be less impactful to the nearby neighborhood due to the topography and how it's low. He said he is in favor of the project.

Mrs. MacKay said that she focused on the issues in the application, not the traffic and other issues. She said that she appreciated Mr. Gilday's testimony, and Mr. Maynard's

testimony about the wetlands. She said that she is in favor of the project.

Mr. Minkarah said that the critical issue for him was the necessity of actually creating a roadway connection between the two sections of the property, as that is what drives the need for the special exception. He said that it is necessary to use the property in a manner for which it is zoned. He said that the incursion into the wetland area isn't a parking area, or buildings, its necessary access. He said that he appreciates the Conservation Commission's recommendation of approval, and trusts that they looked at it very carefully for the site function, the hydrology of the wetlands. He said that he does have some concerns about the drainage on the site, it is tight, and is in a bowl, but trusts that the Planning Board will closely look at it.

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

MOTION by Mr. Currier to approve the special exception as advertised on behalf of the applicant. He stated that the use is listed in the Table of Uses, Section 190-14 and 190-284.

Mr. Currier stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, given the proposed access location, primarily at Baldwin Street.

Mr. Currier stated that the use will not overload public water, drainage, sewer or other municipal systems, there wasn't any discussion on public water or sewer, the concerns discussed tonight had to do with drainage, but with the application and on-site infiltration, the Board finds that drainage will not be overloaded, and can be handled onsite without issues.

Mr. Currier said that all special conditions are met, the nine regulations are spoken to in the written application, all are met in the application.

Mr. Currier stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to health, morals or welfare of the residents, there will be a two-way access road driveway, and in the totality of the project, the Board finds that it will not impair the neighborhood.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

AMENDED MOTION by Mr. Currier to add the Conservation Commission deliberations and letter of approval dated 12-4-18 with five stipulations, and the applicant has stipulated that they will adhere to this.

SECONDED BY Mrs. MacKay.

AMENDED MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

MINUTES:

1-22-19:

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

SECONDED by Mr. Minkarah.

MOTION CARRIED UNANIMOUSLY 5-0.

REGIONAL IMPACT:

Mr. Falk said that the Board did not see any cases that would have Regional Impact. .

ADJOURNMENT:

Mr. Boucher called the meeting closed at 8:50 p.m.

Submitted by: Mrs. MacKay, Clerk.

CF - Taped Hearing