

EXPANDED DRAFT MEETING SUMMARY
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ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
March 2, 2022

A public hearing of the Zoning Board of Adjustment was held on Tuesday, March 22, 2022 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 (on Zoom)
Rob Shaw
JP Boucher
Jay Minkarah
Nick Kanakis

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

Mrs. MacKay explained the Board's procedures, saying that real-time public comment can be addressed using Zoom, or by telephone, or in person. Mrs. MacKay said that real-time comments via audio will be addressed at the conclusion of the public hearing, and the public is encouraged to submit their comments for future meetings via email to the Planning Department, which is Planningdepartment@nashuanh.gov, or by mail, at P.O. Box 2019, Nashua, NH, 03061. Mrs. MacKay identified the points of law required for applicants to address relative to variances and special exceptions. Mrs. MacKay explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws.

1. Seth & Brenda Ann Matthews (Owners) John Croteau, Cornerstone Services, LLC (Applicant) 21 Fairmount Street (Sheet 62 Lot 162) requesting variance from Land Use Code Section 190-16(E)(2)(a)(9) to encroach 16 feet into the 20 foot required rear yard setback to maintain an existing 9'-8 " x 15'-6" deck. RB Zone, Ward 3.

Voting on this case:

Mariellen MacKay, Chair

Steve Lionel, Vice Chair

Jack Currier, Clerk

Rob Shaw

JP Boucher

John Croteau, Cornerstone Services. Mr. Croteau appeared on zoom. Mr. Croteau stated that the project will meet or exceed building codes and site design issues such as open space. He said it will observe the spirit and intent of the ordinance because the structure is over twenty feet from the nearest abutting structure, and the vertical separation is fine, and the deck design is well made and functional.

Mr. Croteau said that substantial justice will be done to the owner, as it is a useable portion of their back yard, and there is a fence that separates the two properties. He said that the proposed deck will not diminish the property values of surrounding parcels, it is well made and there is a vertical separation of the deck and the closest building creates a visual and acoustic buffer. He said that special conditions exist in the property with the topography that would satisfy the hardship, due to the location of the existing home and the steep slope in the back yard makes the back yard unusable, and the construction of the deck provides privacy and use for the homeowner, and the separation between the existing home and the property line further west.

Mr. Croteau said that the deck began construction at the beginning of Covid and wasn't aware of the code requirements, as it is a new portion of their business, and ultimately found out that it was too close to the property line and submitted for the variance, and trying to make it right.

Mr. Lionel asked to confirm that the deck was started, and then it was discovered that it did not meet the ordinance setback requirements.

Mr. Croteau said that is correct. He said that they are electrical contractors, and just started this portion of the business in 2020, and the ball was dropped and they're just trying to make it right.

Mr. Currier asked if the deck has been inspected by the City yet.

Mr. Croteau said that the Building Department has looked at it, and are aware of it, but they cannot give a building permit until a variance is granted.

Mr. Lionel said that the Building Department may find that the plans are not up to specifications, and may require changes.

Mr. Croteau said that any changes that are required will be done.

SPEAKING IN FAVOR:

Seth Matthews, 21 Fairmount Street, Nashua, NH. Mr. Matthews said that he will assure the Board that the goal is to have the deck constructed to City guidelines, and will make sure that compliance will be met.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel said that the ask for the encroachment is significant, but understands that the contractor is trying to make it right, after the fact.

Mr. Boucher said that there is definitely a unique situation with the topography, and as much as it appears to be really encroaching a lot, there was no opposition to this from the neighbor to the rear or the flag lot to the back. He said that the deck is situated more so towards the side back yard, and the abutting property is city property. He said that the impact of the deck encroachment, as much as it looks, that without concerns from the neighbor to the back, he said that he's inclined to support it, and doesn't see a valid reason to deny the application.

Mr. Shaw said that the Board generally doesn't like these cases where it's an after-the-fact situation, but the lot does have some severe topography, and because of the slope, it's not like the deck itself is going to be rising above the other property. He said that there is no concern expressed by the abutters, and there may not be any other options on the property for the deck. He said that generally, he's ok with it, and would be inclined

to support it if it hadn't been built yet.

Mr. Currier said that there is significant topography challenge, and it's an unusual yard, it is unique to this property. He said that he's not thrilled about the after-the-fact ask, and was concerned about what the abutter might feel, but it drops down, and there's a fence there. He said that it's something that he could have approved if it came to the Board before it was built due to the topography challenge, and it does open up some beautiful space in the back yard.

Mr. Kanakis said that he is feeling the same way, and could see it passing as a request if it came to the Board before it was built. He said it may have been an honest mistake, and they're trying to reconcile it now.

Mr. Minkarah said that he is in support, the desire to have private outdoor space is reasonable, and it would be challenging to build a deck of any reasonable size without encroaching into the setback here. He said that his main concern was the extent of the intrusion into the setback, but there is no objection from the neighbors, and is in support.

Mrs. MacKay said she feels the same way, the encroachment is a lot, but there is no opposition, and the topography certainly is a lot.

MOTION by Mr. Boucher to approve the variance application on behalf of the applicant 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, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance; the Board stated that there is a significant topography challenge, and the position of the home.

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

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice will be served.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.

2. Rivier University (Owner) 1 Weld Street (Sheet 112 Lot 22) requesting variance from Land Use Code Section 190-17 (E)(2) to permit a driveway within 37 feet of the intersection of Weld Street and Oldfield Road, where a minimum of 50 feet is required. RA Zone, Ward 7.

Voting on this case:

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

Attorney Morgan Hollis, Gottesman & Hollis, 39 East Pearl Street, Nashua, NH. Atty. Hollis said that they have four variances on the agenda, all related to the same project. He said that he'd like to approach them on a global basis, and try to consolidate and condense them.

Mrs. MacKay asked if all four cases need to be read into the record, or can they be acknowledged as one.

Mr. Falk said that Atty. Hollis stated that he'd like to do one mass presentation, but each case should be read into the record and each case should be voted on separately.

Mrs. MacKay read case 3 into the record:

3. Rivier University (Owner) 1 Clement Street (Sheet 112 Lot 16) requesting variance from Land Use Code Section 190-17 (E)(2) to permit a driveway within 35 feet of the intersection of Clement Street and Oldfield Road, where a minimum of 50 feet is required. RA Zone, Ward 7.

Voting on this case:

Mariellen MacKay, Chair
Steve Lionel, Vice Chair
Jack Currier, Clerk

JP Boucher

Rob Shaw

Mrs. MacKay read case 4 into the record:

4. Rivier University (Owner) 1 Clement Street, 1 Weld Street, 11, 15 & 17 Oldfield Roads (Sheet 112 Lots 16, 18, 19, 21 & 22) requesting variance from Land Use Code Section 190-194 (G) to encroach 15 feet into the 25 foot required front yard setback on both Oldfield Road and Weld Street to allow parking spaces for proposed residential dormitories. RA Zone, Ward 7.

Voting on this case:

Mariellen MacKay, Chair

Steve Lionel, Vice Chair

Jack Currier, Clerk

JP Boucher

Rob Shaw

Mrs. MacKay read case 5 into the record:

5. Rivier University (Owner) 1 Clement Street, "L" South Main Street, 439, 441, 443, 445 and 447 South Main Street (Sheet 112 Lots 4-9, 16, 21 and 22) requesting variance from Land Use Code Section 190-16, Table 16-3 to exceed maximum number of building stories, 2½ stories permitted, 3 stories proposed for up to six residential dormitory buildings. RA Zone, Ward 7.

Voting on this case:

Mariellen MacKay, Chair

Steve Lionel, Vice Chair

Jack Currier, Clerk

JP Boucher

Rob Shaw

Atty. Hollis said that for case #5, he said it will be amended to say four buildings, not up to six. He said that the plan is like an overall master plan, but two of the buildings, if they ever get built, are located on someone else's property. He said that there is no proposal to purchase that lot at this time.

Sister Paula Marie Buley, President, Rivier University, 420 South Main Street, Nashua, NH. Sr. Buley said that they've taken into consideration the quality of the environment for building materials, the safety of the students and pedestrians, and took into consideration the land that has been acquired over the years, since 1942. She said that Nashua is their neighborhood. She said that they've taken into consideration the stormwater, the impact of green space, and the importance of vehicular circulation, parking, walkways and curbing. She said that for the Science and Innovation building, they worked with their neighbors to ensure that light, sound, and visual aesthetic were in keeping with their expectations, because the campus is also a neighbor. She said that when they built the athletic pavilion, which is open to members of the community, the intent to ensure that noise, light, traffic, sound of buses, were mitigated, and the University worked with the neighbors and continue to work with them to ensure that their environment is peaceful too. She said that most importantly, residents of a campus that has been acquired from neighbors over the course of nearly 70 years, they've had to work within the boundaries of the topography, the crosswalks, the vision of the early Sisters who built Atrium Hall, Trinity Hall, Guild Hall and in the health and safety of students and pedestrians on Main Street. She said that they've come here tonight with that same criteria, health and safety, the convenience and feeling of neighborliness, and also in keeping with the limitations of the site and its topography. She said that they are coming with the intent of reading and speaking and accommodating our neighbors, and by making improvements on the site that will benefit the community, the neighborhood, and Rivier and its students.

Tim Maness, Architect, Derck & Edson, Lititz, PA. Mr. Maness said that they've had meetings with City staff and went through all the issues that may come up. He briefly identified other campus buildings and their location. Mr. Maness said that they're looking at 37 students per building, apartment style. He said that they're planned for upper-class students, with kitchen facilities in them. He said that they'd be single bedroom units with some double bedrooms, and upper level rooms, with an elevator for ADA access.

Mr. Maness said it would be 30-40 beds per building, and most likely 37. He said they'd be designed to look more residential rather than institutional. He said that they've designed organized walkways and green space, in continuance with the

campus improvements that have been done over the years. He said that they are providing one parking space per each bed.

Mr. Maness said that they realize that they're in a residential area, and it's a college campus, and are trying to balance both of those ideas, and put parking in a location that makes sense from a planning perspective, and continue the approach that the college has done in recent projects on campus, with accessibility and lighting, and making it look like a college campus.

Mr. Maness said that in the first phase, it would be two buildings, 37 beds each, parking similar to the strip of parking along South Main Street, and sidewalks along Clement and Oldfield, and some degree on Weld Street too. He said that for the two new driveways, they are trying to maximize the parking, and to try to keep more of a buffer space along Oldfield Road, making that parking really straight. He described some of the views, via his slide show, from looking at the site from different elevations from around the block.

Mr. Maness said that they want the green space in between the buildings as identifiable green space, as the campus doesn't really have identifiable green space, so it's like a village green, with walkways around it, so pedestrians can circulate.

Mr. Maness said that the building would have four apartments on the first two floors, and the top level, which they believed that it was a half-story. He said that it is designed to not look like it's three full floors tall, so the attic space has units, and the top floor is not a full floor like the first two, they'd be smaller units. He said that the building height is not an issue, it meets the ordinance. He said that Trottier Hall has three stories, Memorial Hall has three stories, the Education Center has three, Broussard Hall has three, too. He said Guild and Trinity have three or four floors. He said that the Science building is only two floors, but each floor has a tall, 16 foot ceiling, so the proposed buildings are similar in size and character to others on campus.

Atty. Hollis said that for the first two variances, for the driveways, coming out onto Weld and Clement Street, right now, the property has multiple driveways coming out onto Oldfield. He said that the proposal is that there will only be one driveway on Weld, and one on Clement. He said that the

ordinance requires driveways to be 50 feet from an intersection and the request is for 37 and 35 feet instead.

Atty. Hollis said that the arguments for these two driveways are essentially the same. He said that if you are driving on South Main, and turn on Clement, you realize that you're driving downhill towards Oldfield. He said that it is a fairly significant topographical drop, the same thing turning down on Weld Street. He showed the Board some pictures indicating the difference in topography. He said that another main issue is that the campus wants green space. He said that the only way to preserve some green space is to have the parking lot to move closer to Oldfield, and the driveways as well, so the first three variances are all interconnected.

Atty. Hollis said that they are not going to alter the character of the neighborhood by putting the driveway that much closer to the intersection. He said that there is a driveway on Clement Street that is closer than 50 feet, it's been there a long time. He said that on Weld, there is also a driveway closer than 50 feet. He said that by having these driveways closer to Oldfield, it is not altering the character of the neighborhood.

Atty. Hollis the driveways will not harm the health safety or welfare. He said that the purpose of the 50 feet is to not having people pull out into an intersection, or backing out into a roadway in close proximity to an intersection. He said that because of the nature of the parking lot that is proposed, and the area it will occupy, there will be two full entrances and exits on Weld and Clement, and most if not all of that traffic will be travelling towards South Main Street, and not towards Oldfield, there is no reason to.

Atty. Hollis said that for substantial justice, the design and layout of the parking area, without having to move it back to 25 feet, will be better, as it fits in best with the topographic change, and retaining walls will not be required, and there will be no harm to the public if they're allowed to be closer to the intersection.

Atty. Hollis said that there will be no diminution of property values, they will not affect the values, as there are driveways there now, and there will be in the future.

Atty. Hollis said that for hardship, the site is unique. He

said that all of the lots in this block will be consolidated for a parking lot, which is permitted. He said that the uniqueness is really the topography, as Oldfield is quite level, and as you move into the site, it moves up topographically to South Main Street.

Atty. Hollis said that for the parking lot encroaching into the setback will not alter the character of the neighborhood. He said that the character of the neighborhood is defined already. He said that the location of the parking lot will not remove the University's obligation and promise to address the concerns by the neighbors, especially the Houde's at 12 Oldfield Road.

Atty. Hollis said that by moving the parking area closer to Oldfield would not alter the character of the neighborhood. He said that there will still be setbacks, there will be landscaping. He said one issue that was brought up is that there will be the parking lot, street parking, and across the street parking. He said that they are proposing to offer that they'd go to the Board of Alderman and proposed legislation for no parking on that side of Oldfield Road. He said that the University doesn't want its students parking on the street, that is the whole purpose of the design of this parking area. He said that there is no safety issue with this, the parking lot will have a landscape buffer to the sidewalk, generally within the right-of-way. He said that between the right of way and the parking will be a ten-foot distance, which is more than adequate for landscaping or fencing, whatever is necessary. He said that if the Board saw fit to stipulate a requirement for fencing, there is no objection to that, it is not sure what type or anything, but there is no objection to fencing.

Atty. Hollis said that the topographic change, and if it's put back 25 feet, and start adding up what you need for parking, which is about 70 feet of paved area, going back up the hill towards South Main Street, and it reached a point where it's really unfeasible, and there will be a need for some serious excavation, and retaining walls, where if the driveway is put in the proposed location, there would not be the need for major excavation and retaining walls.

Atty. Hollis said that substantial justice would be done if this is granted, it will allow reasonable use of this area, with appropriate distance from the public right-of-way with no harm to abutting properties.

Atty. Hollis said that there will be no diminution of property values, as they are committed to working with the Houde's in terms of what type of landscaping and fencing amenable to both. He said that this has the same hardship criteria and argument, the topography and desire to manage the property an appropriate way, and because of that, the parking would have to be slid as close to Oldfield as possible. He said that making it go back serves no real purpose, the purpose is so that people don't pull in off the street and park their cars in the front yard, where in this case, there will not be any driveway off of Oldfield.

Atty. Hollis said that the final request is for the three story buildings. He said that the building is made a three story building by that center design of the building. He said that if it were a gabled or dormered top floor, perhaps it would have been 2½ stories, but it's the center piece, it's a full height story. He said that most of the building is actually 2 1/2 stories. He said that the building itself is under 35 feet, which is the maximum height in the RA Zone. He said that it will not be out of character with the neighborhood, and it will be for four buildings, and they are not adjacent to the new houses that were just built, they are closer to the existing campus buildings. He said that they'll fit in the character of the area, and will be a good transition to the single-family neighborhood located to the east.

Atty. Hollis said that substantial justice will be done in that it will allow a design which breaks up the more traditional block style dormitory buildings, and allows the University to come up with a design that has a limited number of students, 37 beds per building, but they're not small, tiny house dorms, and allows a nice transition between the larger campus buildings to these which are more residential looking in nature.

Atty. Hollis said that these buildings will not impact the values of surrounding parcels, as these four buildings front Clement Street, South Main Street, before the Country Club.

Atty. Hollis said that the hardship here is that it is really a limit in the ordinance that limits what can be done. He said it is a unique property where the buildings will go, and this is a college campus with large buildings. He said that the buildings are residential looking and most of them actually are 2½ story.

SPEAKING IN FAVOR:

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Peter Houde, 12 Oldfield Road, Nashua, NH. Mr. Houde said that this area is a hidden gem, it's a private area nestled between the Country Club, the college, and the downtown. He said it's a small residential neighborhood with over a dozen homes, with a few new homes. He said that Sr. Buley is passionate about the University, and has done wonderful work over the past decade. He said that this development could forever alter the nature of the neighborhood, with the mass of the project, the density of the buildings, the parking for 114 students, which is only for the first two buildings. He said that this project could destroy the neighborhood, it will overpower the neighborhood. He said it's a quiet neighborhood, but by having 114 vehicles in this area will have a significant impact to the neighborhood. He said that reducing the setback for the parking will have vehicles much closer to his property.

Mr. Currier asked if Mr. Houde could suggest some visual barriers between the proposed parking lot, such as vegetation, to ease the request of the ten foot setback.

Mr. Houde said yes, and may be in favor if the University could consider doing some of their fencing, and perhaps some arborvitae to provide some protection from car lights towards his house.

Yvette Sjoza, 449 South Main Street, Nashua, NH. Ms. Sjoza said that her concern is with the parking lot, on Oldfield, when school gets out from Memorial Hall, there is an awful lot of traffic coming down Oldfield, and up to Weld. She said that it is often that there are seven or more cars stacked waiting to get out onto Main Street. She said it is a very narrow street, and if they put vegetation there, and if the driveway is too close to Weld, there will be a vehicular traffic problem with cars at this intersection. She said that all of this could be a problem if she ever tries to sell her house.

Betsy Houde, 12 Oldfield Road, Nashua, NH. Mrs. Houde handed out some information to the Board, it is the view from their front yard. She said that they bought their house in 2020. She said that Rivier has systematically buying all the houses around their house. She said that she doesn't see where they have a

hardship. She said that there has been no communication from the college until after the plans were submitted to the City. She said that their proposed parking will impact her property, she said theirs is one of the two private homes that they have referenced. She said that they have another plan for parking, it would include many other spaces, they want to put in a parking lot on her side of the street that wasn't in this proposal, they'd take down three of four houses to the right of theirs for parking. She said that they've invested a lot into their property, and it will be surrounded by parking lots, and it shows that they have no regard for our house. She said that the request is contrary to the public interest.

Barry Coughlin, 451 South Main Street, Nashua, NH. Mr. Coughlin said that he lives in one of the new homes that was built on the corner of Weld and South Main. He said that the request will have an impact on traffic in the future. He said that the University will take down more houses that they own, and will continue to make more parking. He said that this will create more people in the neighborhood, and also questions the impact that the new housing will have on an already taxed water and sewer system here. He asked if the University has thought about entrances for parking on Main Street, coming in off of Main Street, instead of coming in from the back, they have curb cuts there already.

Martha Rafferty, 7 Oldfield Road, Nashua, NH. Ms. Rafferty has a signed P & S for 7 Oldfield, and are due to close at the end of this month. She said that one of her biggest concerns is the proposed expansion plan for the project, that would include the houses right near the house they plan to close on. She said that they were not aware that the school plans to buy these houses for parking. She said that it will create a significant impact on the traffic pattern for the neighborhood.

Steven Stewart, with Ms. Rafferty, has P & S for 7 Oldfield Road, Nashua, NH. He said that his big concern is that taking the neighborhood that has been there quite a long time and expanding it, the school had been more towards the circle. He said if upperclassmen are in the dorms, most of them have cars.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Hollis said that it was pointed out that there would be 114 parking spaces and would serve two dorms, but these are

residential dorms, and assuming every person who lives there has a car, which would be a rarity at most colleges, but if they do, it would be 37 cars per dorm, and 74 spaces for the first two buildings. He said that there is adequate parking for all four buildings. He said that concerns were raised over the parking lot itself, it's size and scale and impact of the cars coming and going. He said that Rivier is not here for the parking lot, it's only where the entrances would be located and the proximity to Oldfield. He said that the parking lot is not the issue.

Atty. Hollis said that they're not asking for relief from the number of students either, so whatever the ultimate design is, if the variances are denied, there will still be residences and a parking lot, it would just be a different shape. He said that one concern is that there is traffic coming down Oldfield, making a left and heading up Weld, and it's heavy traffic, and it may have some impact on the Weld driveway. He said that the relief is to have the driveway at 35 feet from the intersection, not 50 feet as required. He said that 35 feet is sufficient, there won't be anything on the corner affecting site visibility, there is not much traffic coming down Weld, it would go all the way to Oldfield and make a right turn. He said one option could be that traffic could be one-way in here.

Atty. Hollis said that one comment was made about future development, not shown, and the University doesn't own that lot on the corner, it was just shown that ultimately, if that lot is obtained, that might be the long-range plan, it may never happen. He said right now, it's the parking area and the four buildings as presented, they cannot predict the future.

Mr. Shaw said that it's reasonable that the Board consider allowing the applicant a little more time than the allotted five minutes for rebuttal.

MOTION by Mr. Shaw to extend the time to twenty minutes total, in keeping with the four applications, for the applicant and the opposition.

Mr. Boucher said that the Board should allow the same time to the rebuttal in opposition.

SECONDED by Mr. Boucher.

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

MEMBERS.

Mrs. MacKay said that one issue was using a different location for entrance and exits into the parking lot, rather than off of Main Street in the back, or not in the back.

Atty. Hollis said that his perspective goes to health, safety and welfare, that is where the traffic is, there will be cars entering and turning on traffic, rather than a controlled intersection controlled by a stop sign, either Weld or Clement, the traffic would be contained in a parking area, but it would end up with buildings being closer to the Houde's. He said that the proposed design is safer, and all the traffic should come out and be limited access onto Main from the existing intersections.

Atty. Hollis said that the upper lots, perched on that higher plateau and their back yards drop down, and that's where the parking lot would be, the best design is the one proposed. He said that these would be residential students, not commuter students that would be parking there. He said that having it be a one-way in parking area would be more of a Planning Board decision, rather than a Zoning Board decision. He said that parking on Main Street is not the direction that the University wants to go in.

Atty. Hollis said that the ten foot distance from the edge of right-of-way to the parking might not be sufficient enough to allow proper landscaping and buffer, so the cars aren't so close, but the right-of-way isn't only the pavement width, it's the areas off the street, it's normally a 50-foot right-of-way, with 22 feet of pavement, with sidewalks on either side, and they're within the right-of-way as well. He said that the parking lot would be 10 feet off the edge of the sidewalk, so wherever the sidewalk is located, the parking has to move a bit to accommodate that sidewalk. He said that they agree that there should be 10 feet between the edge of pavement of the parking lot, and the edge of the sidewalk, wherever it may be. He said that they would put in a fence and landscaping, maybe arborvitaes, this is more of a Planning Board issue. He said that the Board shouldn't design the landscaping.

Mr. Shaw said that the future owner of 7 Oldfield brought up the possibility of future development of 10 Oldfield, the properties that are across from 7 Oldfield that may be for future parking.

He said that it is not part of this application, and asked Atty. Hollis to address it.

Atty. Hollis said that there isn't any specific plan or a time for that. He said that there was a specific presentation that Mrs. Houde heard that sometime down the line, these lots may be additional parking, and there is no plan on the books at this time. He said it would have to go through all proper channels for approval no matter what, but there are no plans right now for that.

Mr. Currier said that there was a question about municipal services, such as water and sewer, and asked if it could be addressed.

Atty. Hollis said that the area is fully serviced by water and sewer, and is not aware of any problems in the area. He said that building permits would be issued if there were any capacity issues, and the site plan will be reviewed by the Engineering Department.

Mr. Maness said that it is a matter of arrival into the campus, and getting pedestrians closer to where they're going. He said that when the University went through their updated signage plan, they worked closely with the Dupree's, at the corner of Fairview, next to the Muldoon Center, and they provided screening and fencing there, so the plan is to move the parking closer to the edge and put the pedestrians to the center in the green space. He said that they have no objections to screening the parking with the first phase of this, it would just be the two buildings there on Clement.

Mrs. MacKay said the opposition may now choose one person to respond.

*** 5-minute break, return at 8:40 ***

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mrs. Houde said she was chosen to speak on behalf of the abutters. She said that they clearly stated one bed and one parking space, and together, that is 74 spaces for the first two dorms, but they're building on top of a lot that houses cars for residential students, and does not agree that 114 spaces is accurate for four dorms, and this is not adequate and will

create parking problems.

Mrs. Houde said that another issue is that the neighbors would like to have it explored the possibility of two egresses on Clement Street, with the idea of potential green space on the outside, so then parking would be more internal, and at least the neighborhood could enjoy the green space from the outside.

Mrs. Houde said that her third point is that they'd like some clarity about the hardship, what exactly is it for the college. She said that it seems like the hardship is really on the neighbors.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Boucher said that the request is to obtain relief for the location of the parking lot and the extra story portion. He said that the applicant made a good case with their reasoning, it's just an architectural result of what they're trying to achieve, and it does not exceed the maximum building height in the zone. He said he is good with the three stories. He said that the issue with the location of the parking lot and the flow of traffic, knowing how the process goes, he said he knows that the Planning Board will pick this apart pretty thoroughly. He said that the flow of traffic is going to be a major concern, and the Planning Board has the ability to review issues like this. He said that if they were not requesting these first three variances, they would be able to do it, and just go to the Planning Board. He said that they could go over the concerns of light pollution. He said that the two variances for the entrances, however the Planning Board decides that the flow should be, or if they re-design it, it's reasonable. He said that we experience traffic at all the City schools at certain times of the day, and said that this area is a low traffic type of area, so from a safety point of view, doesn't think that there will be site visibility issue. He said it's not unreasonable what the applicant is asking for, and the Board is not here to re-design the project. He said he is finding support for the variances.

Mr. Shaw said that he is looking at this similarly to Mr. Boucher. He said a lot of issues will be taken up by the Planning Board, and just because the Board approves, or don't approve, especially any of these variances, the applicant can still do things and go directly to the Planning Board. He said

that ultimately, that the parking lot does not stay so close to Oldfield Road, and maybe the entrances are shifted, and those variances may not be needed. He said that the Board's job is to look at the specific requests, and in context of the proposal, and try to understand how it all works. He said that the question about the entrances and the distance to the intersection, he said he has no problem with them. He said the issue with driveways, and backing out of driveways, it won't be cars backing out into the street, they will be driving in and driving out. He said that this proposal has been well-thought out, and the applicant is more than willing to have a stipulation where there will be fencing and vegetation, especially across from 12 Oldfield Road. He said that for the three-story proposal, for most regards, the building will be 2½ stories, and it does not exceed the maximum height requirement, and it is a reasonable proposal.

Mr. Currier said that he empathizes with the residents there, and the proposal is a change. He said for the building height, he said he didn't hear opposition for the stories or height, and they're far away from the hamlet of Oldfield, and that's not an issue. He said he doesn't have any concerns with the three story buildings. He said that most of the concern he's heard is parking and traffic. He said that the houses on South Main Street side of Oldfield, the University owns them, and they have every right to tear them down. He said that the Master Plan with the green space in the middle is an attractive plan. He said that with the stipulation of fencing and extra landscaping required, to move that into the 10 feet, that is a reasonable tradeoff, and while character is different, it's not necessarily worse, you can have neighbors that don't upkeep their houses, don't cut lawns, absentee landlords, versus a stipulation where the University maintains a private walk or landscaping, beauty is in the eye of the beholder and the people moving into the neighborhood, if they decide to, it will be different, but it may not be different in a worse way, beauty is in the eye of the beholder. He said it may even be better. He said that if it's 10 feet, with a stipulation, he said it's fine, and the driveways being 35 feet is a sound argument that it's not a lot of cars backing out as Atty. Hollis said, and doesn't see Oldfield as getting that much traffic and is ok with the 35 and 37 feet from the intersection. He said that with the stipulation of the fencing and landscaping, he said he is good with the plans as they are.

Mr. Lionel said he empathizes with the neighbors, and understands their concerns, and a lot of their concerns are not issues before this Board. He said that he has no problems with the three stories. He said he doesn't have a problem with the reduced distance to the intersection of the driveways, and the distances are adequate as the 50 foot distance is primarily to protect people from backing out of driveways, and that won't be happening here. He said that for the setback for the parking lot, he's happy with a stipulation that they will be a minimum of 10 feet of area with fencing or visual barrier, and the Planning Board can determine what that will be, it's not really a Zoning Board determination. He said that he is in support of all the variances, and certainly understands the trepidation that the neighbors and new neighbors have with changing the look of the neighborhood, and suggests that they take those concerns to the Planning Board.

Mr. Minkarah said that he appreciates the concerns of the neighbors, it's a relatively quiet residential enclave that will change forever should this plan go forward. He said that he does support the three story buildings, it is consistent with the taller buildings located throughout the campus. He said that he supports the setbacks of the driveways, the first three variances are all related to the driveway setbacks and the parking lot setbacks. He said in looking at this property, the layout of the parking lot and the entrances, there are a few challenges, and this area is bounded on all sides by public streets, so there are front yard setbacks on all sides of this property, so it makes it additionally challenging to site things here. He said that a lot of care and thought have been put into this. He said that he is in support.

Mr. Kanakis said that he is in support of the applications, this is a reasonable request, and the Planning Board will seriously address all the other issues that the abutters have, and is in favor of the stipulations that was brought up.

Mrs. MacKay said that she is in favor, and said that the Board purview is the setbacks, and the Board cannot design the parking lot, that is the Planning Board. She said that she likes the offer of the fencing and the landscaping.

Mrs. MacKay said that four motions will be needed.

MOTION by Mr. Shaw to approve the variance application on behalf

of the applicant as advertised for Variance #2. Mr. Shaw stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, most notably, the driveway proximity is somewhat governed by the topography of Weld Street, and with trying to incorporate the parking lot to the Oldfield Road side further brings the natural placement of the driveway entrance closer to the intersection, also, Oldfield Road itself is a very limited road and very few residents have structures on this street, and there is not a lot of traffic, also, the Board feels that a lot of what governs the 50 foot requirement, is more to typically with sight lines and backing out of driveways, and where this parking lot driveway would be one where all the traffic is flowing out of the entrance, not backing out and this is reasonable.

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

Mr. Shaw stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Shaw said that it is not contrary to the public interest, and substantial justice will be served.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.

MOTION by Mr. Shaw to approve the variance application on behalf of the applicant as advertised for Variance #3. Mr. Shaw stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the area variance, the Board said that similar to the first variance, this one has similar topographical challenge, and because of the same placement of the parking lot towards Oldfield Road, with the natural entrances closer to the intersection of 50 feet that it normally requires, it's also noteworthy that this intersection, technically that it is two different roads, it functions more like a continuous street, where there is an "L" nature to this, and there is still some traffic going around the corner, and

there is a limited traffic flow from Oldfield Road, and there should not be any safety concerns by having the entrance be in its proposed location, and drivers will be driving out in a forward direction rather than backing out.

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

Mr. Shaw stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Shaw said that it is not contrary to the public interest, and substantial justice will be served.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.

MOTION by Mr. Shaw to approve the variance application on behalf of the applicant as advertised for Variance #4. Mr. Shaw stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than a variance. He stated that there are a number of factors that were under consideration for placement of this parking lot, specifically, by bringing it closer, it allows for green space towards Oldfield Road and not having a driveway entrance on Oldfield Road, also, by nature of the green space in the overall proposal for the dormitories, pedestrian safety and other aspects, this was the most reasonable proposal for the parking area.

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

Mr. Shaw stated that there was some concern expressed about property values of surrounding parcels, but the Board feels that there is no obvious better location of the parking lot.

Mr. Shaw said that it is not contrary to the public interest, and substantial justice will be served.

Mr. Shaw said that the applicant has agreed to a stipulation to

have a minimum of a 10-foot green space between the edge of the sidewalk and the beginning of the parking lot, and also to incorporate fencing and vegetative barriers especially across from 12 Oldfield Road to provide a visual barrier. He said that the Planning Board can define the particulars of that.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.

MOTION by Mr. Shaw to approve the variance application on behalf of the applicant as advertised for Variance #5. He said it is for four buildings, not six as advertised. Mr. Shaw stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than a variance. Mr. Shaw said it is especially noteworthy that the buildings as proposed would not exceed the 35 foot height restriction, and would be keeping with the RA zone, and that the three stories are not a full-blown three stories, but designed architecturally to provide the general appearance of a 2½ story structure, where there is a limited three story use of the structure, and the buildings would be very much in keeping with multiple other buildings, some similar heights, on campus.

Mr. Shaw said that the request is within the spirit and intent of the Ordinance to provide a transition with a residential nature from the campus buildings to other residential neighborhoods.

Mr. Shaw stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Shaw said that it is not contrary to the public interest, and substantial justice will be served.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

REGIONAL IMPACT:

The Board stated that there is no agenda yet for the next meeting, as there is an extra week in the schedule.

MINUTES:

3-8-22:

Mr. Lionel said that there should be a correction to Page 5, where it says that the neighborhood has a lot of larger garages. He said that it should read that the neighborhood does not have a lot of larger garages.

MOTION by Mr. Lionel to approve the minutes as amended, waive the reading, and place the minutes in the permanent file.

SECONDED by Mrs. MacKay.

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

ADJOURNMENT:

MOTION by Mr. Shaw to adjourn the meeting at 9:20 p.m.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing