

**MINUTES OF THE  
BOARD OF ADJUSTMENT MEETING  
EILEEN DONDERO FOLEY COUNCIL CHAMBERS  
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE  
PORTSMOUTH, NEW HAMPSHIRE**

**7:00 P.M.**

**August 21, 2018**

**MEMBERS PRESENT:** Chairman David Rheame, John Formella, Peter McDonell, Arthur Parrott, Alternate Chase Hagaman

**MEMBERS EXCUSED:** Vice-Chairman Jeremiah Johnson, Jim Lee, Christopher Mulligan, Alternate Phyllis Eldridge

**ALSO PRESENT:** Peter Stith, Planning Department

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**I. APPROVAL OF MINUTES**

A) July 17, 2018

*It was moved, seconded, and passed by unanimous vote to **approve** the July 17, 2018 minutes with one amendment.*

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B) July 24, 2018

*It was moved, seconded, and passed by unanimous vote to **approve** the July 24, 2018 minutes with one amendment.*

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Chairman Rheame asked for a motion to take the postponed and withdrawn applications out of order so that they could be addressed.

*It was moved, seconded, and passed by unanimous vote to address the applications out of order.*

Chairman Rheame noted that Cases 8-1, 8-3, and 8-6 were postponed, and the Board voted to postpone each case. Chairman Rheame also noted that Case 8-2 was withdrawn. He then asked the applicants from the remaining cases individually whether they wanted to move forward, seeing that there were only five voting Board members, and they all agreed.

## **II. NEW BUSINESS – PUBLIC HEARINGS**

### **1) Case 8-1**

Petitioner: Petition of Islington Street, LLC, (CVS Pharmacy), owner  
Property: 674 Islington Street  
Assessor Plan: Map 155, Lot 3  
Zoning District: Character District 4-W.  
Description: Install wall signage.  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:  
a) from Section 10.1251.20 to allow four wall signs that each exceed 40 square feet;  
b) from Section 10.1261.30 to allow internal illumination in the Historic District;  
c) from Section 1251.10 to exceed the maximum aggregate signage available;  
d) from Section 10.1271 to allow signage where there is no frontage or public entrance.

### **DECISION OF THE BOARD**

*It was moved, seconded, and passed by unanimous vote to **postpone** the petition to the September 18, 2018 meeting at the request of the applicant.*

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### **2) Case 8-2**

Petitioners: Noble Island Condominium Association, owner, and William R. Buckley, Jr. Revocable Trust and Rebecca Gould 1996 Revocable Trust (Units 9L and 9R), applicants  
Property: 500 Market Street, Units 9L and 9R  
Assessor Plan: Map 120, Lots 2-9L and 2-9R  
Zoning District: Character District 4-L1  
Description: Bed and Breakfast with two guest rooms  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following special exception:  
a) from Section 10.440, Use #10.21.

### **DECISION OF THE BOARD**

*The Board acknowledged that the petition had been withdrawn.*

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### **3) Case 8-3**

Petitioners: Petition of Pease Development Authority, owner, and Wentworth-Douglass Hospital, applicant

Property: 121 Corporate Drive  
Assessor Plan: Map 303, Lot 8  
Zoning District: (Pease) Airport Business Commercial  
Description: Illuminated wall sign and monument sign  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:  
a) from Section 306.01(d) to allow 391.7 square feet of sign area where 200 square feet is the maximum per lot.

### **DECISION OF THE BOARD**

*It was moved, seconded, and passed by unanimous vote to **postpone** the petition to the September 18, 2018 meeting at the request of the applicant.*

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#### **4) Case 8-4**

Petitioners: Petition of Travis J. Lavoie and Ariana L. Odom-Truelson, owners  
Property: 307 Dennett Street  
Assessor Plan: Map 160, Lot 41  
Zoning District: General Residence A  
Description: Replace existing barn with attached garage with living space above.  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:  
a) from Section 10.521 to allow a 5.6± foot side yard where 10 feet is required; and  
b) from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

### **SPEAKING IN FAVOR OF THE PETITION**

Attorney John Bosen was present on behalf of the applicant to speak to the petition. He distributed handouts and letters of support from the neighbors to the Board. He reviewed the petition in detail and also reviewed the criteria and said they would be met.

In response to Mr. McDonell's questions, Attorney Bosen said the landscaping that ran parallel to the property was an encroaching flowerbed that both neighbors wanted to keep. He said there was no way that the landscaping could swing in because there wouldn't be enough turning radius to get into the garage. He said the upstairs use would be for a family room only, and he clarified that the garage corner would not extend past the house because the lot was skewed.

Chairman Rheame commented that the business zone went around the property rather than crossing through it but said it didn't affect the application because the property was entirely within the GRA district.

**SPEAKING IN OPPOSITION TO THE PETITION AND/OR  
SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one rose to speak, and Chairman Rheume closed the public hearing.

**DECISION OF THE BOARD**

*Mr. McDonell moved to **grant** the variances for the application as presented and advertised, and Mr. Parrott seconded.*

Mr. McDonell stated that it was a substantial increase in the mass of the building on the property, but that the requested relief was the right sideyard setback and that, given the way the building was on the property and the way the property was arranged, it wasn't an unreasonable request. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said he didn't see any threat to the public's health, safety, and welfare and noted that Portsmouth was seeing a lot of similar applications that might ultimately change the way houses looked in the area but wouldn't change the neighborhood's character. He said substantial justice would be done because the possible harm would be the neighbor to the right, but it seemed like it was in both the applicant's and that neighbor's interests to have it set up the way it was by keeping the existing landscaping and flowerbed, and he saw no harm to anyone else. He said granting the variances would not diminish the values of surrounding properties because there was no testimony by the neighbors indicating such. He also noted that replacing the dilapidated barn with a tasteful garage would likely increase property values. He said the special conditions were that the property was narrow and was set up in such a way that the two-car garage could not be on the side because the lot wasn't large enough, and the back of the house would encroach on the setback. He said he saw no relationship between the general purpose of the ordinance and its application to the property. He said that no light and air were encroached upon, and he thought the proposed use was a reasonable one.

Mr. Parrott concurred with Mr. McDonell and had nothing to add.

Chairman Rheume said he would support the application. He said the flowerbed might dictate the angle of the garage, but what was driving it was the turning radius problem.

*The motion **passed** by unanimous vote, 5-0.*

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**5) Case 8-5**

Petitioners:	Petition of Stefanie A. Flavin & Brendan D. Flavin, owners
Property:	460 Dennett Street
Assessor Plan:	Map 160, Lot 24
Zoning District:	General Residence A
Description:	Garage and mudroom/entry connector

- Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from Section 10.521 to allow the following:
- a) a 5± foot secondary front yard where 15 feet is required;
  - b) a 16± foot rear yard where 20 feet is required;
  - c) a 6± foot right side yard where 10 feet is required; and
  - d) 49%± building coverage; as well as where 25% is the maximum allowed; and the following variance from Section 10.321 to allow the following:
  - e) an existing nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

### **SPEAKING IN FAVOR OF THE PETITION**

The owners Stefanie and Brendan Flavin were present to speak to the petition, as well as their architect Jonathan Murray. Mr. Murray said they wanted to reconstruct the garage in a similar footprint, add a mudroom entry connection, and add a family room in the top of the garage which would increase its height. Mr. Flavin distributed a neighbor's letter of support to the Board. He reviewed the criteria and said they would be met.

In response to Chairman Rheaume's questions, the applicants said the reason for the three-quarters bathroom in the family room was to give guests some privacy and to also allow an additional bathroom for the family. They emphasized that the family room would be for guest space only and not for a future separate dwelling unit.

In response to Mr. Hagaman's questions, Mr. Flaven said the large tree by the garage would be trimmed and that the garage's added height would not allow them to look into neighboring yards or houses but only toward their back yard.

Cynthia Smith of 466 Dennett Street said she was an abutter and was in favor of the project because it would improve the neighborhood.

David Beadling of 466 Dennett Street said he was also in favor of the project because it would improve the immediate area.

### **SPEAKING IN OPPOSITION TO THE PETITION AND/OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one else rose to speak, and Chairman Rheaume closed the public hearing.

### **DECISION OF THE BOARD**

The Board discussed whether or not they should stipulate that the addition not be a potential separate dwelling unit. Chairman Rheaume said the applicant made it clear that it would not, and he also noted that two separate dwelling units were allowed in that zone. He said there was a fair

amount of relief asked for, as well as a fair amount of height, but that he was comfortable with it. He also noted that the neighborhood supported the project.

*Mr. Formella moved to **grant** the variances for the application as presented and advertised, and Mr. Parrott seconded.*

Mr. Formella stated that the relief requested was a fair amount but not unreasonable, and also remarked that improving a current home instead of moving was becoming a trend in Portsmouth. He said that granting the variances would not be contrary to the public's interest and would observe the spirit of the ordinance. He said it would not alter the essential character of the neighborhood, would pose no major change, and would not threaten the public's health, safety, or welfare. He said granting the variances would do substantial justice because there would be no gain to the public by denying the variances, but there would be a loss to the applicant. He said the values of surrounding properties would not be diminished because there was no evidence of such, and a few neighbors had stated that the project would improve the area. He said that literal enforcement of the ordinance would result in unnecessary hardship because a unique factor was that the lot was a corner lot and mitigated light and air concerns. He said the proposed use was a reasonable one and that the structure would remain a single-family use.

Mr. Parrott said he concurred with Mr. Formella. He noted that the property had already had a good deal of relief with respect to the present zoning, but he felt that the additional relief requested was minor when one looked at the numbers.

*The motion **passed** by unanimous vote, 5-0.*

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#### 6) Case 8-6

Petitioner: Petition of Amanda R. Blanchette, owner  
Property: 1462 Islington Street  
Assessor Plan: Map 233, Lot 86  
Zoning District: Single Residence B  
Description: Attached garage with living space above  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from Section 521 to allow the following:  
a) a 10 foot rear yard where 30 feet is required;  
b) a 3' right side yard where 10' is required;  
c) 26% building coverage where 20% is the maximum allowed;  
and a variance from Section 10.321 to allow the following:  
d) an existing nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

#### **DECISION OF THE BOARD**

*It was moved, seconded, and passed by unanimous vote to **postpone** the petition to the September 18, 2018 meeting at the request of the applicant.*

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7) Case 8-7

Petitioners: Petition of Shipwatch Condominium Association, owner, and 51 Ceres, LLC, applicant  
Property: 129 Market Street, Unit A  
Assessor Plan: Map 106, Lot 35-A  
Zoning District: Character District 5  
Description: Convert commercial space to a live/work unit.  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:  
a) from Section 10.1112.311 to allow 0 parking spaces where 1 space is required.

**SPEAKING IN FAVOR OF THE PETITION:**

The applicant Joy Kirk was present to speak to the petition and said she needed a variance for parking because she was converting a commercial unit to a work/live one.

In response to the Board's questions, the applicant said the entrance to the residential space would be through the commercial space but that she would likely go to the Historic District Commission (HDC) and ask for a separate entrance. She said she was reviewing the egress requirements and other related items with the Portsmouth code inspectors. She said she did not yet have a building permit for the residential section and that the condominium association was in favor of the application.

**SPEAKING IN OPPOSITION TO THE PETITION AND/OR  
SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one rose to speak, and Chairman Rheaume closed the public hearing.

**DECISION OF THE BOARD**

*Mr. Parrott moved to **grant** the variance for the application as presented and advertised, and Mr. McDonell seconded.*

Mr. Parrott said the requirement for the variance was needed because it was the only way to do the conversion. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance because there would be no threat to the essential character of the neighborhood, and the project would be in keeping with the neighborhood. He said there would be no threat to the public's health, safety, or welfare, and no public rights would be affected. Granting the variance would do substantial justice because the project would be a

benefit to the applicant, and it would pose no harm to the public because nothing would change except for perhaps an additional door. He said it would not diminish the values of surrounding properties, noting that each of those buildings was a distinct property and that the proposed use was consistent with that and would have no adverse effect on surrounding properties. As for the hardship, he said parking couldn't be provided where there was no room for it, and the only alternative would be remove the lower unit and make a garage out of it, which wouldn't make sense. He said the application met all the criteria.

Mr. McDonell concurred with Mr. Parrott and had nothing to add. Chairman Rheame said he would support the motion and commented on how the Parking Ordinance was set up.

*The motion **passed** by unanimous vote, 5-0*

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8) Case 8-8

Petitioner: Bromley Portsmouth LLC, RCQ Portsmouth LLC c/o Quincy & Co Inc.  
Property: 1465 Woodbury Avenue  
Assessor Plan: Map 216, Lot 3  
Zoning District: Gateway 1  
Description: Install wall signage  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:  
a) from Section 10.1251.20 to allow 252± square feet of wall signs where 200 square feet is the maximum allowed.

**SPEAKING IN FAVOR OF THE PETITION**

Scott Bilby of Blair Sign Programs was present to speak to the petition on behalf of the applicant. He pointed out an error that indicated 33'11" instead of 36'11". He explained how the 20 extra square feet would keep the sign's design under 72 inches, which was the company's registered trademark, and that less than 60% of the wall would be used for maximum readability.

In response to Chairman Rheame's questions, the applicant said the only change was the length of the word 'Burlington' and that the smaller sign would not change. He addressed the criteria.

**SPEAKING IN OPPOSITION TO THE PETITION AND/OR  
SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one rose to speak, and Chairman Rheame closed the public hearing.

**DECISION OF THE BOARD**

*Mr. McDonell moved to **grant** the variance for the application as presented and advertised, and Mr. Hagaman seconded.*



Mr. McDonell said he thought that what the Board was approving was essentially the same thing they thought they were approving the last time the applicant was before them. He said his concern then was the way the sign would look from the road and how it would fit in with the area. He said the sign was still substantially shorter than the Market Basket sign and didn't think what the Board was now approving changed anything. Mr. McDonell said that granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. It would not alter the essential character of the neighborhood or threaten the public's health, safety, and welfare because it wouldn't draw the eye from the road in any injurious way. Substantial justice would be done because the benefit to the applicant would be to have a sign that was a trademark in a certain height and width ratio, and it would pose no harm to the public. He said that granting the variance would not diminish the value of surrounding properties, noting that he didn't see anything that would indicate that by granting the additional relief. He said the hardship was that the building sat far back from the road and that it made sense to allow a sign of that size to be visible from the road. He said the sign was built in such a way that the company could place signs on the rest of their stores in a similar size.

Mr. Hagaman concurred with Mr. McDonell and said it made sense, especially because of what amounted to basically a measuring error.

*The motion **passed** by unanimous vote, 5-0.*

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9) Case 8-9

Petitioners: Petition of David Simpson and Janet Zerr, owners  
Property: 65 Rogers Street  
Assessor Plan: Map 115, Lot 2  
Zoning District: Mixed Residential Office  
Description: Replace detached garage and shed with attached garage.  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from Section 521 to allow the following:  
a) a 4.5± foot left side yard where 10 feet is required;  
b) a 14.2± foot rear yard where 15 feet is required;  
and a variance from Section 10.321 to allow the following:  
c) an existing nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

**SPEAKING IN FAVOR OF THE PETITION**

Attorney Tim Phoenix was present on behalf of the applicants to speak to the petition. He introduced the project architect Julie MacDonald. He reviewed the petition and explained why the variances were needed. He distributed an updated landscape architect's plan to the Board. He reviewed the criteria and also noted that he was an abutter and was in favor of the project.

In response to Chairman Rheume's questions, he said there were two entrances facing Rogers Street because the structure was once a multi-family home. He said the left-side setback required 10 feet and caused that portion of the roof to go up more than 10 feet away. Ms. MacDonald explained how the roof was the same pitch and was one plane.

**SPEAKING IN OPPOSITION TO THE PETITION AND/OR  
SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one rose to speak, and Chairman Rheume closed the public hearing.

**DECISION OF THE BOARD**

*Mr. Hagaman moved to **grant** the variances for the application as presented and advertised, and Mr. Parrott seconded.*

Mr. Hagaman said that granting the variances would not be contrary to the public interest because the essential character of the neighborhood would not be altered and would be in keeping with similar homes in the area. He said it would pose no threat to the public's health, safety, or welfare and would observe the spirit of the ordinance by improving the left side yard setback. Granting the variances would do substantial justice because the benefit to the applicant would not be outweighed by any adverse impact to the public. The value of surrounding properties would not be diminished and would most likely improve because of the project. He said the property had special conditions, including that the house was situated to the front and left of the property line, so there was no fair and substantial relationship between the purpose of the ordinance and its application to the property. He said the use was a reasonable one.

Mr. Parrott concurred with Mr. Hagaman and had nothing to add.

Chairman Rheume said he would support the motion and that what convinced him was that both houses were shifted to the left-hand side of their lots and the net effect of the encroachment was minimal and drove the applicant's need for the relief.

*The motion **passed** by unanimous vote, 5-0.*

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10) Case 8-10

Petitioners: Petition of William Brinton Shone and Tatjana Rizzi Shone, owners  
Property: 11 Elwyn Avenue  
Assessor Plan: Map 113, Lot 27  
Zoning District: General Residence A  
Description: Infill addition and dormer

- Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from Section 521 to allow the following:
- a) a 5± foot right side yard where 10 feet is required;
  - b) 40% building coverage where 25% is the maximum allowed;  
and a variance from Section 10.321 to allow the following:
  - c) an existing nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

Chairman Rheume said the Planning Department indicated that there might be an additional variance necessary but that the applicant could do the project without it. He said the Board could decide whether they wanted to grant the application or if additional consideration was needed.

### **SPEAKING IN FAVOR OF THE PETITION**

The applicant Bill Shone was present to speak to the petition. He reviewed the proposed mudroom and dormer and said he wanted to expose the porch. He distributed photos to the Board and reviewed the criteria.

Mr. McDonell asked whether the Board could grant the rear setback relief, seeing that it wasn't advertised. Chairman Rheume said the Board would decide whether they were comfortable with approving it if it was minimal enough. Mr. McDonell then asked whether the required rear setback was a minimum of 20 feet. Mr. Shone reviewed the lot plan, showing the added structure and the pitch of the roofline and how it encroached on the setback. He said they had thought of making it smaller, but that it didn't look good. In response to Mr. Hagaman's questions, Mr. Shone said they would not move the garage or alter it except for the mudroom, that the front porch would be enclosed and still be part of the living area, and that the porch could not be brought in a bit because they didn't want to expand it.

### **SPEAKING IN OPPOSITION TO THE PETITION**

Catherine Arakelian of 18 Kent Street said she was an abutter and was opposed to the project because the size of the addition was not in keeping with the neighborhood, the increased height and width would block the neighbors' light and limit views, and the value of surrounding homes would diminish. She said she saw no special conditions and felt that the applicant only wanted to enlarge the house. She submitted a letter of opposition to the Board.

Cliff Hodgdon of 10 Kent Street said his backyard faced the side of the applicant's garage. He said the addition would turn the house into a McMansion that would block sunlight to other properties. He submitted a map and a photo of the house and said there was no good reason to expand the home so much on such a small lot.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one rose to speak, and Chairman Rheume closed the public hearing.

### DECISION OF THE BOARD

The Board discussed the petition. Mr. McDonell said he didn't think the rear setback relief request was substantial enough to require re-advertising and that he was more concerned about the massive building coverage. Chairman Rheume agreed and said the proposed mudroom connection was a new footprint with additional living space above it and thought it might be going too far. The Board discussed whether to allow a new footprint to be two stories, or to have a more modest addition lower in height than the existing garage, with a more modest connector.

Mr. Shone offered to eliminate the addition above the mudroom and lower the roofline so that the light and air of the neighbors weren't affected.

The Board discussed approving one of the variances or tabling the entire petition to the September meeting so that the applicant could provide additional information.

*Mr. McDonell moved to **table** the petition to the September meeting so that the applicant could resubmit information about the new footprint between the main house and the garage and, if necessary, re-advertise for any additional relief based on what the applicant wanted to do. Mr. Parrott seconded.*

*The motion **passed** by unanimous vote, 5-0.*

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#### 11) Case 8-11

Petitioners: Petition of Lucky Thirteen Properties, LLC, owner, and Opendell Journey, LLC, applicant  
Property: 361 Islington Street  
Assessor Plan: Map 144, Lot 23  
Zoning District: Character District 4-L2  
Description: Operate a food truck style establishment.  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:  
a) from Section 10.440 to allow a food truck style establishment.

### SPEAKING IN FAVOR OF THE PETITION

Attorney Derek Durbin was present on behalf of the applicant to speak to the petition. Also present were the applicants Sarah Blanchette and Benjamin Solomon and the property owner Michael Labrie. Attorney Durbin reviewed the petition, emphasizing the property's location and the limited uses for the existing building. He submitted a petition in support of the project, a letter in support, an easement plan with restrictions, and a former property deed. He explained that redeveloping the property was cost-prohibitive and that a food truck would bring vibrancy to

the property. He said the truck would be named the Wrap Shack and would operate between April through December, would be open from 11 a.m. to 8 p.m. on weekdays and 10 p.m. on weekends, and would have only outdoor seating under the canopy. He said the Planning Department felt that the nature of the project distinguished it from other food establishments in that area. He reviewed the criteria and said they would be met.

In response to the Commission's questions, Attorney Durbin said the difference between the food truck and something allowed by right was that the food was made in the truck and people would not sit in a building. He said the cost of renovating and creating a new restaurant was prohibitive and that the existing building would require a lot of work. He explained that the main purpose of the lunch truck would be to draw the lunch and late-day crowds and that customers would order and pick up their food from the truck and sit under the canopy. He said that no structural improvements to the building would be made, only cosmetic ones. He said there would be no drive-up or drive-through entrances and that food would not be brought out to the customers. He explained the difference between Lexie's Burgers and the food truck, noting that there would be no enclosed structure for the customer and that the operation would be seasonal. He said the food truck would be a 'one-and-done' type of set-up as opposed to more than one food truck being on the property in the future. He said the City required that only one food truck be on that property due to the utility outlets.

Chairman Rheume asked what would be done to the property to distinguish it from others in the area and what the parking and traffic flow plans were. Ms. Blanchette said the customers would be primarily foot traffic. She said they would repaint the awning on the building's frontage and paint the building a different color. She said there would be a barrier around the seating area preventing cars from going through and that eight parking spots would be provided. She said the neighbor's parking area would not be blocked.

Chairman Rheume asked what drove the idea of a food truck instead of just using the space itself. The applicants replied that it would be too costly to renovate the existing building. They said the building itself could potentially be renovated in the future. Mr. Hagaman asked whether the location was a long-term one or if the applicant would move to a better location if one became available. Ms. Blanchette said they would remain in the chosen location. Mr. Formella asked whether the applicants discussed changing a few aspects to fit into a definition of a restaurant. Attorney Durbin said there had been no clear guidance on what was or wasn't a restaurant and explained why the food truck met the definition of a restaurant.

Mr. Parrott asked whether there would be a physical barrier between the picnic tables and the cars and parking spots. The applicants said they hadn't given it much thought other than just wanting to create a barrier. They said they noticed that some people used the lot as a cut-through, so they put chairs up, but if they got the variances, they'd put up something more aesthetic and functional and would probably extend the current planter boxes. In response to further questions from Mr. Parrott, Ms. Blanchette said they would not put tables inside the garage on a rainy day because they couldn't use the garage in its current condition. She said the awning would protect people from the rain. She also said they would not use Jersey barriers between the seating areas and the cars except possibly in the beginning.

Chairman Rheume said the ideas sounded wonderful but wondered whether the proposal had been developed far enough. He said he thought it was a long road ahead, with approvals required from the Planning Board and the HDC as well. Attorney Durbin said they didn't require site plan approval. Mr. Stith said the Planning Department could sign off on the project administratively and that other City departments could be involved in traffic and safety issues and recommend a plan for Planning Board review. Chairman Rheume said there were a lot of questions that didn't seem to have been thought out regarding the true impact to the neighborhood and the balancing test. Attorney Durbin said they were before the Board on a use-specific application and that their immediate focus was whether the use was a reasonable one within the constraints of the property.

Chairman Rheume said he wasn't as optimistic that foot traffic would be their primary business; he felt that vehicle traffic would also be attracted. He concluded that the use in that location was an issue that he didn't feel the Board had enough information on. He noted that all the relevant issues were addressed in Lexie's plan, including what benefit the community would receive in terms of making the property look better. He said the applicant's proposal would look like an old gas station with a truck in front of it. He asked Mr. Stith what the HDC's role would be. Mr. Stith said the HDC would determine whether the project could be approved administratively.

Mr. Hagaman asked whether there would be additional waitstaff. Attorney Durbin said the business would be owner-driven in the beginning.

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James Henschive of 342 Islington Street said Ms. Blanchette had a sustainable business model and felt the project would allow a better sense of community. He said there was ample parking.

Barbara DeStefano of Brewery Lane said she could walk to the food truck from her building, like lots of people in that area, so she felt the food truck would get a lot of foot traffic.

The property owner Michael Labrie said Lexie's had a more aggressive scope but lacked the financing. He said he would help the applicants transition into an operable brick-and-mortar restaurant and that the food truck would allow them to bring in some revenue in the meantime.

### **SPEAKING IN OPPOSITION TO THE PETITION**

No one rose to speak.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

Stephen Iandoli of 369 Islington Street said he lived in the building to the left of the property and felt that the three residents in that building who shared the parking easement were being overlooked. He said his biggest fear was pulling into the driveway and not having any separation from people eating at the tables. He also noted that the string lights were on 24 hours a day and shone in his bedroom window, and he also had concerns about noise.

No one else rose to speak, and Chairman Rheume closed the public hearing.

*It was moved, seconded, and passed by unanimous vote to **extend** the meeting beyond 10:00.*

## **DECISION OF THE BOARD**

The Board discussed whether they should approve the variances with stipulations that there be only one food truck with a two-year time limitation before going to brick and mortar; whether they'd be approving the specific use of a food truck on the premises and not the use of a fast-food or take-out establishment; whether there were existing permits for other food trucks in the city; lights shining on adjacent properties; and conflict between the seating area and the parking areas; and traffic access. Chairman Rheume said Islington Street had lots of vehicular traffic and that there were many concerns about lighting, traffic, and noise. He said those issues were usually thought out far more in advance. He also noted that the area was part of the Historic District and that the Board didn't really know whether they would see something new and refreshing. He said he was in favor of approving it potentially but felt that it needed a full site plan review to ensure that all the issues were analyzed by the right technical people. He said the HDC had to weigh in on it as well. He said he wanted to ensure that there would be no other food trucks on the property. It was discussed whether the Board could stipulate that the project go through site plan review. Mr. Stith recommended that the Board refer the project to the Planning Staff and postpone it until additional information was presented. Chairman Rheume said he would be more comfortable with tabling the petition and requesting additional information. Mr. Parrott said the Board should have the same information that they would get from a traditional restaurant like Lexie's, who in fact had addressed all the Board's concerns previously. He thought it was even more important, because of the outdoor seating aspect, that there be a well-thought out traffic plan so the Board knew exactly what they were approving.

*Mr. Parrott moved to **table** the request until the September 18 meeting and ask the Planning Department to work with the appropriate people within City Hall and that the applicant return with a complete plan to present to the Board, including the number of food trucks, issues of light and noise control, specific barriers between seating areas and parking spots and access ways, and consideration on whether evening hours were appropriate.*

*Mr. Hagaman seconded.*

Mr. McDonell asked that the abutter's easement issue also be considered and analyzed.

*The motion **passed** by unanimous vote, 5-0.*

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## **III. OTHER BUSINESS**

### **A) Board of Adjustment Rules & Regulations**

Mr. Stith reviewed the City Staff's feedback on the Board's Rules and Regulations. Chairman Rheaume said he would review the document and apprise the missing Board members. Some minor amendments to wording were suggested by Mr. Parrott and Mr. Hagaman.

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#### **IV. ADJOURMENT**

*At 10:55 p.m., it was moved, seconded, and **passed** by unanimous vote (7-0) to adjourn the meeting.*

Respectfully submitted,

Joann Breault  
BOA Recording Secretary