

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

**7:00 P.M.**

**JUNE 22, 2021**

**MEMBERS PRESENT:** Chairman David Rheaume Vice-Chairman Peter McDonell,  
Christopher Mulligan, Arthur Parrott, Jim Lee, David MacDonald,  
Alternate Chase Hagaman

**MEMBERS EXCUSED:** Alternate Phyllis Eldridge

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

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Alternate Chase Hagaman assumed a voting seat for all petitions.

Chairman Rheaume noted that Petitions I through M all had formal requests to postpone, and that Petition N would also be postponed.

Mr. Mulligan recused himself from the vote.

*It was moved, seconded, and passed unanimously to take Petitions I through N out of order.*

Chairman Rheaume read Petitions I through M into the record.

*Mr. Lee moved to **postpone** Petitions I through M to the July meeting, and Mr. Parrott seconded.*

Mr. Lee said the items should be deferred because it wasn't logical to hear them that evening due to the volume of petitions. Mr. Parrott concurred.

*The motion **passed** by unanimous vote, 6-0.*

Mr. Mulligan again recused himself from the following vote.

Chairman Rheaume read Petition N into the record. He said there was no formal request to postpone the petition, but due its extensive nature, it should be postponed.

*Mr. Hagaman moved to **postpone** Petition M to the July meeting, and Mr. Parrott seconded.*

Mr. Hagaman said the item should be postponed to get the proper attention it deserved. Mr. Parrott concurred. *The motion **passed** by unanimous vote, 6-0.*

## I. PUBLIC HEARINGS – NEW BUSINESS

- A) Request of **William T. and Susan Manfull, Owners**, for the property located at **12 South Street** whereas relief is needed from the Zoning Ordinance to construct a one-story rear addition which requires the following: 1) Variances from Section 10.521 to allow a) 39.5% building coverage where 30% is required; b) a 2' left side yard where 10' is required; and c) a 16' rear yard where 25' is required. 2) A Variance from Section 10.321 to allow a nonconformist building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 102 Lot 42 and lies within the General Residence B (GRB) District.

### SPEAKING TO THE PETITION

Architect Anne Whitney was present on behalf of the applicant to review the petition. She noted that the proposed one-story addition would be 16x20', with a 2-ft setback where 5' was required instead of 10 feet. She said a variance was received in 1995 for the shed that would be removed.

Mr. Mulligan asked if the chimney was functional. Ms. Whitney said it would just be a fireplace. Mr. Mulligan said the existing building coverage was 32 percent but a previous variance was granted for 39.8 percent. Ms. Whitney said the tax map was used in 1995, but the lot was bigger than what was on the map. She said an existing conditions survey was done and 32 percent was accurate. Mr. MacDonald said it looked like only one parking space was provided. Ms. Whitney said there was always just one space and that the use would not increase, even if someone had more than one vehicle. Mr. MacDonald asked if there was a plan for people who had more than one vehicle. Chairman Rheume said the Staff Report indicated two parking spots. Ms. Whitney said a car might be parked on the brick walkway but wasn't counted as a parking space. Mr. Stith said it wasn't a change of use or an increase, so it was grandfathered in. Chairman Rheume asked if only one parking space would be calculated into the open space calculation, and Ms. Whitney agreed. She said she would meet with the Historic District Commission (HDC) in August. Chairman Rheume noted that it was a secondary front yard setback, which was beneficial because it was asking for less relief and would allow 10 feet for a side yard.

Chairman Rheume opened the public hearing.

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

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

### DECISION OF THE BOARD

*Mr. Mulligan moved to **grant** the variances for the petition as presented and advertised, with the following **stipulation**:*

- *To allow a 2' secondary front yard where 5' is required.*

*Mr. Hagaman seconded.*

Mr. Mulligan said there was already a fence in that location and the structure would replace the fence and shield off the property from Marcy Street. He noted that the lot coverage went from 30 feet to 39 feet, but the property got identical relief in 1995. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because the essential character of the neighborhood would remain a quaint residential neighborhood. He said substantial justice would be done because the loss to the applicant if the Board required strict compliance with the setbacks and lot coverage would far outweigh any gain to the public. He said the existing structure already violated the secondary front yard setback and would just be a continuation of the existing footprint, and relief was gotten for lot coverage many years ago. He said granting the variances would not diminish the values of surrounding properties because it was a very modest addition to a historic home in a historic part of town that would improve the home's functionality and increase the applicant's property values as well as surrounding ones. He said literal enforcement of the ordinance would result in unnecessary hardship to the applicant due to the lot's special condition of being a corner lot with a nonconforming pre-existing structure on it, so there was no fair and substantial relationship between the purpose of the secondary front yard and lot coverage requirements and their application to the project. He said the use was reasonable, a residential use in a residential zone, and should be approved.

Mr. Hagaman concurred and had nothing to add.

Chairman Rheaume said if the addition were substantial it would be more concerning, but it was very modest so he would support the motion.

*The motion passed by unanimous vote, 7-0.*

B) Request of **One Twenty Four Group LLC, Owner** for the property located at **124 Heritage Avenue** whereas relief is needed from the Zoning Ordinance for change of use to a laboratory which requires the following: 1) A Special Exception from Section 10.440, Use #14.61 to permit a Biological or Chemical Laboratory - Not Marine Dependent where the use is allowed by Special Exception. Said property is shown on Assessor Map 284 Lot 8 and lies within the Industrial (I) District.

## **SPEAKING TO THE PETITION**

Mike Bilodeau of Cyclex International was present on behalf of the applicant to review the petition and said he needed a special exception to allow a chemical lab in the building. He said the lab's purpose was to do analytical testing of small samples of post-consumer plastic to provide the company with data to identify potential sources of recyclable material.

Mr. Parrott asked if the sample sources were consumer level ones or coming from other labs, and if they had any radioactivity. Mr. Bilodeau said they would be samples of typical recyclable materials found in homes and recycling bins. He said they would get samples from municipalities to test the chemical composition. Mr. Hagaman asked what the fit-up process would be and what kind of testing would be done. Mr. Bilodeau said some sample preparation would be done but they would use just small benchtop analytical equipment. Mr. Hagaman verified that no noxious fumes or toxins would be put out into the air by ventilation. Mr. Bilodeau said a fume hood would be used for transferring and absorbing contaminants. Mr.

MacDonald asked if there were requirements for inspection regulations or controls by any agencies other than the city. Mr. Bilodeau said there were not and that they submitted a list of the maximum quantities and how they would be stored, and all of them fell well within the minimal fire rating.

Chairman Rheume asked what the plan was for the 6,700 square feet that wasn't the lab portion. Mr. Bilodeau said the office space would be expanded into that area for training purposes and for open space for incoming shipments and storage racks. In response to further questions, Mr. Bilodeau said the lab space was big enough for their operation, so they didn't intend to expand. He said their share of parking spaces was 18 spots and would be more than enough for their 12 or so employees to use. He said there was no parking analysis provided to the Board because the parking was a portion based on the total square footage of the facility. Mr. Stith noted that there were a lot of vacant spaces in the lot, so there was ample parking.

Chairman Rheume opened the public hearing.

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

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

### **DECISION OF THE BOARD**

*Mr. Hagaman moved to **grant** the special exception, and Vice-Chair McDonnell seconded.*

Mr. Hagaman said the applicant met the six criteria for a special exception and that granting it would pose no hazard to the public or adjacent properties on account of potential fire, explosion or release of toxic materials. He said the applicant would store or use a small quantity of potentially toxic materials, but there appeared to be the necessary safety measures and storage procedures including hooding for ventilation that could involve scrubbers to ensure that those materials wouldn't end up in the public environment. He said there would be no detriment to property values in the vicinity or change in the essential characteristics of any area, including residential neighborhoods or businesses and industrial districts on account of the location or scale of buildings or other structures, parking areas, access ways, dust, odors, smoke or other pollutants, noise, glare, heat, vibration or unsightly outdoor storage of equipment, vehicles, or other materials. He said it was an industrial use in an industrial park, so there would be no change in the character of the neighborhood or surrounding businesses, and it wasn't demonstrated that there would be issues with odor, smoke, and so on. He said granting the special exception would pose no creation of a traffic hazard or substantial increase in the level of traffic congestion in the vicinity, noting that there were 18 available parking spaces and plenty of parking in the industrial park. He said there was a maximum number of 20 employees but that the applicant didn't expect to reach that level soon. Granting the special exception would pose no excessive demand on municipal services including but not limited to water, sewer, waste disposal, police, fire protection and schools. He said the applicant would have methods in place to ensure that there would be on-site efforts to minimize any potential hazards becoming a danger, like a fire, so he didn't see any excessive demand on municipal services, including fire

protection. He said there would be no significant increase of stormwater runoff on adjacent properties or streets because there would be no external changes to the property. Vice-Chair McDonell concurred and had nothing to add.

*The motion **passed** by unanimous vote, 7-0.*

- C) Request of **Alexandra Roberts and William E. Garrison III, Owners**, for the property located at **222 Cass Street** whereas relief is needed from the Zoning Ordinance to construct a 1-story mudroom addition over existing rear deck with new landing and steps which requires the following: 1) Variances from Section 10.521 to allow a) a 3.5' left side yard where 10' is required; and b) 42% building coverage where 35% is the maximum allowed. 2) A Variance 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. Said property is shown on Assessor Map 147 Lot 29 and lies within the General Residence C (GRC) District.

### **SPEAKING TO THE PETITION**

Architect Anne Whitney was present on behalf of the applicant and reviewed the petition. She said the house was a duplex and the lot included 220 and 222 Cass Street. She said they would enclose the back entry deck to get mudroom space and the existing steps would be replaced. She noted that the back was a hip roof one-story addition, so the form of the roof for the mudroom would be an extension of the hip roof. She said the immediate abutter was in support.

Chairman Rheume asked if there was a condo association. Ms. Whitney said 220 was owned by the same person and was a rental property. Chairman Rheume said placing the addition with the new set of stairs in the chosen location would be close to the property line, and he asked if the stairs could be placed in the existing configuration or on the rear. Ms. Whitney said both units had a patio/backyard and they wanted the mudroom to have some dead-end to it, and the parking was in the alley so people often entered the house from the backyard. Chairman Rheume said he realized more room was taken up by the passageway but thought there should be a more creative way of using the existing side space to maximize the capabilities.

Chairman Rheume opened the public hearing.

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

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

### **DECISION OF THE BOARD**

*Vice-Chair McDonell moved to **grant** the variances for the petition as presented, and Mr. Lee seconded.*

Vice-Chair McDonell said the request was to fill in an existing notch in the back of the building and to bump the steps out to the side. He said there was a way to minimize the side yard setback relief requested, but Ms. Whitney had explained the existence of the patio and said the abutter

was in support, so due to the nature of the project and the small set of stairs, he said the request was reasonable. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said it would not alter the essential character of the neighborhood or negatively impact the public's health, safety, or welfare or injure public rights. He said the only thing that might cause trouble was limiting the amount of space to get to the backyard, but it didn't seem like it would be much of an issue. Substantial justice would be done because the benefit to the applicant would be a mudroom with a bit more space, and he didn't see any harm to the public or neighbors. Granting the variances would not diminish the values of surrounding properties, noting that the Board hadn't heard anything to suggest it, and the immediate abutter was in support. He said literal enforcement of the ordinance would cause unnecessary hardship due to the special conditions of the property -- the small lot size and the existing nonconforming size and location of the building. He said an argument could be made that the stairs could be moved to minimize the necessity of the side yard setback relief, but the applicant had a good reason for not doing so. He said there was no fair and substantial relationship between the purposes of the ordinance provisions and their application to the property, noting that a decreased side yard setback would not cause any infringement on light and air, and the property use was reasonable and would continue the existing use in a slightly increased format. He said the variances should be approved.

Mr. Lee concurred and had nothing to add.

*The motion passed by a vote of 5-2, with Chairman Rheume and Mr. Hagaman voting in opposition.*

D) Request of **Lisa, Gary and Joan Preston, Owners**, for the property located at **32 Rockingham Avenue** whereas relief is needed from the Zoning Ordinance to allow the keeping of Pekin ducks which requires the following: 1) A Special Exception from Section 10.440, Use #17.20 to allow the keeping of farm animals where the use is allowed by Special Exception. Said property is shown on Assessor Map 235 Lot 2 and lies within the Single Residence B (SRB) District.

#### **SPEAKING TO THE PETITION**

The applicant Lisa Preston was present to review the petition. She said she lived near Routes 95 and 16 and wasn't close to any houses. She said they had four Pekin ducks that they wanted to place in a cedar coop within a metal cage in the backyard and that the ducks were not easily disturbed. She said they would install a vinyl fence when the property was regraded.

Mr. Macdonald asked if the ducks were pets or a food source. Ms. Preston said they were pets. Chairman Rheume asked if the coop fit inside the metal frame structure and if it would be in the back corner and close to the woods so there would be no setback concerns. Ms. Preston agreed. Mr. Stith said the cage had to be outside the wetland's 100-ft buffer, so it was well outside the setback. Mr. Hagaman said it looked like the cage and coop already existed. Ms. Preston agreed and said the ducks were currently living in the garage.

Chairman Rheume opened the public hearing.

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

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

## **DISCUSSION OF THE BOARD**

Chairman Rheume said the Staff recommended a stipulation that the ducks be limited to four.

Mr. Lee said his experience with ducks was that they were noisy because they were easily disturbed and quacked all the time, which could be an issue for the neighbors. Vice-Chair McDonell said he thought ducks were relatively quiet and wondered if the noise from the highway would mitigate any noise the ducks would make. Mr. Parrott said when he was younger, his neighbor had ducks and he didn't remember them as bothersome. Mr. Lee said he thought the location was also an issue because the highway traffic would disturb the ducks and they would quack. Chairman Rheume said the property was one of the few in Portsmouth that he wouldn't be concerned with location-wise because it was on the end of the street and the closest neighbor was across the street and the house would block any noise from the ducks. He said the applicant was on the end of a new development and surrounded by highways, and if the ducks quacked, they probably wouldn't be heard over the traffic noise.

## **DECISION OF THE BOARD**

*Mr. Mulligan moved to **grant** the special exception with the following **stipulation**:*

- *Limited to a maximum of 4 ducks.*

*Mr. Parrott seconded.*

Mr. Mulligan said farm animals were permitted in the zone by special exception and granting it would pose no hazard to the public or adjacent properties on account of potential fire, explosion or release of toxic materials. He said there would be no detriment to property values in the vicinity or change in the essential characteristics of any area, including residential neighborhoods or businesses and industrial districts, on account of the location or scale of buildings or other structures, parking areas, access ways, dust, odors or other pollutants, noise, glare, heat, vibration or unsightly outdoor storage of equipment, vehicles, or other materials. He noted that there were no parking areas proposed and access ways didn't apply, and odor, smoke, gas, dust, glare, and so on weren't implicated except for the fact that ducks might be noisy. However, he said Chairman Rheume accurately characterized the area and the property's location to the highways and the fact that there were very few neighbors, which would mitigate any noise concerns he might have. He said granting the special exception would pose no creation of a traffic hazard or substantial increase in the level of traffic congestion in the vicinity, nor excessive demand of municipals services, nor increase of stormwater runoff. He said the petition met all the criteria and should be approved.

Mr. Parrott concurred and had nothing to add.

*The motion **passed** by a vote of 5-2, with Mr. Lee and Mr. MacDonald voting against the motion.*

- E) Request of **David J. Hudlin, Owner**, for the property located at **256 Wibird Street** whereas relief is needed from the Zoning Ordinance to construct a detached garage which requires the following: 1) Variances from Section 10.521 to allow a) a 5' rear yard where 12.5' is required; and b) to allow 28% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.571 to allow an accessory structure to be located closer to the street than the principal building. Said property is shown on Assessor Map 149 Lot 11 and lies within the General Residence A (GRA) District.

### **SPEAKING TO THE PETITION**

The applicant David Hudlin was present to speak to the petition. He stated that the property was a corner lot, the driveway was on Orchard Street, and the garage would be in the existing driveway and set back 16 feet from the secondary front yard and five feet from the rear property line, which was the most logical place for it. He said no upstairs storage was planned except for plywood. He said the garage was necessary to house vehicles and provide extra room for bikes and other storage items. He reviewed the criteria and said they would be met.

In response to the Commission's questions, the applicant said no trees would be cut down and the 15 feet of driveway between the garage and property line would not extend into the sidewalk. Chairman Rheume said the proposed single-car garage was wider at 18 feet than normal. The applicant said two cars could be squeezed in if necessary, but the intent was for one car and extra storage. Chairman Rheume said the garage's width was dictating the requirement to have 12-1/2 feet of relief for the rear yard, but a true one-car garage would be closer to meeting the setback requirement. He asked whether the applicant considered making the garage less wide but a bit deeper. The applicant said it would encroach onto the rear deck of the property and disturb the tree, so he wanted to keep it a 20-ft depth, which would be wide enough to accommodate one car and storage. He said the garage would be kept in the driveway's footprint.

Chairman Rheume opened the public hearing.

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

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

### **DECISION OF THE BOARD**

*Mr. Lee moved to **grant** the variances for the petition as presented, and Mr. MacDonald seconded.*

Mr. Lee said granting the variances would not be contrary to the public interest or the spirit of the ordinance and that adding a garage to an existing residential property would not diminish the values of surrounding properties but would be an asset. He said substantial justice would be done because there would be no benefit to the public that would outweigh any benefit to the applicant. He said literal enforcement of the ordinance would result in unnecessary hardship because of the property's special conditions of having frontage on two streets and extra setback requirements. He said the location was at the end of the driveway and it made perfect sense to have a nice garage that could fit two cars or one car with storage.

Mr. MacDonald concurred. He said every time he left his house, he was made aware of the narrow streets, difficult parking, and people's car mirrors getting knocked off by passing trucks. He said he would start to be in favor of facilities that allowed cars to be parked off the street.

Chairman Rheume said he would support the motion. He said the application was not about parking off the street but was a question of convenience for the applicant vs the negative impacts to the neighbors of a structure that would now be there instead of two parked cars and closer to the property boundaries than allowed. He said, however, that the application had good things going for it because it could provide room for a second vehicle. He said the bigger concern was that some alternatives like lengthening the garage would have negative impacts. He said the garage would complement the existing driveway well and wouldn't look out of place. He said there were a lot of other garages fairly close to property lines in that neighborhood, and the next-door neighbor was on the opposite side of the lot, so there was open space. He said all those things were positive aspects that outweighed negative aspects relating to the neighbors.

*The motion passed by unanimous vote, 7-0.*

- F) Request of **The Peter Dawson Revocable Trust and The Karen G. Dawson Revocable Trust, Owners**, for the property located at **648 Lincoln Avenue** whereas relief is needed from the Zoning Ordinance for adding a second story addition which requires the following: 1) Variances from Section 10.521 to allow a) a 6.5' right side yard where 10' is required; and b) 34% building coverage where 25% is the maximum allowed. 2) A Variance 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. Said property is shown on Assessor Map 148 Lot 18 and lies within the General Residence A (GRA) District.

### **SPEAKING TO THE PETITION**

The applicant Peter Dawson was present to review the petition. He said they would not increase the home's foundation but would just go up a level on the back portion of the house. He said the stairs would be increased but not the living space, and they would just extend the roofline back to the addition. He said he had letters of support from the abutters.

Mr. Hagaman asked if the attic would be living space, and the applicant said it would only be storage space. Mr. Mulligan asked when the existing single-story addition was added on. Mr. Dawson said it was in 1995. Chairman Rheume said a variance was granted in 1997 for a family room addition, and in 2015 the Board granted a variance for the large air conditioning units, which he thought would have required a setback variance. Mr. Stith said back then, it just required a lot coverage variance. Mr. Hagaman asked whether building over the existing footprint of the foundation was prohibitive and why the extra foot of the footprint would be removed. The applicant said the upstairs would be more functional by adding storage and the cantilevered area would allow a walk-in closet, a laundry area, and a bigger master bedroom.

Chairman Rheume opened the public hearing.

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

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

## DECISION OF THE BOARD

*Mr. Parrott moved to **grant** the variances for the petition as presented, and Vice-Chair McDonell seconded.*

Mr. Parrott said the project represented a considerable amount of construction of an interesting nature, but the actual requests were modest. He said granting the variances would not be contrary to the public interest or the spirit of the ordinance, would not alter the essential character of the neighborhood, and would have no negative impact on the public's health, safety, or welfare or otherwise injure public rights. He said substantial justice would be done because the benefit to the applicant was obvious because he had a small, narrow lot and it was the only logical way to get additional space in the home, and it would change some of the peculiar architecture. He said granting the variances would not diminish the values of surrounding properties because many houses in the area had been modified in various ways, so the project would be typical for the neighborhood and enhance the value of the applicant's property and the nearby properties. He said literal enforcement of the ordinance would result in unnecessary hardship due to the property's special conditions, including the constraint of the large house on a small and narrow lot. He said there were no conditions in the situation where there was a connection between the general purposes of the ordinance and their specific provisions to application. He said the proposal was more than reasonable, enhancement of a very attractive older residential property in a residential area, so it easily met all the criteria.

Vice-Chair McDonell concurred and had nothing to add.

Chairman Rheume said he had concerns about another request to increase building coverage, but the added square footage was mostly on the interior of the lot and it was a modest amount of upward expansion in the setbacks, so light and air concerns were met. He said forcing the applicant to move the expansion back a few feet off the property would not provide any real benefit to the neighbors, so the public interest was outweighed by the benefit to the applicant.

*The motion **passed** by unanimous vote, 7-0.*

Vice-Chair McDonell recused himself from the following petition.

- G) Request of **Marcella F. Hoekstra, Owners**, for the property located at **35 Whipple Court** whereas relief is needed from the Zoning Ordinance to construct a 4' x 17' rear addition which requires the following: 1) A Variance from Section 10.521 to allow 26% building coverage where 20% is the maximum allowed. 2) A Variance 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. Said property is shown on Assessor Map 260 Lot 98 and lies within the Single Residence B (SRB) District.

## SPEAKING TO THE PETITION

Attorney Monica Kieser was present on behalf of the applicant. She said the lot was small and half the minimum lot size for the zone, and they wanted to expand one bedroom and a bathroom. She said the abutters approved the project. She reviewed the criteria and said they would be met.

There were no questions from the Board. Chairman Rheume opened the public hearing.

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

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

### **DECISION OF THE BOARD**

*Mr. Mulligan moved to **grant** the variances as presented and advertised, and Mr. Parrott seconded.*

Mr. Mulligan said it was a very modest proposal of 68 square feet and the amount of additional lot coverage was about one percent over existing. He said it was a pre-existing nonconforming structure on a challenging odd-shaped lot in a cul-de-sac, and given the amount of relief requested, it was easy to grant. He said granting the variances would not be contrary to the public interest or the spirit of the ordinance; the essential character of the neighborhood would not be altered by the relief granted and the public's health, safety, or welfare would not be implicated. He said substantial justice would be done because the loss to the applicant would far outweigh any gain to the public if the Board required strict conformance with the ordinance. He said it was a minimal increase of the existing building coverage and the relief was required because of the existing built environment. He said granting the variances would not diminish the values of surrounding properties, and literal enforcement of the ordinance would result in an unnecessary hardship due to the property's special conditions of the existing nonconformities in the odd shape of the lot that distinguished it from others in the area. He said there was no fair and substantial relationship between the purpose of the building coverage requirement and its application to the property. He said the lot was half the size required under the ordinance, so the fact that there was excess building coverage was understandable. He said it was a residential use in a residential zone and met all the criteria and should be granted.

Mr. Parrott concurred and had nothing to add.

*The motion **passed** by unanimous vote, 6-0.*

H) Request of **Kevin M. Breen, Catherine Breen Stehman, and Christopher Breen, Owners**, for the property located at **82 Cass Street** whereas relief is needed from the Zoning Ordinance to install condenser unit which requires the following: 1) A Variance from Section 10.515.14 to allow a 7' side yard setback where 10' is required. Said property is shown on Assessor Map 156 Lot 28 and lies within the General Residence C (GRC) District.

### **SPEAKING TO THE PETITION**

The applicant Christopher Breen was present and reviewed the petition. He said the condenser would not be visible to the public. He reviewed the criteria and said they would be met.

Mr. Hagaman asked if the unit would block the spigot and the entrance to the crawlspace. Mr. Breen said the spigot would probably be moved and the unit wouldn't block anything. Mr. Parrott asked if a licensed installer said the condenser was acceptable in the chosen location. Mr. Breen said the installer told him that it would be the best place to put it.

Chairman Rheame opened the public hearing.

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

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

### **DECISION OF THE BOARD**

*Vice-Chair McDonell moved to **grant** the variance as presented, and Mr. Hagaman seconded.*

Vice-Chair McDonell said it was a reasonable request. He said it was the best location for the unit and really the only location that fit. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance, noting that there was nothing to suggest that the essential character of the neighborhood would be altered or that the public's health, safety or welfare would be affected. He said substantial justice would be done because the benefit to the applicant was obvious, and there was no harm to the general public that the Board had heard. He said the unit was in the most reasonable location and wouldn't harm the neighbors. He said granting the variance would not diminish the values of surrounding properties because the unit was relatively quiet. He said literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property -- the existence of the house and its location, and the deck. Due to those conditions, he said there was no fair and substantial relationship between the purposes of the setback ordinance's provision and its application to the property. He said the proposed use was a reasonable one, to install an air conditioner in a residence, and that the application should be approved.

Mr. Hagaman concurred and had nothing to add.

*The motion **passed** by unanimous vote, 7-0.*

- I) Request of **Bucephalus LLC, Owners**, for the property located at **650 Maplewood Avenue** whereas relief is needed from the Zoning Ordinance to change of use to allow motorcycle sales which requires the following: 1) A Special Exception from Section 10.440, Use #11.10 to allow the sales, renting or leasing of motorcycles where the use is permitted by Special Exception. 2) A Variance from Section 10.592.20 to allow the proposed use to be located adjacent to a Residential district where 200 feet is required. 3) A Variance from Section 10.843.21 to allow areas for parking, outdoor storage and outdoor display of vehicles or equipment to be setback less than 40 feet from the street right-of-way where 40 feet is required. Said property is shown on Assessor Map 220 Lot 88 and lies within the Business (B) District. **REQUEST TO POSTPONE**

### **DECISION OF THE BOARD**

*It was moved, seconded, and passed unanimously to **postpone** the petition to the July meeting.*

- J) Request of **The Elizabeth B. Larsen Trust of 2012, Owner**, for the property located at **668 Middle Street** whereas relief is needed from the Zoning Ordinance to subdivide lot into three lots which requires the following: 1) A Variance from Section 10.521 to allow 114' and 100' of frontage on a private way where 100' of frontage on a formally accepted street or other road approved by the Planning Board and constructed to City subdivision standards. 2) A Variance from Section 10.521 to allow 69.83' of frontage on Middle Street where 100 feet is required. 3) A Variance from Section 10.512 to allow construction of a structure on a lot with access to a private right of way. Said property is shown on Assessor Map 147 Lot 18 and lies within the General Residence A (GRA) District. **REQUEST TO POSTPONE**

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

*It was moved, seconded, and passed unanimously to **postpone** the petition to the July meeting.*

- K) Request of **Cate Street Development LLC, Owner**, for the property located at **428 US Route 1 Bypass** whereas relief is needed from the Zoning Ordinance to replace two existing free-standing signs with new signs for mixed-use development which requires the following: 1) A Variance from Section 10.1251.20 to allow a 388.5 square foot sign where 100 square feet is the maximum allowed. 2) A Variance from Section 10.1251.20 to allow a 60 square foot secondary sign where 40 square feet is the maximum allowed. Said property is shown on Assessor Map 172 Lot 1 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District. **REQUEST TO POSTPONE**

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

*It was moved, seconded, and passed unanimously to **postpone** the petition to the July meeting.*

- L) Request of **Wentworth Corner LLC, Owners**, for the property located at **960 Sagamore Avenue** whereas relief is needed from the Zoning Ordinance to demolish existing structures and construct an 8 unit residential building which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 5,360 square feet where 7,500 square feet is required. 2) A Variance from Section 10.1114.31 to allow two driveways on a lot where one driveway is permitted. Said property is shown on Assessor Map 201 Lot 2 and lies within the Mixed Residential Business (MRB) District. **REQUEST TO POSTPONE**

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

*It was moved, seconded, and passed unanimously to **postpone** the petition to the July meeting.*

- M) Request of **Stephen G. Bucklin LLC, Owners**, for the property located at **322 Islington Street** whereas relief is needed from the Zoning Ordinance to request to amend variances that were granted to move an existing carriage house to a new foundation and add a one-story connector to the existing house by removing the stipulation that required a signed letter of approval from the property's rear neighbor. Said property is shown on Assessor Map 145 Lot

3 and lies within the Character District 4-L2 (CD4-L2) District. **REQUEST TO POSTPONE**

**DECISION OF THE BOARD**

*It was moved, seconded, and passed unanimously to **postpone** the petition to the July meeting.*

N) Appeal of **Duncan MacCallum (Attorney for the Appellants)** of the April 15, 2021 decision of the Planning Board for property located at **105 Bartlett Street** which granted the following: a) a wetlands conditional use permit under Section 10.1017 of the Zoning Ordinance; b) a parking conditional use permit under Section 10.1112 of the Ordinance; c) site plan review approval; and d) approval of lot line revision. Said properties are shown on Assessor Map 157 Lot 1 and Lot 2 and Assessor Map 164 Lot 1 and 4-2 and lie within the Character District 4-W (CD4-W) and Character District 4-L1 (CD4-L1) Districts.

**DECISION OF THE BOARD**

*It was moved, seconded, and passed unanimously to **postpone** the petition to the July meeting.*

**II. OTHER BUSINESS**

There was no other business.

**III. ADJOURNMENT**

The meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Joann Breault  
BOA Recording Secretary