

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

7:00 P.M.

November 18, 2025

MEMBERS PRESENT: Phyllis Eldridge, Chair; Members David Rheaume, Paul Mannle, Jeffrey Mattson, Thomas Nies, and Thomas Rossi

MEMBERS EXCUSED: Beth Margeson, Vice Chair

ALSO PRESENT: Jillian Harris, Planning Department

Chair Eldridge called the meeting to order at 7:00 p.m.

I. APPROVAL OF MINUTES

Mr. Rossi abstained from approving both sets of minutes.

A. Approval of the October 21, 2025 meeting minutes.

Mr. Nies asked that two sentences toward the end of page 4 be changed to read as follows:

“He said the applicant’s lot was significantly bigger but due to the slope would have little or no impact on the people on Woodbury Avenue.” (The word ‘but’ was added).

“He said the addition would also be set back from the street, unlike most of the other buildings, which would help with the change in lot coverage.” (The word ‘addition’ replaced the word ‘house’).

Mr. Nies asked that on page 7 in the last full paragraph, the sentence “Ms. Casella said they were all conforming but were not the correct distances” *should read:* “*Ms. Casella said they were all conforming but the correct distances were not shown on the Staff Memo.*”

Mr. Nies moved to approve the October 21 minutes as amended, seconded by Mr. Mannle. The motion passed unanimously, 5-0, with Mr. Rossi abstaining from the vote.

B. Approval of the October 28, 2025 meeting minutes.

Mr. Mattson asked that the sentence on page 12 of the minutes read as follows: *“He said the issue was whether it made more sense doing it through an easement.* (The word ‘more’ replaced the word ‘ore’).

Mr. Rheaume asked that on page 2 of the minutes, the word ‘pass’ in the sentence “Mr. Rheaume asked what the pedestrian pass to the retail in the back of the new combined building would be” be changed to the word ‘access’, so that the sentence now reads: *“Mr. Rheaume asked what the pedestrian access to the retail in the back of the new combined building would be.”*

Mr. Rheaume asked that the sentence under Discussion of the Board on page 4, “ He said he agreed with the applicant that a unique characteristic of the property was that it abutted a City parking lot, but his concern with what was proposed was that it segregated the pedestrian experience and created an island for the back property” have the word “pedestrian” added to the word “island” so that the sentence now reads: *“He said he agreed with the applicant that a unique characteristic of the property was that it abutted a City parking lot, but his concern with what was proposed was that it segregated the pedestrian experience and created a pedestrian island for the back property.”*

On Page 7 under Decision of the Board, Mr. Rheaume asked that the phrase “30-ft front yards” be changed to “30-ft front yard setbacks” so that the sentence now reads: *“He said it came down to creating the second driveway, especially because the applicant was burdened by two 30-ft front yard setbacks that pushed the ADU away from the property line and made using the existing driveway access more problematic.”*

At the end of the same paragraph, Mr. Nies asked that the word “none” be changed to “one” and that the amended phrase “the structures would be split into two residences” be added, so that the sentence now reads: *“Mr. Nies concurred and said that one of the public comments received by the Board indicated a concern that the structures would be split into two residences in the future.”* Mr. Nies also asked that the following sentence be added after the revised sentence: *“He noted that the Planning Ordinances do not currently allow an ADU to have separate ownership.”*

On page 3, Mr. Nies asked that the second sentence under Speaking in Opposition (Peter Smith) have the word “except” added in front of the words “in conformity” so that the sentence now reads: *“He said the ordinance stated that a lawful nonconforming use may not be extended, enlarged, or changed, except in conformity with the ordinance.”*

Mr. Mattson moved to approve the October 28 minutes as amended, seconded by Mr. Nies. The motion passed unanimously, 5-0, with Mr. Rossi abstaining from the vote.

II. OLD BUSINESS

A. REQUEST TO POSTPONE The request of **909 West End LLC and PWED2 LLC (Owners)**, for property located at **909 and 921 Islington Street** whereas relief is needed to construct a sign at 921 Islington Street that will be servicing the businesses located at 909

Islington Street which requires the following: 1) Variance from Section 10.1253.10 to allow a setback of 4 feet from a lot line where 5 feet are required, 2) Variance from Section 10.1253.20 to allow a sign to be erected and maintained between the heights of 2.5 feet and 10 feet above the edge of the pavements grades where a driveway intersects with a street and lies within an area bounded by (a) the sidelines of the driveway and street and (b) lines joining points along said side lines to feet from the point of intersection, and 3) Variance from Section 10.1224.90 to allow a sign advertising a product or service not provided on the lot on which the sign is located ("off premise sign"). Said property is located on Assessor Map 172 Lots 7 & 10 and lies within the Character District 4-W (CD4-W).

REQUEST TO POSTPONE (LU-25-134)**DECISION OF THE BOARD** [Timestamp 11:50]

Mr. Rheaume moved to postpone the petition with the following condition:

1. *The application shall be readvertised at the expense of the applicant per the Board's rules.*

Mr. Mannle seconded the motion.

Mr. Rheaume said it was a complicated situation where the applicant was putting a sign in an area that was difficult to define and that Board had asked the applicant to provide more information. He said the applicant was still gathering that information and that it looked like it would change the nature of what was needed for a variance request. He said the need to readvertise was appropriate so that the public understood the reason why.

The motion passed unanimously, 6-0.

Mr. Rheaume recused himself from the following petition.

B. The request of **ZJBV Properties LLC (Owner)** and **Jason Michalak (Applicant)**, for property located at **180 Islington Street** whereas relief is needed to establish a personal service use for a tattoo studio which requires the following: 1) Special Exception from Section 10.440 Use #7.20 to allow a personal service use. Said property is located on Assessor Map 137 Lot 19 and lies within the Character District 4-L2 (CD4-L2) and Historic District. (LU-25-137)

Note: The applicant said he would continue with his request even though there were only five voting members.

SPEAKING TO THE PETITION

[Timestamp 14:34] Owner Jason Michalak said he wanted to open a second location on Islington Street and needed a special exception to get the zoning changed from retail to personal services. He

noted that it was a tattoo studio a few years ago and that there was a piercing studio next door to it. He said there would be no alterations to the exterior or interior. He reviewed the criteria.

[Timestamp 16:58] Mr. Rossi noted that there did not seem to be any parking. Mr. Michalak said there was an issue with parking on the property before and that there were two parking spaces on the left side of the building and one space on the right side. He said there was also a moped parking sign in front of the building and that there was two-hour free parking in the street. Mr. Rossi asked how two parking spaces on the property would be adequate for the business. Mr. Michalak said his staff worked by appointment and did not work at the same time. He said cars could be moved throughout the day if necessary. Mr. Rossi asked if the two spaces would be used by the employees or the customers. Mr. Michalak said they would probably be used by the customers. Mr. Rossi asked how many tattoo stations there would be. Mr. Michalak said he would like four stations.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 19:42]

Mr. Rossi asked how the Conditional Use Permit came about and how the property could have zero parking spaces. Ms. Harris said the applicant had to go to the Planning Board because the parking did not meet the dimensional requirements.

Mr. Mattson moved to grant the special exception as presented and advertised, seconded by Mr. Nies.

Mr. Mattson said the standards as provided by the ordinance for the particular use was permitted by special exception and noted that there was previously a tattoo studio in that location. He said granting the special exception would pose no hazard to the public or adjacent properties because the tattoo studio would be a clean operation using industry-standard equipment and would comply with all requirements. He said it would pose no detriment to surrounding property values of the essential character of the area because there was a tattoo studio there before and there was a piercing studio next door, and it was on a commercial/retail streetscape. He said granting the special exception would pose no traffic hazard or a potential increase in congestion. He noted that the Board had some concern with parking but it was approved by the Planning Board. He said it would be a small operation with only four tattoo stations that would not all be operating at once. He said it would pose no excessive demand on municipal services because it was a tattoo studio that would not have an intensive use for municipal services. He said there would be no significant increase in stormwater runoff onto adjacent properties because there would be no exterior changes. Mr. Nies concurred and said he particularly agreed with Mr. Mattson's comments about the parking.

Mr. Rossi said he wasn't sure that the Planning Board's authorization of zero spaces for the property automatically implied that it would be appropriate for any conceivable use of the property. He said he remained concerned about the lack of parking for a retail application. Mr. Nies said the Board's judgment was based on the special exception criteria they had and that none of the criteria was related to parking, so it was a question of whether the tattoo studio would create a traffic safety hazard or substantial increase in the level of traffic congestion in the vicinity. He said Islington Street was a very busy one and that there had been similar businesses in the past in that location, so he did not believe that the tattoo studio would cause a significant increase in traffic congestion. He noted that it seemed odd that the Planning Board issued the Conditional Use Permit.

The motion passed unanimously, 5-0.

Mr. Rossi said he remained concerned that the lack of adequate off-street parking would potentially create a traffic hazard, but he agreed with Mr. Nies' comments.

III. NEW BUSINESS

- A. The request of **Rye Port Properties LLC (Owner)**, for property located at **2299 Lafayette Road** whereas relief is needed to demolish the existing site and construct a new carwash facility which requires the following: 1) Variance from Section 10.575 to allow a dumpster to be located 2 feet from the right side lot line where 10 feet are required, 2) Variance from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street, and 3) Variance from Section 10.5B22.40 to allow a building setback of 157 feet from the centerline of Lafayette Road where 90 feet is the maximum and 125 feet from the sideline where 50 feet is the maximum. Said property is located on Assessor Map 272 Lot 4 and lies within the Gateway Corridor (G1) District. (LU-25-141)

SPEAKING TO THE PETITION

[Timestamp 26:54] Project engineer Paige Weidner was present on behalf of the applicant, along with Jason Rice. She said the carwash was a drive-thru type and that the customer could also use the vacuum spaces. She said the layout would allow for a safe and easy circulation. She said it was a membership-based program and explained how the customers would enter and exit the site. She said there would be four employee parking spaces. She said they tried to mitigate their impact on the wetland buffer and would go before the Conservation Commission. She reviewed the criteria.

[Timestamp 33:17] Mr. Rheaume asked about the proposed traffic flow. Ms. Weidner said they provided a pass-by lane in case customers changed their minds about entering the carwash but she did not think it would be used much. She explained in more detail how the customers would enter and exit the carwash. Mr. Rheaume asked how a customer would get to the vacuum stations if they just wanted to use the vacuum. Ms. Weidner said the customer had to pay for a car wash and could not use only the vacuum. Mr. Rheaume asked if the employee parking between the building and the street would be marked as such. Ms. Weidner said they had the option of a dog wash and mat wash area and that a customer could park there, but she predicted that most of the customers would utilize

the vacuum parking. Mr. Rheaume asked how the employees would get to the employees parking lot. Mr. Rice explained that the “little kahuna” wash was a basic wash and a “big kahuna” wash was a full wax, towel, and the use of the dog wash. He explained in detail how the employees would reach the parking. He said they had several carwashes elsewhere, and he named their locations. He said the Portsmouth carwash would be open all year. Mr. Rheaume asked if the applicant attempted to comply with the ordinance by doing something different from their standard model to move the structure closer to the road and reconfigure the lot. Mr. Rice said they did a few variations but the circulation model did not allow the building to be moved farther forward. Mr. Rheaume asked if something drove the pavement’s location in terms of exit and entrance. Mr. Rice said they tried to match the greenspace of the Cumberland’s next door and Taco Bell. He said they had a work session with City Staff and adjusted a few things based on their conversation with the Conservation Commission. Mr. Nies asked how the applicant settled on the location for the dumpster, noting that there seemed to be other areas on the property where the applicant would not need setback relief. Ms. Weidner said it allowed the trash truck room to maneuver to pick up the dumpster and allowed for as little pavement as possible. Mr. Rossi asked if the entire structure could be moved closer to Lafayette Road. Ms. Weidner said they could explore the option of moving the entire site north. Ms. Harris said the turning radius might have had something to do with it. Mr. Rossi said, given the encroachment of the wetland setback, it imposed a higher burden on allowing a variance to bring the structure farther from the road. He said he had not heard a compelling hardship case. Mr. Mattson said the ordinance would want to have the structure closer to the street and farther away from the wetlands setback, and the applicant’s argument seemed to be why setting it back was good. Ms. Weidner said it was the circulation issue.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD [Timestamp 50:12]

Chair Eldridge said the 125 feet from the sideline in Variance 3 was not germane to the application and was an error. Mr. Mattson said he had nothing against the concept of the carwash and thought what was proposed was typical, but he said the ordinance had changed to incentivize a different form of development. Chair Eldridge said some of the 157 feet was green space, and if the building were moved closer to the street, the green space would have to be pavement so that cars could move around. She said the applicant would go before the Conservation Commission, whose purview was the wetland, and she thought the applicant made an effort to avoid the wetland. Mr. Rheaume said the Board wanted to create something different, from a vision standpoint, based on feedback from charettes and the character district process. He said the applicant would go before the Planning Board for a Conditional Use Permit and that the site plan would go before the Planning Board and the Technical Advisory Committee, but nevertheless the circulation would result in some kind of distance between the building and the road. He said the dumpster’s location made sense.

The Board decided to address each variance separately. [Timestamp 58:44]

Mr. Rheaume moved to grant Variance No. 1 from Section 10.575 to allow a dumpster to be located 2 feet from the right side lot line where 10 feet are required. Mr. Mannle seconded.

Mr. Rheaume said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said there were commercial uses throughout the Gateway District, although the ordinance was trying to introduce more residential uses, but almost all of them required dumpster service at some point. He said the property was a long and narrow one burdened by wetlands in the back, so the exact location of dumpsters varied from property to property. He said the Board was looking for something that made logical sense for the neighborhood to keep the essential characteristics. He said the applicant said the dumpster would be screened and would be a bit of a distance away from an existing restaurant use, so he did not think the dumpster would look out of place or would be contrary to what the ordinance was trying to accomplish. He said substantial justice would be done because nothing in the general public's needs would outweigh the applicant's desire for the dumpster location and ease of use. He said people passing by would most likely not notice it and it would be hidden from the neighboring properties. He said granting the variance would not diminish the values of surrounding properties because the dumpster's location being somewhat closer to the property edges would unlikely negatively impact the uses of the other businesses that also relied on the dumpster. He said the property was a long and narrow lot burdened by wetlands to the rear, which was a special condition and limited the options to get realistic access for a servicing vehicle to access the dumpster without having to traverse strange ways to get there. He said the dumpster's location was the most logical, based on the applicant's layout. Mr. Mannle concurred and had nothing to add.

The motion passed unanimously, 6-0.

[Timestamp 1:02:23] *Mr. Rheaume moved to grant Variance No. 3 from Section 10.5B22.40 to allow a building setback of 157 feet from the centerline of Lafayette Road where 90 feet is the maximum. Mr. Mannle seconded.*

Mr. Rheaume said there was a desire in the ordinance to get buildings closer to the street so that people driving up to the Gateway neighborhoods would see a building and not parking or other things going on with the property. He said the ordinance wanted more of a suburban feel instead of a wide-open one with parking everywhere. He said it would depend on the Conditional Use Permit being approved by the Planning Board and if granted, it would be an appropriate use for the parcel in the Gateway District. He said the applicant made a good argument that vehicle circulation was a driving factor for a carwash. He said the actual structure was a small portion of what was being taken up on the lot, so he thought it made sense that it would be set back more than what the ordinance envisioned. He said he hoped it would be moved closer to the road but thought that the Technical Advisory Committee (TAC), the Conservation Commission, and the Planning Board would do everything they could to make sure that happened. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said the

ordinance was trying to go to a new model, but certain uses if allowed would not necessarily fit well, especially with the applicant's parcel that drove the structure's location. He said substantial justice would be done because the applicant's need for vehicle circulation outweighed the need for the building to be closer to the street. He said it would not diminish the values of surrounding properties because the structure would remain a unique one with a unique use and would provide a little variety, and he did not see it impacting property values. He said a special condition of the property was that it was a narrow and deep one burdened by concerns of vehicle access coming in and out of Lafayette Road. He said there were some setback requirements as well for any future expansion.

Mr. Mattson said the project made sense. Mr. Rossi said his concerns were not with the site's appearance from the road but that he did not see a clear case for hardship for exceeding the maximum allowed setback. He said he would not support the motion. Ms. Harris said there was a recommended Staff condition. Mr. Rheaume said the Board understood that it would be going through the site plan process and that it was complicit in their approval and that they understood that the building might change a bit. Mr. Nies said he was concerned about whether the project was in keeping with the ordinance but thought the ordinance was acting like the only development going on in that area was housing, so it was silent so some extent about how it felt with proposals like the applicant's, which was why the Planning Board decision for a Conditional Use Permit would be important. He also noted that the sidewalk on Lafayette Road currently stopped before it got to the project, and the project included a sidewalk. Mr. Mannle said he saw no problem with the project and noted that it would need variances under the old ordinance.

The motion passed by a vote of 5-1, with Mr. Rossi voting in opposition.

[Timestamp 1:12:06] Mr. Mannle moved to grant Variance No. 2 from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street, as presented and advertised. Mr. Nies seconded.

Mr. Mannle noted that the zoning changed about ten years ago and that granting the variance would not be contrary to the public interest. He said he did not think the public would care. He said it would observe the spirit of the ordinance because the ordinance did not want parking spaces between the principal building and the road because the entire gateway was redesigned to be more pedestrian friendly. He noted, however, that pedestrians had to get there and they were not walking down Lafayette Road. He said substantial justice would be done. He said it was a car wash and the employees had to park somewhere. He said changes could be made but they would not change the nature of the variance. He said it would not diminish the values of surrounding properties because the business would be a thriving one. He said literal enforcement of the provisions of the ordinance would result in unnecessary hardship. He said the carwash would bring in a lot of cars but did not think three spaces that close to the road would be a big deal, considering how the ordinance for the property next door was abandoned three years before. He said that property would have been the test for the ordinance, and he did not believe that moving the parking to the back of the property and redesigning the project was necessary. He said the applicant came with a program and said it

worked, and he would not question that. Mr. Nies said the four spaces were not between the building and the street but were offset to the side. He said the language of the ordinance did not say “closer to the street than the building” but said “between the building and the street”. He said he would support the motion but was not convinced that the applicant really needed the variance because of the location of the spaces. Mr. Rheaume said he was torn because he did not think the parking spaces were the end all of what the ordinance was trying to accomplish. He noted that the applicant had 24 vacuum spots and thought six of those could be absorbed for parking, but he didn’t think it was worth being picky about. Mr. Rossi said he agreed with Mr. Nies’ comments.

The motion passed unanimously, 6-0.

B. The request of **Peter Gamble (Owner)**, for property located at **170 Aldrich Road** whereas relief is needed to demolish the existing detached garage and construct a new two-story garage which requires the following: 1) Variance from Section 10.521 to allow a) 7 foot right side yard where 10 feet are required, and b) 25% building coverage where 20 % is allowed. Said property is located on Assessor Map 153 Lot 21 and lies within the Single Residence B (SRB) District. (LU-25-150)

SPEAKING TO THE PETITION

[Timestamp 1:18:12] The owner Peter Gamble was present. He gave a short history of the property, noting that he was before the Board in 2023 and received a denial without prejudice for the purpose of resolving a land dispute issue. He said that issue was resolved through adverse possession and that his neighbor received 919 square feet of his property. He said he wanted to expand his 24x24’ garage to a 26x30’ one with a partial second floor to create more parking space, a workshop area, and a second-floor workout and recreation space. He showed an engineering survey of the property and explained why the best option was to demolish the existing structure. He said the property was a lawful non-conforming structure for use as a two-family home but two-family homes were no longer allowed. He said his proposal allowed him to do something with the accessory building but the single-residential zone prevented any additional living spaces and he would not add another dwelling unit. He said it would be consistent with similar properties in the area. He reviewed the site plan and said the City’s right-of-way was maintained by him and gave the impression of open space, light, and a larger lot. He reviewed the rest of the criteria.

[Timestamp 1:30:54] Mr. Rheaume asked if the calculations of about 800 sf of lawn was really City property. Mr. Gamble agreed. Mr. Rheaume said Mr. Gamble would be five percent over the coverage requirements, so if that were his property, he would have the 500 square feet that he would have to be within after the project was completed.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION [Timestamp 1:32:08]

Ed Reynolds of 110 Aldrich Road said he supported the project because it would enhance the neighborhood.

No one else spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 1:33:06]

Mr. Rossi moved to grant the variances as presented and advertised, seconded by Mr. Mattson.

Mr. Rossi said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said one of the intents of the ordinance with regard to setback and lot coverage was to maintain adequate light and air in the surrounding properties, and in this case, he said the structure was very well separated from any other structures. He said the topography of the surrounding properties, particularly the one behind the applicant's, preserved views for everyone and there was nothing about the property that would be contrary to what the ordinance was trying to achieve. He said substantial justice would be done because there would be no loss to the public by allowing the project to go forward, therefore the loss to the applicant by a denial would outweigh the benefit to the public. He said granting the variances would not diminish the values of surrounding properties because the project was in keeping with what was going on in the neighborhood and was consistent with the renovations made in nearby properties. He said he could not imagine, nor had any information been presented to the Board, that would support a conclusion that granting the variances would diminish the values of the surrounding properties. Relating to hardship, he said there were special conditions associated with the property including that it was a sub-sized lot relative to lot requirements and some of the lot was lost in the legal action, so the lot coverage had some constraints imposed on the owner. He said there visually was a strip of City-owned property that made the lot appear larger and weighed in favor of taking a lighter touch with regard to lot coverage. He said the engineering requirement to create a new foundation was logical and necessarily edged the structure closer to the right side property line to create a little bit less of a setback than had been there. He said that because of where the property and structure were situated, the structure was nowhere near other structures on surrounding properties, so those conditions were unique to the property and satisfied the hardship requirement. Mr. Mattson concurred. He said he was a fan of post-and-beam structures because they were more of a premium upgrade compared to the standard garage, so he had no concern about diminishment of surrounding property values. Relating to the character of the neighborhood, he said it was a tastefully done proposal.

The motion passed unanimously, 6-0.

- C. The request of **Sean M and Katherine M McCool (Owners)**, for property located at **345 Leslie Drive** whereas relief is needed to demolish the existing front porch, construct a new front porch, and create livable space within the existing carport which requires the following: 1) Variance from Section 10.521 to allow a) 27.5 % building coverage where 25% is the maximum allowed, b) 7 foot right yard where 10 feet are required; and 2) 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 located on Assessor Map 209 Lot 77 and lies within the Single Residence B (SRB) District. (LU-25-153)

[Timestamp 1:38:21] Chair Eldridge noted that Variance No. 1 was 21 percent and not 27.5 percent where 20 percent was required, so it was a change but the table was still correct.

SPEAKING TO THE PETITION

[Timestamp 1:39:37] William Shery of Haseltine Builders was present on behalf of the applicant. He said they wanted to renovate the 1956 two-bedroom home to provide more living space by adding 387 square feet that would include a bedroom, bath, and mudroom. He showed photos and reviewed the criteria. The owner Sean McCool was also present and said he and his wife had a growing family and that he wanted to provide each person with their own space.

[Timestamp 1:44:31] Mr. Rheaume said the Staff Memo indicated that there were three parking spots currently, but there would only be two if the garage and carport area were removed. He asked where the parking spots would be. Mr. Sherry said the stairs currently went out from the house but would go down along the front of the house to the side yard to preserve that parking.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 1:45:44]

Mr. Nies moved to grant the variances as presented and advertised, seconded by Mr. Mannle.

Mr. Nies said it was a very modest change that would make good use of the existing footprint and that it was a good design to increase the use of the house without having much impact on anyone besides the applicants, in a good way. He said granting the variances would not be contrary to the public interest because it was the same structure externally and would not affect the neighborhood's health, safety, and welfare, would not have a negative effect on light and air, and would not alter the essential characteristics of the neighborhood. He said it would observe the spirit of the ordinance because the house would be a single-family one consistent with the neighborhood. He said it would do substantial justice because there would be no benefit to the public that would outweigh the harm to the applicant if he were denied. He said if the petition were denied, the applicant would have to come up with a way to improve the livability of the house with a growing family. He said granting the variances would not diminish the values of surrounding properties because there would be no change in the footprint and it would make more usable space and probably increase the values of surrounding properties. He said literal enforcement of the ordinance would result in unnecessary

hardship due to the property's special conditions, including the location of the existing structure that was very close to the right side lot line. He said the lot was undersized for the zoning, and the availability of the current space for the carport made it convenient for reuse with minimal impacts on anyone. He said owing to those special conditions, there was no fair and substantial relationship between the purpose of the ordinance and its specific application to the property. Mr. Mannle concurred and had nothing to add.

The motion passed unanimously, 6-0.

D. The request of Kelly Ann and Kenneth Racicot (Owners), for property located at 34 Marne Avenue whereas relief is needed to construct a porch on the right side of the structure which requires the following: 1) Variance from Section 10.521 to allow a 3 foot right yard where 10 feet are required. Said property is located on Assessor Map 222 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-154)

SPEAKING TO THE PETITION

[Timestamp 1:49:08] The owner Ken Racicot was present and said he wanted to increase the porch on the right side of the property and create more of an outside social space. He said the property had a pork chop shape and the porch would encroach on the setback from the angled corner part of the lot. He said the new porch would be 8x16'. He reviewed the criteria.

[Timestamp 1:52:14] Mr. Rossi said he went by the property and that the side porch did not look like it was 10 feet from the fence. The building contractor John Bailey was present and said it was more like eight feet. Mr. Rheaume asked why it was indicated as 10 feet on the Staff Memo. Mr. Bailey said it might have been from an old survey before the porch was there. Mr. Nies said MapGeo did not have the current porch on it and the corner looked like it was out ten feet.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 1:55:56]

Mr. Rossi moved to grant the variance as presented and advertised, seconded by Mr. Mattson.

Mr. Rossi said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said there was no public interest to be served by denying the variance. He said it was off to the side of the property and would not impinge on the public's enjoyment of walking down the avenue. He said substantial justice would be done because there would be no impact on the public interest and no impact on the public's ability to enjoy the

surrounding properties or the streetscape. He said granting the variance would not diminish the values of surrounding properties. He said there was a substantial fence separating the property from the abutting one, and he did not think that extending the porch corner out to within three feet of the fence would have a negative impact on surrounding properties. He said literal enforcement of the ordinance would result in an unnecessary hardship due to unique aspects of the property that made it unnecessarily difficult to comply with the ordinance. He said the property had an odd pork chop shape, and because of the way the lot line angled toward the house from the front of the property in the area where the porch would be built, it pinched off the right rear corner of the structure. He said that was a unique condition of the property that militated in favor of granting the variance because having to comply with the 10-ft setback would mean that one could not do anything with the structure on that side and it served no purpose to force that issue. Mr. Mattson concurred. He said that, due to the irregular shape of the lot and the angle of the property line, it was only a small corner of the porch that was imposing, so the feeling was far less imposing than what was proposed on paper. He also noted that from the corner there was the fence, and on the other side the neighbor had a shielding garage. Mr. Rheaume noted that sometimes the Board was concerned with a 3-ft setback in maintaining the structure, but it was only one tiny corner and there was room for a ladder and other ways to maintain the structure on the other two sides of it.

The motion passed unanimously, 6-0.

E. The request of **Brian and Margaret Corain (Owners)**, for property located at **61 Lawrence Street** whereas relief is needed to construct an addition in place of an existing deck and partial re-construction of the second floor of the existing home which requires the following: 1) Variance from Section 10.521 to allow a) a 24 rear yard where 30 feet is required, b) 27% building coverage where 20% is the maximum allowed; and 2) 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 located on Assessor Map 152 Lot 28 and lies within the Single Residence B (SRB) District. (LU-25-148)

SPEAKING TO THE PETITION

[Timestamp 2:01:33] The owner Brian Corain was present and said he wanted to convert the multi-family house back to a single-family home. He said the mudroom and staircase had access to the second floor and that the deck would be an enclosed entryway. He reviewed the criteria.

The Board had no questions. Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing. Chair Eldridge noted that several letters of approval were submitted by the neighbors.

DECISION OF THE BOARD [Timestamp 2:05:48]

Mr. Rheaume moved to grant the variances as presented and advertised, seconded by Mr. Nies.

Mr. Rheaume said there was a fairly substantial addition going on the property but the actual portion of concern to the Board was that the small current rear deck being expanded upon vertically was not the most substantial portion and was within the footprint and was just a modest vertical expansion of that. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said it was a relatively modest back expansion in a house that had been around a while and was typical of many of the neighborhood properties. He said the expansion would not be contrary to the general character of the neighborhood. He said it would be on the rear side of the property and that only the two neighboring properties would observe it as well as a few pedestrians. He said substantial justice would be done because it would remove a substantial egress structure and the addition would take better advantage of the property. He said it would not diminish the values of surrounding properties because it would be a tasteful addition that would be in keeping with the residential character of the neighborhood and would not negatively impact property values. He said the property was unique due to the way the properties were subdivided in that area, noting that two neighbors had unusually large lots, one of which had a long distance and the home positioned far away. He said concerns of light and air were mitigated by the placing of the property lines of the neighboring homes. He said it was a modest expansion of an existing residential use and would be in keeping with the general character of the zone and the neighborhood in general. Mr. Nies concurred and had nothing to add.

The motion passed unanimously, 6-0.

F. The request of **Stefanie Casella and Finn Johnson (Owners)**, for property located at **268 Dennett Street** whereas relief is needed to demolish and reconstruct an addition which requires the following; 1) Variance from Section 10.521 to allow a) a 0-foot right side yard where 10 feet is required, b) 28.5% building coverage where 25% is the maximum; and 2) 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 located on Assessor Map 143 Lot 13-1 and lies within the General Residence A (GRA) District. (LU-25-156)

SPEAKING TO THE PETITION

[Timestamp 2:11:04] The owner Stefanie Casella was present and said she and her husband wanted to demolish the right side of the home and reconstruct it with an addition. She said a lot line adjustment was made around 2011 to allow for the zero-foot setback. She said they wanted to create more living space on the second floor and make the breezeway space into a livable space on the first floor. She said an exterior door emptied into the neighbor's side yard and was only accessible to that space from that yard, and the roof on that side dumped everything into the side yard of 276

Dennett Street, but she proposed to tie that roof into the existing roofline so that they could access that space from the interior. She reviewed the criteria.

[Timestamp 2:16:22] Mr. Rossi said the lower left portion of the lot line seemed a lot closer to the rear of the structure than what was indicated in the current conditions. Ms. Casella showed where the rear lot line was and said it was the most distant lot line.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 2:18:04]

Mr. Rossi moved to grant the variances as presented and advertised, seconded by Mr. Rheaume.

Mr. Rossi said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said the overarching fact was that the footprint of the structure would not change, and the shape and appearance of it would but not in a way that would affect the conformance with the spirit of the ordinance or the public interest. He said substantial justice would be done because there would be no loss to the public by changing the exterior appearance of the property and there would be no encroachment on walkways or anything that would affect the public. He said it would not diminish the values of surrounding properties, noting that nothing was presented to indicate any negative impact on them. He said modernizing and updating the look of the structure would have a positive impact on surrounding properties. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the property's hardship was that the lot line was drawn after the structure was built and it created the zero setback that would be impractical to change and would be a real hardship to the enjoyment of the property if it were to be literally enforced. He said the building coverage would not change.

Mr. Rheaume concurred. He said he was on the Board in 2017 when the lot line adjustment was approved and that the property was two lots of record that were owned by the same people for decades. He said the original home was set all the way on one of the lots, and the garage was built and expanded upon over the years. He said in 2017, the owner wanted to split the ownership, and one of the reasons the Board approved it was the maintenance easement on the neighboring property and the ability to maintain the property. He said the Board approved the zero-foot lot line and what the applicant was proposing would not affect the nature of that approval. He said it was a modest height increase that would just change the roofline and that it was a sensible next step in the evolution of the structure into a practical use.

Mr. Mattson suggested a condition that would allow flexibility in the window and door locations, given that the footprint would remain the same. Mr. Rossi and Mr. Rheaume accepted the condition.

The **revised** motion was:

Mr. Rossi moved to grant the variances as presented and advertised, with the following condition:

- 1. The applicant shall be granted flexibility to adjust doors and windows as construction details are finalized.*

Mr. Rheaume seconded the motion.

The motion passed unanimously, 6-0.

IV. ADJOURNMENT

The meeting adjourned at 9:24 p.m.

Submitted,

Joann Breault
BOA Meeting Minutes Taker