

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

7:00 P.M.

January 21, 2026

MEMBERS PRESENT: Beth Margeson, Vice Chair; David Rheame; Paul Mannle; Jeffrey Mattson; Thomas Nies; Thomas Rossi; Robert Sullivan; Mike Lucas, Alternate

MEMBERS EXCUSED: None.

ALSO PRESENT: Stefanie Casella, Planning Department

Vice-Chair Margeson called the meeting to order at 7:00 p.m. She introduced the two new Board members, Robert Sullivan and Alternate Mike Lucas.

I. ELECTION OF OFFICERS

*Mr. Rheame moved to elect Vice-Chair Margeson as 2026 Chair and Mr. Mattson as 2026 Vice Chair. Mr. Nies seconded. The motion **passed** unanimously, 7-0.*

Chair Margeson said the applicant's representative for Old Business Petition D, 25 Sims Avenue, asked to postpone the petition to the February meeting. She asked for a motion to suspend the rules.

*Mr. Rheame moved to **suspend** the rules to take Old Business Petition D, 25 Sims Avenue, out of order. Mr. Nies seconded. The motion **passed** unanimously, 7-0.*

Chair Margeson read the petition into the record.

*Mr. Rossi moved to **postpone** the petition to the February meeting, seconded by Mr. Mannle.*

Mr. Rossi said the request was a reasonable one that the Board could easily accommodate.

*The motion **passed** unanimously, 7-0.*

II. APPROVAL OF MINUTES [Video timestamp 9:34]

A. Approval of the **December 16, 2025** meeting minutes.

*Mr. Nies moved to **approve** the minutes as amended, seconded by Mr. Mannle.*

The following amendments to the December 16 minutes were requested:

Page 3:

134 Pleasant Street: Mr. Rheume requested that the phrase at the end of the sentence be changed to “and the bank building moved to a new front building”. The sentence now reads: “He said the location of the business was also changed because the back building was converted to a new front building, which influenced where the drive-thru would go, and the bank building moved to a new front building.”

Page 4:

In the first paragraph, the sentence now reads: “He said one **thing** that the Board had to be clear about was the appeal stating that the applicant’s variance application and testimony at the public hearing demonstrated that the applicant satisfied the three other criteria. He said that assertion was based on the letter from the Planning Department back to the appellant, **which** not mention the other three criteria as being insufficient. He said it was not the practice of the Board to enumerate every single deficiency in an application, and the fact that the Planning Department was silent about three of the criteria should not **imply** that the Board felt that those criteria were satisfied.

In the first paragraph, the sentence “Vice-Chair Margeson said she believed that the Planning Staff erred” was omitted. The word “Court” was replaced by the word “Code”. The sentence now reads: “ She said the appeal of an administrative Code Official should have been raised at the initial hearing.”

Page 6:

At the top of the page, the sentence “He said the applicant noted that other properties had houses close together, which was true in the older sections of Dennett Street where there was more open space between the houses” was changed to the following: “He said the applicant noted that other properties had houses close together, which was true in the older sections of Dennett Street where there was less space between the houses but less applicable to the area around the applicant.”

The following sentence had the word “unique” added to it. The sentence now reads: “He said the property was not an exceptionally narrow one and did not have a unique geometric pattern.”

Page 9: The following sentence had the word ‘court’ changed to ‘code’ so that it now reads: “He discussed how code appeals of administrative officers were handled.”

Page 13:

The word “count” was replaced by “county”. The sentence now reads: “Mr. Rheaume said Exhibit C, the old plan, looked like it was recorded at the Rockingham County Deeds.”

Chair Eldridge was recused, so Acting Chair Margeson closed the public hearing instead of Chair Eldridge.

Page 14:

In the following sentence, the word ‘overtaking’ was replaced by ‘taking: “He said it seemed like an illegal taking.”

The term “Register of Deeds” was changed to “Registry of Deeds” in the following sentence: “ Mr. Rheaume said the appellant showed that there is information at the Rockingham County Registry of Deeds indicating that the property was as represented in the plan.”

Page 17:

The Parking and Traffic Safety Committee was correctly named and the word ‘calming’ was added. The sentence now reads: “He said a two-family home was allowed by right. He said traffic concerns could be taken care of by the Parking and Traffic Safety Committee using traffic calming tools, and so on.”

The word ‘would’ was replaced with ‘could’ and the word ‘and’ was replaced with ‘or’ in the following sentence: “He said there could be a common parcel with two homes on it or two lots, one conforming and one not.”

*The motion **passed** unanimously, 7-0.*

III. OLD BUSINESS

- A. WITHDRAWN** The request of **Kenneth J and Rebecca T Nicholson (Owners)**, for property located at **53 Pray Street** whereas relief is needed to demolish and reconstruct the existing sunroom and roof deck, replace the existing patio and driveway, and replace an 8 foot fence which requires the following: 1) Variance from Section 10.521 to allow a 7.5 right side yard where 30 feet is required; 2) Variance from Section 10.515.13 to allow an 8 foot fence in the front yard where 4 feet is allowed; and 3) Variance from Section 10.516.10 to allow a 6.5 foot front yard where 17 feet is required. Said property is located on Assessor Map 102 Lot 40 and lies within the Waterfront Business (WB) and Historic Districts. **WITHDRAWN** (LU-25-166)

The petition was **withdrawn** by the applicant.

- B.** 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 sign setback of 2 feet from a lot line where 5 feet are required; 2) 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”); and 3) Variance from Section 10.1252 to allow 27 square feet of sign area where 20 square feet are allowed. Said property is located on Assessor Map 172 Lots 7 & 10 and lies within the Character District 4-W (CD4-W). (LU-25-134)

SPEAKING TO THE PETITION [Timestamp 19:37]

Mike Leary of Sundance Sign Company was present on behalf of the applicant. He said the sign would be on the PWED2 property and that a 2-ft setback was needed to get as close to 909 West End as possible. He said the size of the sign needed to be increased to 27 square feet to allow for more visibility and for the street address to be seen from the street. He reviewed the criteria.

[Timestamp 24:15] Mr. Rheume asked Ms. Casella if the sign’s square footage applied to the 921 Islington St property or to the 909 property that it was serving. As Ms. Casella researched it, Mr. Rheume asked the applicant what the client would do about any business that occurred at 921 Islington St if the square footage did apply to that property. He noted that the applicant could not have a freestanding sign without returning to the Board. Mr. Leary said his client expected to return for a variance for signage at 921 Islington St when the building was renovated. Mr. Nies said there were several signs on the site and asked if those would be removed. Mr. Leary said the only thing that would be removed would be the multi-hanging structure on 909 Islington St and the Louie’s temporary sign. He said the old gas station sign might be removed eventually. Ms. Casella said the square footage applied to the 921 Islington St parcel but believed that there were some exceptions for freestanding signs. It was further discussed. Ms. Casella said the purpose of the Sign Ordinance was to ensure that each property conforms to what is set forth in the ordinance, therefore it was done by a property-by-property basis, and whatever was on that property assessed against the regulations. Mr. Rossi said that, according to the ordinance, there is a limit of total sign area of 20 square feet. He said the variance requested was for 27 square feet, which only pertained to the proposed sign. He said the old Ambit gas station sign would have to be added to the 27 square feet to calculate the total signage. Ms. Casella said the freestanding signs did not count toward the aggregate area of the property. It was further discussed. Mr. Rossi said the freestanding Ambit sign was not included in that area. Ms. Casella said the applicant did not add that onto their site plan and suggested stipulating that it be removed prior to the installation of the freestanding sign. Chair Margeson asked what would happen if the two properties fell under different ownership in the future. Mr. Leary said he did not know. Chair Margeson asked what current businesses were at 921 Islington St. Mr. Leary said there were none. She asked if the expectation was that those properties would be developed and would need a sign. Mr. Leary agreed. She asked if they could be added to the sign, and Mr. Leary said that was not the plan. Chair Margeson said the previous issue was that the 2-ft setback was due to the narrow strip of land. Mr. Rheume noted that the applicant proposed to place a sidewalk along the 909 Islington St property. Chair Margeson asked what the justification

was for the sign going from 20 sf to 27 square feet. Mr. Leary said the multi-tenant sign was hard to read by motorists, so having a larger header would direct them more positively to their location. Chair Margeson verified that the sign top was 12 feet above grade, and Louie's would be part of that sign but was not part of the submission. She said seven businesses were being advertised, and she asked if there was a potential for more businesses to be added for the 909 Islington St property. Mr. Leary said any additional information would be in the same square footage. He said the radio station's name would not be on the sign and that the sign was only for the 909 Islington St property. Mr. Nies said he was unclear about where the primary driveway was for 921 Islington St because the sign appeared to be set up so that it was close to the primary driveway for 909 Islington St, even though it was on the 921 Islington St property, and that related to the allowed size for the sign. He explained why it was a confusing situation. Chair Margeson asked where the primary driveway for 921 Islington St was. Mr. Leary said it was to the left of that property. Mr. Nies said it meant that the sign was unlikely to be at the primary driveway for 921 Islington St and should be limited to different sizes, and it should be made clear that when the applicant returned for approval for a sign for 921 Islington St, the sign would have to be a smaller freestanding sign, even though it could be at the primary driveway. He said the Board would essentially be allowing the sign, if it passed, to be a bigger sign even though it was not near the primary driveway on 921 Islington St. Mr. Rossi asked if Louie's restaurant intended to have a different sign, and Mr. Leary agreed.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DISCUSSION OF THE BOARD [Timestamp 42:25]

Mr. Nies said the location and setback of the sign made sense but was concerned about the sign's size because it was 35 percent larger than authorized and the applicant may return for a request for 921 Islington Street. Vice-Chair Mattson said the driving factor for the sign's size was the number of tenants on the property. He said it had such a narrow frontage of just the driveway with the seven or so tenants set back. He said the sign would not tower down and would not be in a pedestrian's way, and it would not block sight lines of vehicles. Other than the sign pollution concept, he said it would be for safety reasons to have the sign be that size. Mr. Rheume said he appreciated the applicant's further clarification and that it was part of a plan to improve the pedestrian access for 909 Islington St and other businesses in the area. He said he was not very concerned about the sign's size because it was a complicated area due to all the multiple entrances. He said the proposed size was partially driven by putting the address and the Chinburg name on it to help people know what the address was. He said whatever business went into the old gas station would have to do their signage needs as a separate variance request and that wall signage or other signage methods were available to them. Mr. Rossi asked if the applicant would have to return for a freestanding sign. Ms. Casella said there were some freestanding signs that were permitted but there were other

ways that the applicant could do it. She said the permitted square footage for a freestanding sign by a driveway was 10 square feet with a maximum of a 5-ft height.

The Board discussed whether to consider the variances together or separately and decided to take Variances 1 and 2 together and Variance 3 on its own.

DECISION OF THE BOARD [Timestamp 51:08]

*Mr. Nies moved to **grant** Variances 1 and 2 as presented and advertised, seconded by Mr. Mannle.*

Mr. Nies said the location made perfect sense for the sign, given the driveway and the way the property was constructed. He said granting the variances would not be contrary to the public interest, would not have an adverse effect on the neighborhood's health, safety, and welfare, and would not alter the essential characteristics of the neighborhood. He said it was a commercial area with signs to allow people to find the properties. He said it would not affect the light and air because it was a relatively modest sign and it would expose and enhance the commercial character in the area and minimize the number of signs by grouping them all in one spot. He said the sign would protect the public from hazardous and distracting displays, which was one of the goals of the Sign Ordinance. He said it would do substantial justice because there would be no benefit to the public that would outweigh any harm to the applicant. He said there were multiple businesses, so it would be a benefit to the public to know where the businesses were so they could get there. He said granting the variances would not diminish the values of surrounding properties because it was a commercial strip and signs were common. He said the applicant's property had special conditions, including a long driveway that went back to a large area that would have a lot of commercial and other businesses. He said the street frontage included an access driveway that limited the potential sign locations, which was why locating the sign on an adjacent lot with a 2-ft setback made sense. He said owing to these conditions, there would be no fair and substantial relationship between the strict enforcement of the ordinance and its application to the property. Mr. Mannle concurred and had nothing to add.

*The motion **passed** 6-1, with Mr. Sullivan voting in opposition.*

*[Timestamp 54:56] Mr. Rheume moved to **grant** Variance 3 as presented and advertised. Vice-Chair Mattson seconded.*

Mr. Rheume said it was actually 909 Islington St at the top of the sign that was putting the sign over the limit. He said the applicant could make the other signs potentially smaller but he didn't think what was asked for was out of character for the area. He said the area needed that kind of signage to help people know where they were going because it could get confusing. He said the relief the applicant asked for was reasonable. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said the neighborhood had several businesses and current signage, much of it quite wanting. He said the previous signs were difficult to read and confusing, so the situation would be improved. He said the sizes asked for were

reasonable and in accordance with other businesses that were there. He said substantial justice would be done because the applicant was just asking for that extra five square feet to help people find the businesses they needed to, and he did not think the public would think that was unacceptable. He said granting the variance would not diminish the values of surrounding properties, noting that it was a sign-heavy area and the applicant owned a few other properties there. He said what distinguished the property from others was a series of old mill buildings that took up a fair amount of sign space. He said there was an opportunity to provide a bit of extra square footage for the address. He said the sign would end up on a very narrow strip of land because there was no other way the applicant could place signage information. He noted that wall signs were not an option. He said those were special conditions and that the use would be a reasonable one. Vice-Chair Mattson concurred. He said a sign has to be big enough to read, otherwise it defeats the purpose. He said the proposed sign was not egregiously big but was big enough to ensure that it would do its job.

Mr. Sullivan said he would vote against granting the variance. He said he agreed with what everyone said in support of the sign, in terms of all the variance elements except for the hardship. Due to the constraints in the frontage, he said not allowing the sign would not create a hardship for the tenants or not allow the business to have proper identification for the drivers on Islington Street because those things were done property-by-property, and the sign would be on 921 Islington Street, yet the tenants were on 909 Islington Street. He said the hardship was not a hardship on the lot for which the sign variance was requested but was on a different lot, therefore the hardship element has not been satisfied. Mr. Nies explained why he thought a condition should be stipulated stating that any additional freestanding sign on 921 Islington Street shall comply with the sign area restrictions for other freestanding signs shown on the table in Section 10.1251.30.

The motion makers Mr. Rheume and Vice-Chair Mattson agreed with the condition, but Mr. Rheume said he would rephrase it. He **amended** his motion and the condition as follows.

*Mr. Rheume moved to **grant** Variance 3 with the following **condition**:*

- 1. The applicant must seek relief from the Board of Adjustment for any additional freestanding sign on the 921 Islington Street property, Lot 172-10.*

*Vice-Chair Mattson seconded. The motion **passed** 4-3, with Mr. Sullivan, Mr. Rossi, and Chair Margeson voting in opposition.*

- C.** The request of **Stewart Baker Revocable Trust (Owner)**, for property located at **20 Coffins Court** whereas relief is needed for the construction of a spiral staircase on the left side of the home and dormers on the third floor which requires the following: 1) Variance from Section 10.521 to allow a) 4 foot right side yard and a 5 foot left side yard where 10 feet are required, b) 50.5% building coverage where 35% is allowed; and c) 4.5% open space where 20% is required. Said property is located on Assessor Map 135 Lot 53 and lies within the General Residence C (GRC) District. (LU-25-164)

SPEAKING TO THE PETITION [Timestamp 1:07:40]

Stephanie Johnson was present on behalf of the applicant. She reviewed the petition and criteria and said the neighbors supported the project.

[Timestamp 1:13:14] Mr. Rheume said he could not find a dimension in the site plan that indicated that the dormering did not go into the rear setback. Ms. Johnson said it did not. Mr. Rheume noted that the dormers were good-sized ones and extended the length of the roof, and he wanted to ensure that they did not encroach into the setback. The applicant's representative Britini Rotunda of Mangel DeStefano Architects said the front of the dormer was set back four feet from the structure and the 20-ft line at the back was at 4'6 and a half inches but they had it at 4'9", so it was not in the rear foot setback. Mr. Rheume said it looked like the stairwell was being moved farther away and into its own footprint, and he asked why. Ms. Rotunda said the patio enclosure couldn't happen if the stairs were not moved. Mr. Rheume asked Ms. Casella why it was not considered a new footprint that was being built within the 20-ft setback, noting that it was a larger expansion of an existing use and the Board had no request for relief for the rear setback. Ms. Casella said it was an error. Mr. Rheume asked what drove the need for such a large dormer on one side of the home. Ms. Rotunda said it was the very steep stair to the attic and there was a cavity on the outside of the wall that they were using to grow that stairway. Chair Margeson said the variance request probably should be readvertised due to the rear yard setback. She said the rear patios would be enclosed, which would be a further encroachment into the rear yard setback and was not part of the variance request. Ms. Rotunda said there would be a screen, not a structural enclosure. Ms. Casella asked if there was a current deck above the porch, Ms. Rotunda agreed. Mr. Rheume asked when the porch was put in. Ms. Johnson said it was built in the 1990s. It was further discussed. Ms. Casella said the area would be more nonconforming to the rear yard setback.

The Board decided to bifurcate the petition and vote on only Variance 1A. [Timestamp 1:27:17]

*Mr. Rheume moved to **continue** the public hearing on Variance 1A and postpone consideration and votes on Variances 1B and 1C to the February meeting and to also request that they be readvertised. Mr. Sullivan seconded. The motion **passed** unanimously, 7-0.*

Chair Margeson opened the public hearing related to Variance 1A.

SPEAKING IN FAVOR OF THE PETITION

John Ragonese of 74 Cabot Street said he was in favor of the petition.

SPEAKING IN OPOSITION OR SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD [Timestamp 1:29:52]

*Mr. Rheume moved to **grant** Variance IA, seconded by Mr. Sullivan.*

Mr. Rheume said it was for a variance for the 4-ft right side yard to allow a dormer to be constructed. He said the one on the interior was allowed by right, but the one in question was a substantial one on the outside edge and within the setback. He said the applicant was taking advantage of an existing stairwell to make the third floor a more usable space, which was driving the fact that the dormer had to be substantial to accommodate that and still meet ingress/egress codes. He said architecturally keeping the symmetry on the two dormers, considering the constraint within the property, made sense. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said the homes were closely spaced, but dormering out was a common factor in that neighborhood as well as in many two-story New Englanders throughout the City. He said it was a way to get additional vertical living space. He said it was a large dormer and close to a neighboring property line and structure, but there were good reasons why there was a need for it to be in that location and to be that size. He said granting the variance would do substantial justice because the general public would not really observe a significant problem with the additional dormering being there and being closer to the property line, and the benefit to the applicant would substantially outweigh that. He said the values of surrounding properties would not be diminished because a dormer on a third floor was common and would not affect the neighboring properties. He noted that the Board had written and verbal confirmation from neighbors stating that they were not concerned about it. He said one of the special conditions is that the small home is on a small lot and butts up against one side of the lot. He said any type of expansion into a higher floor would trigger some need for relief. He said there were unique justifications for the larger dormer, noting that the existing stairwell needed to be taken advantage of to realistically add on the additional height. He said it was a residential use in a residential area as well as a reasonable request. Mr. Sullivan concurred and had nothing to add.

*The motion **passed** unanimously, 7-0.*

- D.** The request of **Michael R and Isaac M. Roylos (Owners)** and **Christopher Cloutier (Applicant)**, for property located at **25 Sims Avenue** whereas relief is needed to create a buildable lot which requires the following: 1) Variance from section 10.521 to allow a) 5,000 square feet of lot area where 15,000 is required, b) 5,000 square feet of lot area per dwelling unit where 15,000 is required, and c) 50 feet of frontage where 100 feet are required. Said property is located on Assessor Map 233 Lot 71 and lies within the Single Residence B (SRB) District. (LU-25-169)

DECISION OF THE BOARD

The petition was **postponed** to the February meeting (see page 1).

- E. POSTPONE TO FEBRUARY** The request of **Chase Home for Children C/O Woodman (Owners)**, for property located at **698 Middle Road** whereas relief is needed to construct a new facility on the property which requires the following: 1) Variance from

Section 10.334 to allow the residential care facility use to be extended to another part of the remainder of the land, 2) Variance from Section 10.440 to allow for the construction of a new residential care facility structure. Said property is located on Assessor Map 232 Lot 45 and lies within the Single Residence B (SRB) District. **POSTPONE TO FEBRUARY** (LU-25-167)

The petition was **postponed** to the February meeting.

IV. NEW BUSINESS

- A.** The request of **Howard Family Holding Trust (Owner)**, for property located at **53A Chevrolet Avenue** whereas relief is needed to allow a 5-foot high and 6-foot high fence, after-the-fact, which requires the following: 1) Variance from Section 10.515.13 to exempt a 5-foot high and 6-foot high fence in the front yard where up to 4 feet is allowed. Said property is located on Assessor Map 147 Lot 18-1A and lies within the General Residence A (GRA) District. (LU-25-145)

SPEAKING TO THE PETITION [Timestamp 1:36:48]

The owner Doug Howard was present. He said last summer the developer said he was notified by the City that the side yard fence had to be cut down to four feet. Mr. Howard said the 6-ft fence was on the property when he bought it and then he installed a 5-ft fence. He said the City recognizes private streets and that his property faced the private street. He said the address did not face Chevrolet Avenue because the lot was a corner one. He said the fence was offset 11 feet from the street on one end and seven feet on the other end. He reviewed the criteria.

[Timestamp 1:40:27] Mr. Rheume said the applicant's home was part of a condominium association and that the Board had letters of support from the other three condo owners. He asked how the City discovered the issue. Mr. Howard said he bought the property in October 2024 and did not find out until August 2025 that a partial bond on the developer was being held. Mr. Rheume asked if it was a private way or simply a common driveway that connected the four condo units. Ms. Casella said it was technically a private way but the lot line went straight down the center, so it was not a public property. She said it was technically considered a front yard. Mr. Sullivan said Chevrolet Avenue is a public way half the way or so to the border of the old Public Works garage property and then it was private beyond that. It was further discussed. Ms. Casella said the issue had to do with the rights of Chevrolet Ave vs. the private driveway and that the address was Chevrolet Avenue. She said the fence was where it was and that it did not need to be complicated. She said there was a difference between how the ordinance recognizes the front yard and how a resident uses their property. It was further discussed.

Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE APPLICATION [Timestamp 1:52:25]

Barbara Abdoo of 53B Chevrolet Ave said her house was attached to the applicant's unit and that she was in favor of the petition.

SPEAKING IN OPPOSITION OR SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD [Timestamp 1:53:10]

*Mr. Rossi moved to **grant** the variance for the petition as presented and advertised, seconded by Mr. Mannle.*

Mr. Rossi said granting the variance would not be contrary to the public interest and the spirit of the ordinance would be observed. He said the spirit of the ordinance was to prevent people from facing large barriers while they are walking along a roadway or driving on a street. He said in this case, what is technically the front yard is actually a roadway that has no sidewalk, whether it's a private or public roadway. He said it would not have much pedestrian traffic and a 6-ft fence would not present any particular barrier. He said the house orientation is such that one is not really looking at the front of the house from that vantage, therefore the fence is not contrary to the public interest or the spirit of the ordinance. He said substantial justice would be done because there would be no loss to the public by allowing the fence to remain in place. He said it was a variance request after the fact, but there was no deliberate intent to work around the zoning ordinance. He said there was a good balance of interest in favor of the property owner and that he could not see any benefit to the public by denying the applicant the right to have the fence and achieve the privacy that he wanted. He said granting the variance would not diminish the values of surrounding properties. He said it was part of a condo association and the Board was presented with either verbal or written testimony by the other condo owners stating that they did not feel that the fence diminished the value of their property. He said literal enforcement of the ordinance would result in unnecessary hardship. He said there was a unique characteristic to the property, including confusion about what is the practical front yard in terms of the visual aspect of the property vs. the technical front yard based on an interpretation of the ordinance. He said in that case, a strict interpretation of the ordinance really does not achieve the purposes of the ordinance, nor does it support avoiding a disruption in the character or anything of that nature. He said therefore the hardship criteria with the unique orientation of the house relative to what the ordinance envisioned was satisfied. Mr. Mannle concurred. He said the applicant was perfectly right in saying that the developer should have done the process. Mr. Mannle said the zoning had no nuance and that it was up to the Board to apply it. He said the applicant was just trying to make his house livable.

Mr. Rheume said he would not support the motion. He said he had empathy for the homeowner but was not convinced that the Board would allow it if it was not already built. He said it was a condo association and was not sure how the driveway was set up as a common driveway. He said even if it were a public street between the duplex and the one on the opposite side, it would still make the lot a corner lot. He said a corner lot has two front yards. He said the applicant would still be faced with having a front yard on Chevrolet Ave, and the limit for that would be a 4-ft fence. He said he

understood the privacy issue but thought it could be worked around. He said there was a big fence back there for several years when it was the back side of a Middle St property, but a 6' tall batten board fence that follows the contours of the property was exactly what the zoning ordinance did not want. He said there was not enough hardship demonstrated.

The motion passed 4-3, with Mr. Rheaume, Mr. Sullivan, and Chair Margeson voting in opposition.

- B.** The request of **Alexandre T and Lauren M LePage (Owners)**, for property located at **53 McNabb Court** whereas relief is needed to demolish a one-story enclosed porch and reconstruct with a three-story addition and to construct an open front porch on the front of the home, which requires the following: 1) Variance from Section 10.521 to allow a) 6.5 foot front yard setback where 15 feet is required, b) 4.5 foot right yard setback where 10 feet is required, c) 9 foot left yard setback where 10 feet is required, and d) 29% Building Coverage where 25% is allowed. Said property is located on Assessor Map 112 Lot 57 and lies within the General Residence A (GRA) District. (LU-25-170)

SPEAKING TO THE PETITION [Timestamp 2:09:00]

The owner Alexander LePage was present. He said they wanted to demolish the one-story enclosed porch and replace it with a 3-story addition because they had two children and needed more room. He said it was a dead-end street and that the other three circa 1920 homes were renovated except for his. He reviewed the criteria and said his neighbors supported the project.

[Timestamp 2:14:05] Regarding the 15-ft setback, Mr. Rheaume asked if Mr. LePage discussed with City Staff the option of using the provision of Section 10.516.10 of the ordinance, which was the front yard exception for existing alignments. He said his neighbor was much closer to the street than Mr. LePage's house was, and if that provision were used, a front yard setback variance would not be needed. Mr. LePage said he did not meet with any City planners. Mr. Rheaume said it would be to Mr. LePage's benefit to use the exception, but since he was asking for the 15-ft setback, he asked if the dormers would be within the 15-ft setback. Mr. LePage agreed. Mr. Rheaume confirmed that the applicant was only extending the existing porch the whole width of the house and not making it any deeper than before. Mr. Nies said the front yard setback on the applicant's packet table indicated that the stairs were being moved farther away from the front yard line. Mr. LePage said the porch was 4'6", and they planned to revise it and return for another variance request, but for now that was what he was requesting. Ms. Casella said if Mr. LePage wanted to return, he could contact the Planning Department and they would walk him through the procedure.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD [Timestamp 2:18:58]

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

Mr. Nies said three of the four houses had already done renovations similar to what Mr. LePage was proposing to do and that they looked great. He said the small lot was less than half the size of what was required in the district, so any additions would result in getting close or exceeding the allowed lot coverage. He said the applicant was asking for a modest setback in building coverage relief that was similar to the other homes on the street. He said granting the variance would not be contrary to the public interest. He said it would result in a small increase in building coverage but not enough to affect the health, safety, and welfare of the neighborhood. He said it would have no 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 remain a single-family residence and would still have extensive open space. He said the building coverage has increased and the setback has changed, but only to a minimal amount. He said granting the variance would do substantial justice, noting that he could not see any benefit to the public by denying the request that would outweigh the harm to the applicant. He said it was a small lot, a small house, and a growing family, and the benefit in having a more usable space to the applicant clearly outweighed the impact on the public. He said he doubted that anyone walking down the avenue would even know the changes had occurred. He said there was no evidence presented that granting the variance would diminish the values of surrounding properties. If anything, he said it would make the house more consistent with the other three properties immediately abutting the property. He said the special conditions included that the lot was small and at the end of a courtyard and not obvious to anyone passing by on Lincoln Street, and making improvements to it would probably wind up infringing on some of the setbacks. For those reasons, he said the property has special conditions that distinguish it from others in the area, and as a result, there is no fair and substantial relationship between the purpose of the ordinance and its application to this specific property. Mr. Mannle concurred. He said the public in this case were the neighbors, and they supported it.

Mr. Rheume said it was not an insubstantial addition to the property because the applicant was going up another two stories in the back. He said the main thing the property had going for it was the fact that the house was on a narrow but somewhat deeper lot and was shoved over to one side. He said the applicant was up against an empty and very deep lot that went out to South Street, so some of the concerns the Board usually had with light and air were mitigated. He said most of what the applicant was proposing to put on the back side of the house was within the buildable envelope, but there was a portion that intruded on the side and the dormer on that side went a good long length. He said what set the applicant's request apart was that he had the good fortune of having a neighbor who had a deep, empty lot where there was currently no structure.

*The motion **passed** unanimously, 7-0.*

V. ADJOURNMENT

The meeting adjourned at 9:26 p.m.

Submitted,
Joann Breault
BOA Minutes Taker