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

7:00 P.M. **October 20, 2026**

MEMBERS PRESENT:	Beth Margeson, Chair; Jeffrey Mattson, Vice Chair; David Rheaume; John Holzman; Thomas Rossi; Thomas Nies; and Robert Sullivan
MEMBERS EXCUSED:	Mike Lucas, Alternate
ALSO PRESENT:	Peter Stith, Assistant Planning Director; Deputy City Attorney Trevor McCourt

Chair Margeson called the meeting to order at 7:00 p.m. She introduced new member John Holzman. She stated that Old Business A, Hope for Tomorrow at 315 Banfield Rd was withdrawn, and Old Business C, Christopher Daniell at 50 Whidden Rd was postponed.

Mr. Sullivan moved to suspend the rules, seconded by Mr. Nies. The motion passed with all in favor, 7-0.

Chair Margeson said the Board received a withdrawal notice that day for New Business A, Islington Properties LLC, 369 Islington St, Unit A. She read it into the record.

I. APPROVAL OF MINUTES

A. Approval of the **September 15, 2026** meeting minutes.

*Mr. Nies moved to **approve** the September 15 minutes as amended, seconded by Mr. Rheaume.*

Mr. Rheaume asked that the sentence on page 6 that begins with: "He said about 20 percent of the front lot is now burdened by a driveway that the owner is paying taxes on but will never get any benefit from" have the phrase "is now burdened" changed to "would be burdened".

Vice-Chair Mattson asked that the sentence on page 11 that begins with: "He asked what point sleeping there supposedly made it a dwelling" have the word "at" added so that it now reads: "He asked at what point sleeping there supposedly made it a dwelling". On the same page, he asked that the heading "Decision of the Commission" be changed to "Decision of the Board".

The motion passed with all in favor, 6-0, with Mr. Holzman abstaining.

II. OLD BUSINESS

A. WITHDRAWN The request of **Hope for Tomorrow Foundation (Owner),** for property located at **315 Banfield Road** whereas relief is needed to construct an addition to the existing school on the property, which requires the following: 1) Variance from Section 10.334 to allow the existing primary and secondary school use (Use #3.21) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 266 Lot 5 and lies within the Industrial (I) District. (LU-26-41) **WITHDRAWN**

The petition was **withdrawn**.

B. The request of **Ann Marie Wiley Revocable Trust (Owner),** for property located at **64 Woodworth Avenue** whereas relief is needed to construct a side addition and front porch to the existing structure which requires the following: 1) Variance from Section 10.521 to allow a) 8.5 foot left yard where 10 feet are required, b) 2.5 foot front yard where 30 feet are required, and c) 26% building coverage where 20% is the maximum. Said property is located on Assessor Map 243 Lot 42 and lies within the Single Residence B (SRB) District. (LU-26-102)

SPEAKING TO THE PETITION [Timestamp 9:18]

Attorney Courtney Vaughan was present on behalf of the applicant. She noted some changes to the description of the petition, including that the left side setback was 8.8 ft and the front yard setback was 2.9 ft. She said the applicant included the 92 sf shed in the coverage calculation, which resulted in the 29 percent coverage, but excluding it brought it down to 26.4 percent. She said they proposed a modest one-bedroom addition to the home because it was needed for the applicant's elderly father so that he could be cared for. She reviewed the criteria.

[Timestamp 14:25] Mr. Rheaume asked Mr. Stith to address the applicant's concern about the way the project was advertised. Mr. Stith said the Staff rounded down or up, depending on the percentage or the setback, to add in some flexibility. Mr. Rheaume said the Staff Report noted that the primary front yard is advertised as 40 feet, but there was a reference to a 7-1/2 ft front yard average, which he presumed referred to the allowance in the zoning ordinance that allows an averaging of front yards on a particular street on that side of the street, which can change front yard requirements. He said he did not see it referenced in the applicant's narrative and asked if Attorney Vaughan agreed that 7.5 ft was accurate. Attorney Vaughan said she did. Mr. Rheaume said the plan by the land surveyor showed some distance to Woodworth Ave, and he asked what the magnitude of that distance was. Attorney Vaughan said the property was very small, so the distances on all sides were very small. Mr. Rheaume said there was some additional distance shown on the plan to the actual paved portion of Woodworth Ave, and he asked if the applicant knew what that additional distance was. Attorney Vaughan said she relied on the engineer and builder to ensure that what was presented to the Board was accurate. Mr. Nies said the drawing showed a dashed rectangular shape at the back of the house labeled building setback, so he assumed that it was the allowable building envelope if all setback requirements were being met. Attorney Vaughan agreed.

Mr. Nies referred to the statement in the packet stating that the proposed addition does not create any new dimensional impacts beyond those historically present. He asked if the applicant was not considering the increase in building coverage or the setback relief as a dimensional impact. Attorney Vaughan said it was probably not the most accurate sentence and should read that it does not create much of an impact. Mr. Holzman said it was stated in the packet that if the petition is not approved it would be a substantially larger and more disruptive configuration of the house and the yard, and a reduction in usable living space that would defeat family care. He asked what the options were. Attorney Vaughan said an option would be to have the father live elsewhere, which would be cost prohibitive. She said it might be a slight typo about whether it was not going to be enlarged at all, but she said it was the contemplation that made the most sense and they tried to build it as modestly as possible so that it would be the least impactful for the neighborhood.

[Timestamp 24:00] Chair Margeson said the packet stated that there is a screened-in porch with no foundation. She said she saw the property and that the porch looked like it was actual living space. She said the addition will be very close to the neighbor's driveway. She asked if the applicant considered putting the addition in the back. Attorney Vaughan said the porch may be a 3-season one and that the applicant received the approval of the next-door neighbor. She said it made the most sense from a structural standpoint to add it onto the left side of the house. Chair Margeson said the porch and deck in the front were modest, but it was a corner lot and could potentially be an impediment for someone coming off Spinney Rd and McClintock St to Wordworth Avenue. She asked what the sight lines would like with the decrease in the front yard coverage. Attorney Vaughan said it would look more crowded but that they would clean up the space. She said there were only three other houses once someone took that right turn, and there was not much traffic.

Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE APPLICATION [Timestamp 27:29]

Rich Duddy Of 56 Swett Ave reviewed the history of the neighborhood. He said his house was placed on three lots when it was built and that he had lived there for 40 years. He said the applicant's request was not unusual for the neighborhood, which was a small pocket neighborhood of bungalows that did not meet the setbacks and had very few cars.

Anne Turner of 10 McClintock St said she agreed with Mr. Duddy. She said the proposal would have no impact on traffic and that everyone in the neighborhood was dine with the addition.

Titin Adtmadja said she was in support of the petition.

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

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

DECISION OF THE BOARD [Timestamp 31:58]

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

Mr. Nies said the ordinance had a review of sight lines and what is allowed on corner lots. He said if one took a triangular form from the corner and went 20 feet down each side, one would not be allowed to build anything within that triangle that would obstruct the view. He said from the site plan, it did not appear that there was anything being constructed within that triangle that would conflict with the provisions of the ordinance. He said it was important to note that it was a corner lot. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said no evidence was presented that it would affect the health, safety, and welfare of the neighborhood, and it would not have a significant effect on light and air. He said it is a corner lot, so on the right-hand side it is wide open to the street, and on the left side it is close to one of the property lines at a driveway. He said the neighbor did not raise any objections. He said granting the variance would not alter the essential characteristics of the neighborhood because it would remain a residential area with some smaller lots and smaller homes. He said substantial justice would be done because there was no benefit to the public by denial that would outweigh the loss to the applicant. He said, if denied, the applicant would lose the ability to modify their home in a way to facilitate taking care of a family member. He said granting the variance would not diminish the values of surrounding properties, noting that several neighbors and abutters spoke in favor and did not raise concerns about property values. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the property has special conditions of being a small lot located on a corner, and the permissible building envelope for the lot is very small. He said the existing house is already in a nonconforming location and violates several setback requirements. He said the location has limited options for improvement that would also relieve some setback requirements and affect the building coverage, so there is no fair and substantial relationship between the purposes of the ordinance and its special application to the property.

Mr. Rossi said the building setback is so small, and the lot and the situation of the existing structure long predates the establishment of the zoning requirements in that area. He said the requirements were not intended to limit such a lot to the defined dimensions indicated in the diagram. He said the front porch would be moved and would alleviate that corner. He said the fact is that the average is 7-1/2 feet and not the 30 feet that is required without averaging adjacent properties. He said it also reduces the amount of nonconformance being sought and weighs in favor of granting the variance. Mr. Rheaume said he would support the motion but noted that the requested variances run with the land and were not specific to a particular owner's position or desires. He said the overall nature of what is being requested in terms of the size and the addition is very modest and thought that the 7-1/2 foot average setback is realistic if one looks at the neighboring homes that were all positioned right up against the property line.

The motion passed with all in favor, 7-0.

C. **POSTPONED The** request of **Christopher H. Daniell (Owner),** for property located at **50 Whidden Street** whereas relief is needed to construct a rear addition and cantilevered deck which requires the following: 1) Variance from Section 10.521 to allow a 9.5 foot rear yard where 25 feet are required. Said property is located on Assessor Map 102 Lot 66 and lies

within the General Residence B (GRB) and Historic Districts. **POSTPONED** (LU-26-15)

The Board acknowledged the postponement.

D. 84 Pleasant Street and **266, 270, 278 State Street – Extension Request (LU-24-195)**

DECISION OF THE BOARD [Timestamp 40:59]

*Mr. Rossi moved to **grant** the extension request to November 19, 2027. Vice-Chair Mattson seconded.*

Mr. Rheaume said the project was complex and required several Boards and permissions to move it forward. He said the area was in desperate need of some kind of new structure in it, so he hoped the one-year extension would be what is necessary to get something in that space.

The motion passed by a vote of 6-1, with Mr. Nies voting in opposition.

E. The request of **Ben and Andrea St. Jean, Braden and Robyn Ferrari, Bob and Laura Gunning, Mike and Zoe Daboul, Tim and Kim Sullivan, and Jamie and Amy Baker (Appellants),** for appeal of the administrative decision of a zoning determination pertaining to the side and rear lot lines of the property for a proposed subdivision located at **58 Humphreys Court.** The Board will be considering the remand from the court on the issue of the property's rear lot line. Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-165)

[Timestamp 44:32] Deputy City Attorney Trevor McCourt said that the Court instructed the Board to take up the issue of statutory interpretation. He said the various positions had already been argued to the Board and detailed documents were issue, but if the Board felt that they needed more information or would like to take additional arguments from the party, the option was to move to suspend the rules and reopen the public hearing to be scheduled at a date certain so that everyone had fair notice and the opportunity to attend and be heard. Mr. Nies said that, since the public hearing and legal events that occurred, there were a few applications with respect to the property that were taken to the Historic District Commission (HDC) for work session. He asked if the Board was allowed to consider that information. Attorney McCourt said he did not think the Board needed to because it was a matter of statutory interpretation, which he further explained. He said the appeal had only gone to the HDC for work sessions, and the Planning Department was waiting for the Board to make its decision. The Board decided to hear the appeal.

SPEAKING TO THE APPEAL [Timestamp 50:09]

Chair Margeson said the remand from the Court is to decide what the rear lot line actually is. Vice-Chair Mattson said he thought Planning Director Britz was close with his classification of a rear lot line, which he read. Vice-Chair Mattson said a rear lot line is parallel to the front lot line. He said it will still be 10 feet in length, but instead of the straight 45-degree diagonal line, it would be a line

that matches the shape of the front property line, so it would have the curve that the property line does. Mr. Rheaume said the conundrum is that the property has two front lines and then it assigns a principal front yard where presumably the rear line is relative to the principal one, but it says the principal front yard is tied to the address of the property, which is Humphreys Ct, and Humphreys Ct is on both sides of the property. It was further discussed. Attorney McCourt said the Board denied the variance application for the subdivision, and the Court upheld that decision. He said the Court felt that the Board was not providing adequate assistance to the property owner to understand what he should do with his property. He said the Court wanted the Board to take the property as it exists today and determine what the rear lot line is. He recommended that the Board ignore the variance application with the subdivided parcels and apply the ordinance to the parcel as it exists now and make a determination about the property line.

DECISION OF THE BOARD [Timestamp 1:15:17]

Mr. Rheaume moved that the Board determine that the rear lot line for this property will be the lot line opposite the lot line on Humphreys Court connecting to New Castle Avenue. The easternmost lot line will be the rear lot line. Mr. Nies seconded. The motion passed with all in favor, 7-0.

III. NEW BUSINESS

A. **WITHDRAWN** The request of **Islington Properties LLC (Owner),** for property located at **369 Islington Street, Unit A** whereas relief is needed to convert a commercial unit to a residential unit which requires the following: 1) Variance from Section 10.5A41.10A to allow 918 square feet of lot area per dwelling unit where 3,000 square feet are required. Said property is located on Assessor Map 144 Lot 22-1 and lies within Character District 4-L2 (CD4-L2) and the Historic District. **WITHDRAWN** (LU-26-111)

The application was **withdrawn**.

B. The request of **100 C Albany ST LLC (Owner),** for property located at **100 Albany Street, Unit C** whereas relief is needed to establish a dog grooming operation which requires the following: 1) Special Exception from Section 10.521 Use #7.30 to allow a pet grooming service in a zone where it is allowed by special exception. Said property is located on Assessor Map 146 Lot 24-3 and lies within Character District 4-L2 (CD4-L2). (LU-26-117)

SPEAKING TO THE PETITION [Timestamp 1:21:43]

The owner Jonathan Wilson said the property had a commercial space available and that he applied for a dog grooming operation. He noted that the existing dog grooming operation was moved across the street. He said the business had been part of the neighborhood since 1989 and the five other unit owners were in favor of the proposal. He reviewed the criteria.

[Timestamp 1:25:38] Mr. Rheaume asked if Unit C occupied the whole first floor. Mr. Wilson said it was built into a slope, so it was a 2-story building in the rear and took up the entire basement

floor. Mr. Rheaume said the plan called out Units 1 and 2, and he asked if the applicant would occupy both sides. Mr. Wilson said he would occupy just Unit 1. Mr. Rheaume said the parking appeared to be for the condominium and the plan showed four parking spots to the rear of the building, but none were assigned to Unit 100-C. Mr. Wilson agreed and said there would be street parking. He said the space in front of Unit 100-C could be used for dropoffs but not long-term parking. Mr. Rheaume asked if there was a plan to make it a 15-minute dropoff. Mr. Wilson said there was not but noted that the owner only had one customer at a time.

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 1:29:02]

*Mr. Rossi moved to **grant** the request as submitted and advertised, seconded by Mr. Sullivan.*

Mr. Rossi said the use is permitted in the zone by special exception, so it is consistent with the standards provided in the ordinance. He said granting the special exception would pose no hazard to the public or adjacent property on account of potential fire, explosion, or release of toxic materials because it was a simple dog grooming operation. He said it would pose no detriment to property values in the vicinity because it is an activity that is already occurring in proximity to the proposed location, so moving it would not have an impact on surrounding properties. He said there would be no creation of traffic or safety hazards because it is not a high-volume business. He said there would be no excessive demand on municipal services because it is already an activity in the vicinity, and there would be no significant increase in stormwater runoff because it is just moving an activity from one spot to another. Mr. Sullivan concurred. Mr. Rheaume said he hoped the applicant would consider making a dropoff area in front of the space.

The motion passed with all in favor, 7-0.

C. The request of **Clever Beaumont Revocable Trust (Owner),** for property located at **30 Salem Street whereas** relief is needed to remove the existing 5-foot fence and replace with a new 5-foot fence which requires the following: 1) Variance from Section 10.515.13 to allow a 5-foot fence in the front yard area. Said property is located on Assessor Map 144 Lot 35 and lies within the General Residence C (GRC) District. (LU-26-118)

SPEAKING TO THE PETITION [Timestamp 1:32:46]

The applicant Tracy Clever Beaumont said she and her wife wanted a like-for-like replacement of the wooden fence in the front yard. She said the request includes about 90 ft of fence along the Salem St frontage and that two 5-ft sections of the side fence runs within that setback area. She said

the replacement fence would be a 5-ft cedar one in the same location and design, and the purpose of retaining the existing height and location were because the existing fence provided privacy, a defined boundary, and added security. She said their home was in the Railroad Corridor and Mixed Use District where people regularly passed by their home. She explained why relocating the affected portions of the fence to meet the 5-ft setback and retain the height were not practical throughout the front yard area. She said if they were to set the fence back five feet, they would have to relocate the gate works and move the potting shed. She reviewed the criteria.

[Timestamp 1:43:08] Mr. Rossi said the hardship criterion meant that there was something unique about the property that means that the standards of the ordinance do not apply fairly to this property. He said if privacy was wanted, the best alternative would be to replace the 5-ft fence with a fence that is over 8 feet tall, so the Board was balancing the applicant's interest of having privacy with the public's interest of not feeling hemmed in on public streets and sidewalks, and that was the reason there is a height restriction for fences. He said it pertained more to balance of interest that is different than hardship, which is something particular to a property. He asked what was special about the applicant's property that says a 4-ft standard fence is not applicable. Ms. Clever Beaumont said it was more the sense of security and privacy that they had come to enjoy rather than the location and traffic. She said people had looked over the fence as they passed by and there was an increase in traffic from all the recent development, so she considered a 5-ft fence a reasonable compromise. She said there was a 5-ft fence when they bought the house. Mr. Rheaume asked if there was a patio or something in the left portion of the yard. The applicant said there was a deck past the potting shed. Mr. Rheaume asked what privacy the gated fence portion in front of the driveway supported. The applicant said it was a 3-sided carport driveway and that the fence provided privacy for them. She said they were two women who were part of the LGBTQ community and had a heightened level of risk awareness. Mr. Rheaume asked if there were examples of that level of fencing with a gate right up against the street elsewhere in the neighborhood, and the applicant said there were not.

[Timestamp 1:52:03] Mr. Nies asked when the fence was built. The applicant said it was 15-20 years ago. Chair Margeson said she did a site visit to the neighborhood and found that the applicant's property was the only one with a fence of that kind. She said the applicant's traffic concerns were shared by all the other properties in the neighborhood, and she asked what was so different about the applicant's situation that she needed a 5-ft fence instead of a 4-ft fence. Ms. Clever Beaumont said everyone else's risk tolerance was different and the fact that there were no other fences like hers did not negate the importance of her request.

Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION [Timestamp 1:55:30]

Fotinie Bowden of 413 Islington St said a higher fence would make the applicant feel more comfortable. She said the house was next to the railroad tracks and there were a lot of sketchy people there. She said the fence would not look terrible in the neighborhood.

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

DISCUSSION OF THE BOARD [Timestamp1:57:08]

Mr. Nies said he walked through the neighborhood and found a house with a fence close to 8-9 feet, so there was at least one property that has a high fence right on top of the property line on the sidewalk in the neighborhood. Vice-Chair Mattson said it was a reasonable ask, and it was to replace a fence in kind, otherwise he did not think there was any reason to give more relief than the ordinance requires. Mr. Rheaume said there were other legacy fences that could be kept in place until someone wanted to replace them, but they needed to meet the zoning requirements. He said the streetscape experience should not be one of going past a walled compound. He said seeing a gate than runs across a driveway is unique and lends to that idea of a private compound. He said the request for the fence on the south side of the property made sense due to all the activities going on in the yard, but he was concerned about the longer fence on the right-hand side because the only thing it provided cover for was vehicles in an open carport. He said he did not think there were any other examples of a driveway being walled off. He said the applicant could put up an 8-ft fence near the garage's location to provide more than adequate privacy for those elements behind the garage while still opening up the driveway and garage to be more inviting and part of the neighborhood, so he could not support the continued use of the north side fence with the closed-off gate up against the sidewalk. He said the applicant could move the gate back five feet. Chair Margeson said she would not support the proposal for the same reasons. She said a 4-ft fence would satisfy the applicant's privacy and security requirements and that the Fence Ordinance was clear about not having a walled-off experience for the streetscape and pedestrians.

DECISION OF THE BOARD [Timestamp 2:03:49]

*Mr. Rossi moved to **deny** the requests as presented and advertised because they fail the following criteria: 10.233.21 granting the variance would not be contrary to the public interest, 10.233.22 granting the variance would observe the spirit of the Ordinance, 10.233.23 granting the variance would do substantial justice, and 10.233.25 the hardship criteria. Mr. Rheaume seconded the motion, with an amendment to exempt the fence on the south side of the property. Mr. Rossi agreed.*

Mr. Rossi said the criteria of not being contrary to the public interest and the spirit of the ordinance being preserved was to preserve the open feel and the walkable neighborhoods in the community and not give people the sense that they were being hemmed in by walled compounds. He said the proposal did not satisfy the substantial justice criterion because there would be a loss to the public by not having an open feel while walking down the street. He said he did not see an impact to the value of surrounding properties because the fence would be replaced in kind, and the properties were already valued with the existing 5-ft fence. He said the literal enforcement of the ordinance would result in unnecessary hardship criterion referred to something unique about the property within the zone or neighborhood that supports the notion that a variance to the ordinance is needed to preserve fair use of the property and not create an unfair relationship between the general purpose of the ordinance and the provisions of this particular application. He said he could not see any

special aspect of the property that fit in this category to make it unusual within the zone or neighborhood. He said the applicant's argument had a lot to do with their personal situation and their use of the property, but that was beyond the Board's jurisdiction because their decisions were about the property itself and not the people who use it, and those decisions stick with the property.

[Timestamp 2:08:38] Mr. Rheaume said the south side portion of the fence was probably more reasonable but that two motions would be needed to approve it. He said the applicant could return to ask for a variance for a portion of the fence, or she could set something back or re-use a shorter fence. Chair Margerson said substantial justice and hardship applied to the whole property.

The motion to deny passed by a vote of 6-1, with Mr. Sullivan voting against.

D. The request of **Path Lab Inc C/O Labcorp (Owner),** and **Lilia Madden, PLLC (Applicant),** for property located at **230 Lafayette Road, Unit 11D** whereas relief is needed to allow a medical office which requires the following: 1) Variance from Section 10.440 Use #6.20 to allow a medical office where the use is not allowed. Said property is located on Assessor Map 151 Lot 6-D11 and lies within the General Residence A (GRA) District. (LU-26-121)

SPEAKING TO THE PETITION [Timestamp 2:18:57]

The applicant Lilia Madden was present. She said she was a licensed clinical social worker and psychotherapist and wanted to establish a physical office space for her practice. She said she currently owned a space at the Lafayette Professional Building (Building C). She said it was in the GRA District but was approved to operate as professional offices in the 1960s by variances. She said the specific space was approved for clinical lab use and was 428 square feet. She said there were several medical offices in the building. She reviewed the criteria.

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

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke. Chair Margeson closed the public hearing.

DECISION OF THE BOARD [Timestamp 2:23:12]

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

Mr. Nies said the ABC Buildings have been medical buildings since 1964. He said the district remains a residential one and remains medical offices, and yet the Board still grants variances for the use. He 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 evidence that allowing the use of the office

as a medical or clinical space would affect the light, air, health, and safety of anyone because there would be just minor internal changes. He said granting the variance would observe the spirit of the ordinance. He said it was a non-permitted use arguably, but a previously similar case was granted and the area has evolved slightly differently than what the zoning calls for. He said the proposal would not change the character of the neighborhood and there would be no safety concerns. He said substantial justice would be done because he could not see anything that would benefit the public by denying the variances, and it would be a loss to the applicant. He said it would not diminish the values of surrounding properties because many medical offices were built in this building and others that had not diminished the values of any nearby building. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the special condition of the building is that it was created and established primarily for medical office space and not for general use, and it made sense to allow this medical use. He said there is no fair and substantial relationship between the purposes of the ordinance and its special application to the property, and that it would not make sense to try to require a residential use of this one office space in this building.

Mr. Rheaume said the Board had run into this issue a few times where all the complex is, in fact, in two separate zones. He said the uses that are common throughout the complex are prohibited in both zones, so it did not effectively matter. He said the City could not spot zone it, and he thought it would be aspirational for the City when the buildings age to return the buildings back to a residential use. He said, however, the use was approved in 1967 so it was a new use, and what the applicant was requesting had already been established for the property by an action of the Board and by decades' worth of precedent. He said it was not an allowed use but had a long representation that would not negatively affect the characteristics of the neighborhood. Chair Margeson said she shared the Board's frustration over the ABC Buildings and thought perhaps the Board should recommend to the City Council that it rezone the parcel in the future. She said it was a medical building and the Board continued to have to give variances for medical offices in the building.

The motion passed with all in favor, 7-0.

E. The request of **Colbea Enterprises LLC (Owner),** for property located at **1980 Woodbury Avenue** whereas relief is needed for signage which requires the following: 1) Variance from Section 10.1251.10 to allow for aggregate sign area greater than the maximum of 1.5' per linear foot of the building frontage establishment; and 2) Variance from Section 10.1252.40 to allow illumination of lightbars as canopy sign background distinguished only by color stripes. Said property is located on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District. (LU-25-163)

Chair Margeson noted that as referenced in the Staff Memo, if the Board did not approve the variance for Section 10.1252.40, they would have to continue the application because the applicant will need further relief from Section 10.1251.20.

SPEAKING TO THE PETITION [Timestamp 2:30:40]

Attorney Christopher Drescher was present on behalf of the applicant, along with Chris Rice of TFMoran. Attorney Drescher said if the variance from Section 10.1252.40 is granted, it would resolve the problem and there would be no need for future relief. He reviewed the petition.

[Timestamp 2:40:41] Mr. Rheaume said the new proposal had two Pectens. Attorney Drescher said one Pecten faced Gosling Rd and one raced Woodbury Ave. Mr. Rheaume said it was the same proposal as the prior one, except for losing two Pectens. He asked if the front had illumination. Attorney Drescher agreed but said it was broken up. Mr. Rice said that, according to the canopy signage regulations, any individual canopy sign cannot exceed 20 square feet, and when there is a piece of banding that is broken up by a Pecten, it makes that length shorter, so the square footage complies, but if a Pecten goes away, there is a longer length that will exceed the 20 sf maximum for an individual sign. He said those also counted the areas that are illuminated. He said they were trying to calculate how much of the canopy structure the light shines before it dissipates into nothing. He said they took the total height of the canopy, and that banding did not illuminate the whole height, which was the struggle. Mr. Rheaume said he understood but asked why that struggle did not apply to the applicant's first request. It was further discussed.

[Timestamp 2:50:30] The Board had trouble understanding the diagrams and had several questions.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke. Chair Margeson closed the public hearing.

DISCUSSION OF THE BOARD [Timestamp 3:02:04]

Mr. Rossi said the Board was dealing only with the variance request for the aggregate sign amount and not the 20 square feet per section. Mr. Stith said the applicant was requesting not to include the illuminated area as sign area for the canopy signs, and if the Board were to grant that, the applicant would not need the other two variances He said if the Board granted the variance for Section 10.1252.40, the applicant would comply with the other two sections they included, but if the Board denied it, the applicant would have to return for the other two because they would exceed the aggregate and the maximum sign area for canopy signs. It was further discussed. Mr. Stith said the Board would benefit from having more information from the applicant and could also benefit from advertising the other variance so that all three variances were in front of the Board.

DECISION OF THE BOARD

*Mr. Rheaume moved to **continue** the application to the November 17 meeting, with the request that the following information be supplied:*

1. *City Staff will advertise for Section 10.1251.20;*

2. *The applicant will provide exact dimensions on what areas of the canopy will be illuminated and also provide maximum potential dimensions;*
3. *The applicant will provide the total aggregate sign area allowed under Section 10.1251.10; and*
4. *The applicant will provide which canopy signs are greater than 20 square feet.*

Mr. Rossi seconded the motion. The motion passed with all in favor, 7-0.

F. ADJOURNMENT

The meeting adjourned at 10:20 pm.

Submitted,
Joann Breault
BOA Meeting Minutes Taker