

**MINUTES OF THE
BOARD OF ADJUSTMENT RECONVENED MEETING
CONFERENCE ROOM A
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

JUNE 26, 2018

MEMBERS PRESENT: Chairman David Rheaume, Vice-Chairman Jeremiah Johnson, Jim Lee, Christopher Mulligan, Arthur Parrott, Alternate Phyllis Eldridge, Alternate John Formella

MEMBERS EXCUSED: Peter McDonell

ALSO PRESENT: Peter Stith, Planning Department

III. NEW BUSINESS – PUBLIC HEARINGS

6) Case 6-6

Petitioner: Emily H. Foster

Property: 636 Middle Road

Assessor Plan: Map 232, Lot 44

Zoning District: Single Residence B District

Description: Install a 10'± long, 6'± high section of fence

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following:

1. A variance from Section 10.515.13 to allow a fence over 4' in height in a front yard.

SPEAKING IN FAVOR OF THE PETITION

The applicant Emily Foster was present to speak to the petition. She explained that she needed a high fence to contain her dog because it previously jumped the 4-ft fence. She stated that she also submitted to the Board her reasons in writing for meeting the criteria.

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

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

DECISION OF THE BOARD

Chairman Rheaume clarified that the ordinance had a new portion relating to fence heights that stated that a fence couldn't be over four feet in height in a front yard.

*Ms. Eldridge moved to **grant** the variance for the petition as presented and advertised, and Mr. Lee seconded.*

Ms. Eldridge stated that granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance because the tall fence would not have an impact on the public and would not change anything substantially. She said granting the variance would do substantial justice because the fence would keep the dog in the yard, and it would not diminish the value of surrounding properties because the fence wouldn't change the way the house looked. As for hardship, Ms. Eldridge said the location of the house close to a major road, as well as the lot that prevented the owner from moving the fence to a different place, spoke to the hardship.

Mr. Lee concurred with Ms. Eldridge and said he had nothing to add.

Chairman Rheume said he would support the motion and pointed out that the City's concern with the 4-ft front fence was to prevent a wall effect along the street line. He said the proposed location for the fence was a reasonable one, and the public interest was to be able to keep the dog in that area and not violate any city ordinances.

*The motion **passed** by unanimous vote (7-0).*

7) Case 6-7

Petitioner: Happy Mountain Holdings LLC
 Property: 64 and 74 Emery Street
 Assessor Plan: Map 220, Lots 87-2 and 87-3
 Zoning District: Single Residence B
 Description: Build a two-family dwelling on two lots
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

1. from Section 10.440, Use #1.30 to allow a two family dwelling on each of two lots where a two family dwelling on a lot is not allowed; and
2. from Section 10.521 to allow a lot area per dwelling unit for Lot 220-87-3 (64 Emery Street) of 10,616±s.f. where 15,000 s.f. is required.

SPEAKING IN FAVOR OF THE PETITION

Attorney Doug Macdonald was present on behalf of the applicant to speak to the petition. He reviewed the petition, stating that the applicant wanted to build a two-family dwelling on each lot and that each unit would be 1,500 square feet. He emphasized that the two lots were gateway lots near a commercial building and the bus depot and that the neighborhood was diverse and contained 13 residential houses, five of which were multi-family ones. He said that the one abutter they managed to contact was in support of the project and that they did not receive adverse comments from any other neighbors. He discussed the site layout, noting that there were several challenges to the lot, including a power line easement in the back and a large rock outcrop in the front. He reviewed the criteria and explained how they would be met.

Vice-Chair Johnson said he agreed with Attorney Macdonald that there was a fair amount of special conditions, but said the SRB zone was one of the more sacrosanct zones in Portsmouth and that the Board was very protective of it. He agreed that the ledge, the awkward shape of the lots, and the utility locations were a challenge but didn't see why that would justify an additional unit per lot. He said there would have to be an extraordinary reason for the variance request. Attorney Macdonald replied that the neighborhood was already a mixed one and that the lots were better suited for small units that would attract a different market.

Mr. Lee asked whether the units would be for sale or rent. Attorney Macdonald said they would be for sale. Mr. Mulligan asked whether the applicant considered combining the two lots into one parcel and subdividing it into three. The project developer **Cory Calthorn** stated that the lots were subdivided in 2013 and that there wasn't enough frontage to get an additional lot due to the ledge and the steep incline. Mr. Mulligan asked whether it would be cost-prohibitive. Mr. Calthorn said that he felt it was the most reasonable request they could come up for the lots.

Chairman Rheume confirmed that the total square footage for each unit was 1,500 square feet. He noted that the neighborhood already had multi-family units but that they were mostly older homes that were subdivided. He asked whether there was an example of anything similar in the neighborhood to the applicant's project. Attorney Macdonald said one could tell from the street that the new homes were multi-families and that each family. He noted that there was a barn next door that was being converted to a multi-family home. Chairman Rheume said it was a unique case because the overall structure was allowed by State statute for an accessory dwelling. Attorney Macdonald said he didn't think the project would stick out because the homes would be residential and new and would be between other houses in a gateway district.

Ms. Eldridge asked whether both units had to be owned by one person because the petition stated that the units would be owner-occupied by single residency. Attorney Macdonald said the intended use was to sell it as a single residency.

Mohammed Ibrahim said he was the Director of the Islamic Society of the Seacoast Area and that they owned the parcel next to the lots. He said they were in support of the project because they understood the challenges of the lot and felt that the project would be beneficial to the diverse neighborhood. He said they preferred to see residential housing units rather than a warehouse or an industrial building.

Cory Calthorn said he was the project developer. He noted that everyone seemed to be building large projects that were out of reach for families with normal incomes and that the smaller units they proposed would give people a chance to afford housing. He also noted that one of the two neighbors who were in opposition was now supportive.

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

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

DISCUSSION OF THE BOARD

Chairman Rheume said the lot from the other petition was previously one large lot and was subdivided, which caused some controversy because the lots were broken up into four or five lots, with a house on one lot and an outbuilding on another. He said the person who bought the outbuilding lot wanted additional dwelling space for a family member. He said an ordinance allowed accessory dwelling units, which he further explained, and said the Board allowed the two-family but restricted it to common ownership to mimic what the State statute was.

It was further discussed. Mr. Mulligan said that normally the variance was for a use not permitted in a single-residence zone. He said there were two large lots in a marginal part of town and that perhaps the lots could be combined and re-subdivided to get three lots, but given the topography, he wasn't sure. He said he agreed with the applicant that building large single-family homes on each lot would not be appropriate and would open the door to accessory dwelling units on each lot. He said the location didn't concern him, however, as much as other locations would. Vice-Chair Johnson agreed and said he was amazed not to see any abutters in opposition, noting that there was a lot of opposition for the project at the adjoining lot. He said he was skeptical at first but had become sold on the modest scale of the two units per lot. Mr. Parrott said he agreed and noted that the Board was typically wary of use variances of that type, but he felt that the reasons the lots had not been developed long ago was due to the constraints, location, topography, power lines, and the adjacent highway, which were unusual factors that would argue in favor of the type of proposed housing that would add four units, each of which was likely to sell for less than a single-family house. He said it was an unusual situation and that he could support a motion in favor.

Chairman Rheume said he remained very skeptical, in spite of the arguments made, because it didn't mean that it was an opportunity to add on some additional units. He said he understood the transitional portion but thought that what was being presented was a pedestrian look at creating duplexes. He said the additions were a cookie-cutter design, with no creativity, and that he didn't think they would be affordable because they were 1,500 square feet each and close to the downtown area. He said he could perhaps buy into one unit being a duplex and being a larger structure but looking like a single-family home and less 'cookie cutter'. He said he didn't see the hardship because the lots were good-sized but the topography was driving it to be a one single-family home, and he didn't see why the lots had to be broken up into two separate residences. If so, he said the structures should be more innovative. He concluded that he did not see the hardship or any neighborhood compatibility.

DECISION OF THE BOARD

*Mr. Mulligan moved to **grant** the variances for the petition as presented and advertised, and Vice-Chair Johnson seconded.*

Mr. Mulligan stated that he had made his thoughts known, and he addressed the criteria. He said that granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because the essential characteristics of the neighborhood would not be changed, nor would the public's health, safety and welfare be threatened. He said the neighborhood was a mixture of commercial and residential uses and that the project would fit

appropriately within it. He said substantial justice would be done because the loss to the applicant if denied would not be outweighed by any gain to the general public if the Board enforced strict adherence to the ordinance. He said the properties weren't really suitable for single-family residence because they were such large lots and close to the highway and the nearby commercial uses. He said granting the variances would not diminish the value of surrounding properties because most of the surrounding properties were either commercial, places of assembly, or other residential properties, and he felt that all of them would sustain their values. As for the hardship, he said the special conditions of the property was its proximity to the highway and the bypass as well as being surrounded on three sides by commercial uses or places of assembly, which wasn't typically seen in a single-residence zone, so he felt that there was no fair and substantial relationship between the purpose of having single residences per lot and their application to the property. He said the use was a reasonable one, a residential use in a residential zone. He said he concurred to some extent with Chairman Rheume's comments about the design but felt that it wasn't a reason to deny the variance because the property wasn't in the Historic District.

Vice-Chair Johnson said he concurred with Mr. Mulligan but also agreed with Chairman Rheume, and he felt that the positive aspects outweighed the clear negatives, which included that the majority of the properties in the area looked like they were built by the same designer.

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

8) Case 6-8

Petitioners: Bonnie A. Konopka & Stephanie Ross
 Property: 5 Simonds Road
 Assessor Plan: Map 292, Lot 58
 Zoning District: Single Residence B
 Description: Construct a 20' x 16' rear addition
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances from Section 10.521:

1. to allow a 19'± rear yard where 30' is required; and
2. to allow 24%± building coverage where 20% is the maximum allowed.

SPEAKING IN FAVOR OF THE PETITION

The applicant Stephanie Ross was present to speak to the petition. She stated that they wanted an addition on the back of the house so that her mother could move in. She said the addition would not be visible from the front of the house and would not change the look of the house.. She said there would be another entrance for egress. She said other houses in the neighborhood had the same type of addition. She reviewed the criteria and said they would be met.

Vice-Chair Johnson asked whether the neighbors were in support, especially the ones in the back of the house. Ms. Ross said they all supported the project.

Chairman Rheume confirmed that there were 20 feet off each property line as the current setback, and Ms. Ross agreed. He asked Ms. Ross to describe what would be in the addition. Ms. Ross said it was currently a bedroom and that they would remove a wall and add a sitting room and bathroom. She said the existing bedroom would remain in the same location but would be bigger. She also noted that the new doorways would be handicap accessible.

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

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

DECISION OF THE BOARD

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

Mr. Parrott said the proposal was straightforward and noted that the Board had seen similar ones in that neighborhood as well as others. He said it was a modest addition in a logical place. He said the house was centered on the lot and that it would be problematic to add a sufficient number of feet if it were anywhere else. He said the use would not change the essential characteristics of the neighborhood because many of the homes had similar or almost identical additions added. He said granting the variances would do substantial justice because the benefit was to the applicant and there was no offsetting benefit to the public. He said the values of surrounding properties would not be diminished because the addition was a modest one in a logical location in the backyard and similar to other houses in the neighborhood, so it would have no deleterious effect on surrounding properties. He said the hardship was that the positioning of the house didn't make it easy to put additions on. He said he thought it was the logical and probably only place that wouldn't have a potential negative effect on the neighborhood and that it was the only way to get additional space without cutting off the roof and so on. He said it met the hardship criteria and should be approved.

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

*The motion **passed** by unanimous vote (7-0).*

9) Case 6-9

Petitioners: Jean G. Merrill and Timothy G. Gilman
 Property: 62 Woodbury Avenue
 Assessor Plan: Map 163, Lot 23
 Zoning District: General Residence A
 Description: Add a second dwelling unit
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following special exception:
 1. Under Section 10.440, Use #1.61 to allow two dwelling units with less than the required lot area per dwelling unit.

SPEAKING IN FAVOR OF THE PETITION

Jeff Alderson was present on behalf of the applicant to speak to the petition. He stated that they wanted to add a second dwelling unit to an existing unit that was built prior to 1980 in a neighborhood with multiple uses. He noted that all the nearby houses were multi-unit ones. He said the existing house would be the second unit and that there would be no change to the exterior of the building or to parking. He said there would also be no traffic issues because they would use two pre-existing driveways and have enough parking for the residents and guests. He said the only significant internal change would be the addition of a sink. He reviewed the criteria and said they would be met.

Chairman Rheame asked whether the new apartment would be within the addition added on in 2001. Mr. Alderson said they would just separate the addition from the original dwelling. He said the kitchen and bath were in the new addition and that they were just putting the kitchen back where it used to be. In addition to further questions from Chairman Rheame, Mr. Alderson said there was a parking easement for the driveway and that the applicant had the right-of-way, and he said there would be a front entrance and an entrance near the driveway.

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

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

DECISION OF THE BOARD

*Vice-Chair Johnson moved to **grant** the special exception for the petition as presented and advertised, and Mr. Mulligan seconded.*

Vice-Chair Johnson said it was a reasonable request and noted that there would be no exterior changes to the building and that all parking would be on site. He said the use was permitted by special exception and would pose no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials, and so on. He said there was already an additional unit in the residential building. He said granting the special exception would pose no detriment to nearby property values in the vicinity or change in the essential characteristics of any area, including residential. He said it was a relatively dense, small area of Portsmouth that had many single-family and multi-family dwellings and a few commercial businesses, so there would be no change to the general character of the neighborhood, especially since the exterior appearance of the building wouldn't be changed and the additional parking was already provided. He said that granting the special exception would create no traffic safety hazard or substantial increase in the level of traffic because an additional unit would cause a very minimal amount of increase, 2-3 trips a day at most. He said there would be no excessive demand on municipal services including water, sewer, waste, and so on because a small, modest additional dwelling unit would have at the maximum two people in it, so there would be no increase in services or no significant increase of stormwater runoff on adjacent properties or streets.

Mr. Mulligan concurred with Vice-Chair Johnson and had nothing to add.

Chairman Rheame said he would support the motion because of the logical parking plan.

The motion passed by unanimous vote (7-0).

10) Case 6-10

Petitioner: Colman C. Garland
 Property: 185 Cottage Street
 Assessor Plan: Map 174, lot 14
 Zoning District: General Residence A
 Description: Construct a two-story 3,725± s.f. medical office building
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:
 1. From Section 10.440, Use #6.20 to allow medical (dental) offices where medical offices are not permitted.

SPEAKING IN FAVOR OF THE PETITION

Attorney Kevin Baum was present to speak to the petition on behalf of the applicant and introduced the project team. He discussed the site plan and said the property was surrounded by non-residential uses, which he listed. He said the property had two existing older non-conforming residential buildings that they wanted to remove and replace with a two-story medical office. He noted that the layout might change, based on the construction design, but that no dimensional relief was requested. He said they held a meeting for abutters but that no one showed up. He addressed issues that he felt might be a concern, such as litter, hours of operation, landscaping, and traffic. He stated that there would be no litter and that the hours of operation would be normal medical hours with no weekends. He said they had a final landscaping design that would be reviewed by the Planning Board and the Technical Advisory Committee (TAC). He said the traffic would be significantly less than the previous Krispy Kreme proposal and that there would be 900 fewer vehicle trips compared to restaurant use. He said that, given the location on the bypass, traffic would be fairly minimal and most access would be via the bypass and not Cottage Street. He reviewed the criteria and said they would be met.

Mr. Lee said the parking layout diagram looked like Krispy Kreme’s and that he had concerns about traffic going out from Cottage Street and going into and coming out of the lot. Attorney Baum said it would be addressed at the Planning Board and TAC meetings. He said it was a lot different from Krispy Kreme because the traffic level was much lower. He said there had to be a way to get in and out of the property and that they couldn’t move the existing driveway. The co-applicant David Rosania said the ballpark figure for additional traffic would be one car for every three minutes.

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

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

DISCUSSION OF THE BOARD

Vice-Chair Johnson said it was a much more compatible use than Krispy Kreme. He said that one of the big selling points was the trip generation and the fact that typically everyone went to the dentist and were there for an average of an hour or so and that the staff came and went once a day. He said Krispy Kreme would have had a constant queue of vehicles. Chairman Rheume said he thought it was a good use for the property and that it made more sense to have a dentist office in the business zone than the two legacy homes going back a long time. He thought the applicant would still have a problem with TAC and the Planning Board in terms of traffic because the majority of the trips would come from the bypass and there could be potential for blocking on Cottage Street, but he said it wasn't the Board's purview. Mr. Formella agreed that the parcel was better suited for commercial use.

DECISION OF THE COMMISSION

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

Mr. Formella stated that granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said a dental office would not alter the essential character of the neighborhood nor pose a threat to the public's health, safety, and welfare. He said there would be a bit of a traffic issue but it would be more benign than having a Krispy Kreme at that location. He said that granting the variance would do substantial justice because there would be no gain to the public by denying the variance and a loss to the applicant. He said the parcel was not suited for residential use anymore, so some type of commercial use had to go in, so there was no evidence that surrounding property values would be diminished. He said the special conditions were that it was a residential use on a very busy corner and surrounded by commercial uses, so there was no fair and substantial relationship between the requirement for a residential use and the application of that requirement to the property.

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

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

11) Case 6-11

Petitioners: Irene R. Lebel Revocable Trust, owner, Matthew Lebel, applicant
 Property: 54 Court Street
 Assessor Plan: Map 116, Lot 54
 Zoning District: Character District CD4-L1
 Description: Convert office space to retail
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:
 1. From Section 10440, Use #8.31 to allow retail sales to be conducted within a building where the use is not allowed.

2. From Section 10.1114 to allow parking to be provided that does not meet the requirements of the ordinance.

SPEAKING IN FAVOR OF THE PETITION

The applicant Matthew Lebel was present to speak to the petition. He stated that the property was family-owned and that he wanted to use one of the offices as a display shop for his woodwork. He said the space was 16'x16' in front of the building near the front door and that it would still look like a residential entrance and not a storefront. He said he could also use the space as an office and study. He said that no parking would be provided, there would be no changes to the building inside or out, and that customers would mostly consist of people walking by. He reviewed the criteria and said they would be met.

In response to Mr. Mulligan's questions, Mr. Lebel said the retail space would be around 260 square feet and that there were two existing offices on the first floor, with three residences on the second and third floors. Vice-Chair Johnson asked whether the parking in the back was for residents and other office uses, and Mr. Lebel agreed.

In response to Chairman Rheume's questions, Mr. Lebel stated that outside people were renting the current offices; that the residents had a front and rear entrance and normally used the rear entrance; and that he would hang a 15"x30" sign in the front of the building.

Chairman Rheume asked Mr. Stith where there was a requirement for one parking space for the proposed retail use, and Mr. Stith agreed. Chairman Rheume noted that the applicant would not provide parking. Mr. Lebel said he could have a designated parking spot near the entrance for retail customers.

SPEAKING IN OPPOSITION TO THE PETITION

Jason Jenkins of 45 Mark Street said he was an abutter and didn't feel that the retail space belonged in that location because it was a mixed residential zone with no retail uses permitted. He noted that the building's parking lot was accessed by Mark Street, a narrow one-car lane.

Robert Nute of 46 Mark Street said he was opposed to the project for the same reasons and felt that any increased traffic would place a burden on Mark Street.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DISCUSSION OF THE BOARD

Ms. Eldridge said it was about the most benign retail store for the location and that the applicant thought of everything, yet she didn't feel that it belonged in that row of Federal buildings. Mr. Formella agreed, noting that the retail use could set a precedent and that there was no guarantee that the use would stay the same. Mr. Lee agreed.

Mr. Parrott said it sounded like a wonderful new, young business, but he was concerned with the permanent nature of the variance because once it was granted for retail, it could become any retail in the future, forever. He said it wasn't appropriate for the neighborhood because the building was a handsome one in a nice stretch of similar buildings, and he thought that retail of any kind would be very much out of place and would change the character of the neighborhood. Vice-Chair Johnson said he felt that they were on the fringe of a lot of similar uses and that the retail use was benign. He said he was a bit concerned that the Board might not have as much control on the use, but he referenced the hotel next door as well as the multiple professional offices. He said they were talking about a 16"x16" showroom with one parking spot and a small sign. He said the building wasn't strictly an apartment building due to the existing offices, and no one knew much of a difference. He said he had no problem with the petition.

Chairman Rheaume said the more it was discussed, the more he thought the project was a 21st Century business model trying to be stuffed in the city's 20th Century zoning ordinance and concept of what a retail use was. He said the ordinance really didn't recognize that type of retail and asked whether it was truly a retail business or closer to an office business. He said he thought it was more of a real estate office model and asked whether there could be stipulations for approval. He said he thought there was some merit to the petition and didn't see a true retail use. Mr. Lee said that what tipped the scale for him was the permanent status of the variance, and it was further discussed.

*Mr. Lee moved to **deny** the variances for the petition as presented and advertised, and Ms. Eldridge seconded it.*

Mr. Lee stated that the petition was contrary to the public interest. He said the area wasn't a retail zoned area and thought the petition failed that criteria and should not be granted. Ms. Eldridge concurred with Mr. Lee and said the proposal would change the nature of the neighborhood.

*The motion to deny **passed** by a vote of 4-3, with Mr. Mulligan, Vice-Chair Johnson, and Chairman Rheaume voting in opposition to the motion.*

Chairman Rheaume recused himself from the petition, and Vice-Chair Johnson assumed his voting seat as Acting Chairman.

12) Case 6-12

Petitioner: Neil Cohen
 Property: 21 Langdon Street
 Assessor Plan: Map 138, Lot 32
 Zoning District: General Residence C
 Description: A second driveway on a lot
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:
 1. From Section 10.1114.31 to allow a driveway which does not meet the standards for "General Access and Driveway Design."

SPEAKING IN FAVOR OF THE PETITION

Attorney Tim Phoenix was present to speak to the petition on behalf of the applicants and introduced the project engineer Alex Ross. Attorney Phoenix reviewed the site layout and said the applicant wanted to install a driveway on the right side so that he could fit two cars on the left side for the left unit and two cars for the right unit. He said the applicant would notch the right side of the building about three feet to create 10 feet for the driveway. He said it was a problem to park on Langdon Street and that the second driveway would provide needed relief. He reviewed the criteria and noted that the neighbors and one member of the Department of Public Works were in support of the project.

Mr. Mulligan asked whether there was any street parking on the side of Langdon Street that the property was on. The applicant Mr. Cohen confirmed that there was no parking on that side. He said his abutting neighbors shared a driveway and regularly parked in front of his house, creating a constant struggle. He said the parking spaces were also reduced on Langdon Street and that many people parked on the street to go to Lexie's hamburger restaurant. He said there were lots of parking issues and felt the project would alleviate them as well as improve his property values. Mr. Mulligan asked whether a parking space on that spot would be lost by adding a curb cut. Mr. Cohen said it would not. Acting-Chair Johnson asked whether the property was owner-occupied or a rental. Mr. Cohen said it was currently empty but was previously owner-occupied and a rental.

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

No one rose to speak, and Acting-Chair Johnson closed the public hearing.

DECISION OF THE BOARD

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

Mr. Mulligan said it was a straightforward application and that the applicant had taken a substantial operation to adapt the living space over the proposed driveway so that he could fit it in. He said it would do something to alleviate the parking crunch on Langdon Street and wouldn't sacrifice any on-street parking. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance because the essential characteristics of the neighborhood would not be altered and the public's health, safety, and welfare would not be threatened. He said it would get more cars off the street. He said that granting the variance would do substantial justice because the loss to the applicant would not be outweighed by any corresponding gain to the public if the Board required strict adherence to the one-driveway-per-lot regulation. He said it was an unusual lot and the existing structure dominated the front of the lot. He said the relief was reasonable and necessary. He said the value of surrounding properties would increase by modestly helping the parking in that neighborhood. He said the hardship was the built environment that was close to the front of the lot and dominated the lot, and didn't permit enough clearance for a second driveway on the right-hand

side of the building. He said it was also an oddly configured lot that abutted a commercial zone, so there was no fair and substantial relationship between the purpose of the driveway requirement and its application to the property. He said it was a reasonable use, a residential use in a residential area, and met the criteria.

Mr. Parrott said he concurred with Mr. Mulligan and had nothing to add.

Acting-Chair Johnson said he would support the petition and thought the applicant had made multiple good points. He found it unfortunate that the building would be altered so dramatically for the sake of an automobile, which moved in the opposite direction of what he personally preferred, but he said it wasn't part of the Board's vote as far as the second driveway in the lot.

*The motion **passed** by unanimous vote (6-0).*

IV. ADJOURNMENT

*At 9:25 p.m., it was moved, seconded, and **passed** by unanimous vote (6-0) to **adjourn** the meeting.*

Respectfully submitted,

Joann Breault
BOA Recording Secretary