

**BOARD OF ADJUSTMENT MEETING
PORTSMOUTH, NEW HAMPSHIRE**

Remote Meeting via Zoom Conference Call

7:00 P.M.

OCTOBER 20, 2020

MINUTES

MEMBERS PRESENT: Chairman David Rheaume, Vice-Chairman Jeremiah Johnson, Jim Lee, Peter McDonell, Arthur Parrott, Alternate Phyllis Eldridge, Alternate Chase Hagaman

MEMBERS ABSENT: Christopher Mulligan, John Formella

ALSO PRESENT: Peter Stith, Planning Department

Two Board members were absent, so both alternates Ms. Eldridge and Mr. Hagaman took voting seats.

I. APPROVAL OF MINUTES

A) Approval of the minutes of the meeting of September 15, 2020.

*The minutes were **approved** as presented by unanimous vote, 7-0.*

II. PUBLIC HEARINGS – NEW BUSINESS

Note: Due to technical issues with Petition A, it was moved, seconded, and passed unanimously (7-0) to pull Petition B, 322 Lincoln Avenue, out of order. They then addressed Petition B (pg 3).

A) Petition of **Kelly Dobben-Annis, Owner**, for property located at **160 Rockland Street** wherein relief was needed from the Zoning Ordinance to construct a 12' x 14' deck which requires the following: 1) A Variance from Section 10.521 to allow 30.5% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Map 129 Lot 01-01 and lies within the General Residence A (GRA) District.

SPEAKING TO THE PETITION

The applicant Kelly Dobben-Annis was present. She said the condominium had four units; the top units had decks and the lower ones had yards. She said the owner of the other lower condo had requested a private patio but that she preferred to have a deck to give her more privacy. She said the condominium association had agreed with the request.

In response to the Board's questions, Ms. Dobben-Annis said the upper decks were larger than the 12'x14' deck she wanted. She said she was looking for relief from the building coverage requirement and was pretty sure that no other condominium owners needed additional zoning relief, with the exception that two hazardous walkways would be removed and that the front walkway would be updated. She said the deck would come off the kitchen and would be eight feet from the existing grade. She said she had considered having a patio instead with steps going down to it but thought having a deck over the patio would fit in better.

Mr. McDonell asked if there would be a fence or a partition above the surface of the deck. The applicant said that it would be more within the landscaping. She said she wanted her own dedicated area for privacy because she had a lot of kitchen windows that people could see into.

Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

Mr. McDonell said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance, seeing that there would be no alteration to the neighborhood or threat to the public's health, safety, or welfare. He said it would be a relatively minimal improvement and that there was a similar deck across the way. He said substantial justice would be done because the deck would be located in as central a location to the lot as possible. He said it was a slight increase in building coverage, but there was no setback relief needed and it would not impede on anyone's light or air. He said surrounding property values would not be impacted. He said the proposed deck was a bit higher than he expected but made sense because the applicant could go from the kitchen to the deck. He said the hardship was that the property in its current state couldn't have anything done without additional building coverage relief. He said the relief required wasn't a lot, so there was no real and fair relationship between the purpose of the building coverage requirement of the ordinance and its application. He said the proposed use was a reasonable one and should be approved.

Mr. Parrott concurred and had nothing to add.

Chairman Rheume said he thought the deck would be eight feet overall instead of eight feet to the floor. He said it made sense to want a deck, especially off the kitchen, to bring food and so on, and that going down steps to a patio would be inconvenient for that purpose, so it was reasonable for the applicant to want a deck versus a patio. He noted that it would not encroach too close to a neighbor and had the endorsement of the condominium association.

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

B) Petition of the **Amanda Telford Revocable Trust, Owner**, for property located at **322 Lincoln Avenue** wherein relief was needed from the Zoning Ordinance to demolish an existing structure and construct a new structure which requires the following: 1) Variances from Section 10.521 to allow a) 35.5% building coverage where 25% is the maximum allowed; b) a 3'6" right side yard where 10' is required; and c) a 13' rear yard where 20' is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 130 Lot 26 and lies within the General Residence A (GRA) District.

SPEAKING TO THE PETITION

Attorney Derek Durbin on behalf of the owner was present and reviewed the petition. He said the carriage house was in derelict condition and that the applicant wanted to demolish it and reconstruct it in a slightly different location. He said the building would be used mainly for storage and that the second floor would be used as a home office. He reviewed the criteria and said they would be met. He said there were three letters of support from the abutters.

Mr. Hagaman asked if the same footings would be used, noting that the building could be flipped so that it would be more than 3-1/2 feet from the line or it could be on the other side of the property. Attorney Durbin said the goal was to bring it in line with the existing structure and that they were dealing with a very narrow building envelope. He said the applicant didn't have a lot of backyard space and was trying to preserve what little open space she had. He noted that either way would require some form of relief. Vice-Chair Johnson asked if the most immediate building adjacent to the neighbor's property was also a garage or shed and whether it was unoccupied. Attorney Durbin said the building was used as a storage space and was owned by the adjacent condominium association. Chairman Rheume said the BOA previously granted variances for a deck back in 1996, but now the applicant was stating that the existing amount on the lot was 35 percent and was adding a half-percent. He asked where the six percent discrepancy came from. Attorney Durbin said he didn't know and thought someone probably made a mistake in the prior application or were working off the tax map at that time. Mr. Stith said he had no further information for that discrepancy.

Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

Vice-Chair Johnson said it was a reasonable request and relatively close to in-kind. He said granting the variances would observe the spirit of the ordinance and the public interest, noting that the structure had been in that location for a long time and the setback was quite small. He said no negative comments from the neighbors had been heard. He said the structure was 3-1/2 feet from the neighbor's property, which wasn't ideal but was enough for building maintenance, and the other buildings were unoccupied. He said the proposed building had no windows on that side as well. He said granting the variances would do substantial justice because he saw no case in which the neighbors would be affected. He said there were places to fit a smaller shed within the setback, but it would render the yard useless. He said siting it as proposed and tucking it in the back corner while still leaving a reasonable amount of space from the rear setback provided a reasonable use of the backyard. He said granting the variances would not diminish the value of surrounding properties, noting that the deteriorated building had run its course and that replacing it with a structure of high-level craftsmanship would increase the level of property values in the neighborhood. He said the property had unique conditions, including that it was one of the more narrow properties in the neighborhood, and that the driveway set up the backyard to be the most usable space. He said the size and shape of the property were the two biggest items that created the unnecessary hardship. He said the use was a reasonable one and would replace the existing use with a better quality and look, and that most people wouldn't even know there was a new building there. He said for those reasons, he thought the variances should be granted.

Mr. Hagaman concurred. He said that, even though there was a very slight increase in building coverage, it was actually an improvement, so it was a tradeoff.

Chairman Rheume said he would support it with a bit of a heavy heart. He said the existing structure was very unique and that it was unfortunate that demolition by neglect could occur. He said the proposed structure was similar but wouldn't be the exact same thing, even though it would be more useful for the applicant and would make better use of the space. He said the setback distance was a bit tight, but the height of the proposed structure would allow maintenance. He said the location was better in some ways because it casted shade on another garage instead of a neighbor's yard.

*The motion was **approved** by unanimous vote, 7-0.*

(Note: The Board then went back to address Petition A).

Chairman Rheume recused himself from the following petition, and Vice-Chair Johnson was Acting-Chair.

C) Petition of Andrea Ardito & Brad Lebo, Owners, for property located at 121 Northwest Street wherein relief was needed from the Zoning Ordinance to construct an attached screened porch which requires the following: 1) A Variance from Section 10.521 to allow a 13.5' rear yard where 20' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 122 Lot 1 and lies within the General Residence A (GRA) District.

SPEAKING TO THE PETITION

The applicant Brad Lebo was present to review the petition. He said the screened porch would enhance their yard and allow them to more fully enjoy the weather. He said the porch would not affect the neighbors. He referred to his written criteria assessment.

There were no questions from the Board, and Acting-Chair Johnson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

Mr. Parrott said the proposal was very clear and that the structure seemed to be well designed and appropriate for the house. He said it would improve the house for the property owner as well as future owners and would have no effect on any neighbor. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because there would be no change in the essential character of the neighborhood and the public's health, safety, and welfare would not be threatened. He said substantial justice would be done, noting that the applicant presented a logical reason for why he wanted to do the screened porch and where he wanted to place it. He said the neighbor had a fenced area against a busy roadway, so it was an unusual location. He said granting the variances would not diminish the value of surrounding properties and would be a slight upgrade and improvement. He said literal enforcement of the ordinance would result in an unnecessary hardship due to the special conditions of the property consisting of the odd-shaped lot and its location right up against the highway setbacks. He said the petition should be approved for all those reasons.

Ms. Eldridge concurred and had nothing to add. *The motion **passed** by unanimous vote, 6-0.*

Chairman Rheame resumed his seat, and Vice-Chair Johnson recused himself from the petition.

D) Petition of **PNF Trust of 2013 and 282 Middle Street, LLC, Owners**, for properties located at **266, 270 & 278 State Street & 84 Pleasant Street**, wherein relief was needed from the Zoning Ordinance to merge four lots into one as part of a redevelopment project including a four-story addition onto the existing building at 84 Pleasant Street which requires the following: Variances from Section 10.5A41.10C to allow a) an entrance spacing greater than 50' where 50' is the maximum allowed; b) 100% building coverage where 90% is the maximum allowed; c) 0% open space where 10% is the minimum required; d) a 4-story, 45' tall building where 2-3 stories or a short 4th and 45' is the maximum allowed; e) less than 70% shopfront façade glazing where 70% is the minimum required and less than 20% other façade types where 20% is the minimum required; and f) to allow more than 20% of the ground floor use to be residential where

20% is the maximum allowed. Said properties are shown on Assessor Map 107 Lots 77, 78, 79 & 80 and lie within the Character District 4 (CD4) District.

SPEAKING TO THE PETITION

Attorney John Bosen representing the applicant was present to review the petition. Project architect Michael Keene, contractor Amos Blanchard, and project engineer John Chagnon were also present. Attorney Bosen noted that they were before the Board in November 2017 about an appeal from the Historic District Commission (HDC) that denied their demolition permit, and that they had stipulations for keeping the State and Church Street facades of the existing building. He said they returned before the Board in 2019 and got variances for 266-270-278 State Street, but since then his client had acquired the 84 Pleasant Street property and wanted to integrate it into the other building. He said they had to retain the façade of the Times building, which would cause a loss of usable square footage, and the glazing required that the existing floor heights remain the same, which made the remaining usable floor space difficult to integrate into the new building without significant cost. He said the applicant needed a building large enough to approximate the square footage and the number of residential units lost in the fire. He said the first floor opening on Church Street was altered for mechanical vents and the access door, and they wanted to set the top floor back and avoid the mansard roof. He said they needed variances for underground parking but weren't sure whether or not they would even have underground parking. He said they would return for a variance if they did; otherwise, they would need a Conditional Use Permit (CPU) from the Planning Board for offstreet parking spaces. He reviewed the criteria and said they would be met.

Mr. Keane stated that the three State Street properties had approval from the HDC and that the Times building and the addition of the building next to it was finalized. He said the changes from the HDC work sessions were that the Church Street elevation's first-floor fenestration would be changed and a fourth story would be added on the Pleasant Street façade. He said the only thing left to work out with the HDC was how the buildings would come together. He explained in detail why they were closer to 50 percent glazing on the storefronts instead of 70 percent. He said 23 percent of the first floor was dedicated to resident use.

Mr. McDonnell said the vents on the Church Street façade looked like mechanicals, and he asked what one would see and hear walking down the street. Mr. Keane said they would see painted metal louvers. He said they needed ventilation for the parking garage, even though it would be automated. He said there may be minor airflow running constantly and that only a carbon monoxide detector would cause a lot of air volume. He said an emergency generator would be in the building itself and not on the roof. Mr. Hagaman verified that the reason for the 100 percent coverage variance request instead of the previously-approved 93 percent was because the buildings were being connected and the space between them was eliminated. Mr. Keane agreed and noted that the 93 percent was for the State Street properties only, so the percentage would go down. Mr. Hagaman asked if all the spaces were interactive. Mr. Keane said the commercial spaces would be separated by the alleyway but would have a common hallway. He said the former Louis' restaurant building would be separated but that the upper floors would be integrated. Mr. Hagaman asked if the space where the mansard was going to be would be

utilized. Mr. Keane said the mansard would have allowed more usable interior space, so they were sacrificing some of it by doing the setback.

Chairman Rheume said the 84 Pleasant Street portion of the application seemed similar to what was presented back in 2017. He asked what the difference would be in the building appearance. Mr. Keane said the Church Street elevation's second and third stories were exactly what was presented before and that the first story, the building footprint, and the entry and egress were the same. He said they were now showing louvers and an overhead garage door, but the materials were the same. Chairman Rheume said he thought that 70 percent glazing would look modern and that the residential space on the first floor seemed to be a driving factor. He asked what the portion of the space for the parking would be used for if not for parking. Mr. Keane said half of it would go back to commercial use and the rest might be for mechanical uses. Chairman Rheume said parking seemed to be the only feasible thing to do in that space. He asked why the applicant didn't include the variance for a commercial space now and indicate that he would return if he decided on a garage. He said if the Board approved it that night, it would be authorization for the applicant to do something else in the space that the Board might not be comfortable with. Mr. Keane said he hadn't considered that approach and that they would entertain a condition that the variance granting would be used for a car park.

Attorney Bosen said the only space they would be sacrificing if they didn't do the garage would be the portion of the commercial space shown, which would make the commercial use larger and the remaining use for mechanicals. He said it was a small square footage of the overall development and that they didn't see it as being a big sacrifice moving forward. He said the applicant chose to do the parking, which was why it was on the application, but that the Technical Advisory Committee (TAC) was concerned about the timing of the cars coming out onto Church Street, so technical issues had to be worked out. Chairman Rheume said the applicant would have to come back before the Board if they did the robotic parking garage anyway because the ordinance didn't think of parking in those terms. Attorney Bosen said they could ignore the parking issue that evening because there had been no parking before the fire incident and they weren't sure if they would have parking at all.

Chairman Rheume opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Barbara Jenny said she and her husband owned 92-94 Pleasant Street and wanted the project to move forward. She said their building was contiguous to 84-88 Pleasant Street. She asked what kind of precedent would be set by separating a lot from an existing building and combining it with a larger lot and what it would mean to the HDC's oversight of that building. She said she was trying to restore her portion of the building and didn't know who would own that larger lot in the future or whether a skyscraper could be built.

Chairman Rheume said the HDC applied to the whole District, including that block, and the Planning Board approved the ability to combine all the lots. He said the same area zoning would remain and there were limitations to relief granted. Ms. Jenny asked what would happen in the

basement if there was no robotic garage. Chairman Rheume said it wasn't germane to the Board but could be an issue that would go before the Planning Board.

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

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

DISCUSSION OF THE BOARD

Mr. Lee said he would be in support of the project because it was well thought out and he felt that the corner had been vacant far too long. Mr. McDonell said that he previously had concerns about the penthouse structure on that corner not being in keeping with the neighborhood's character, but it was approved. He said what was now requested was reasonable. He said the height of the 84 Pleasant Street building, the relief requested, and the way the top floor was configured was much more reasonable in the context of that structure than he thought it was in the context of the structure on the opposite corner. He said the entrance space request was driven by the nature of the Times building, and the building coverage and open space were driven by the fact that the structure was a massing imposing one but in an imposing place and was a reasonable request. Relating to the storefront glazing, he said the property as a whole wouldn't look right if it complied with the 70 percent shopfront glazing. He said it went with the other requirement of less than 20 percent of other façade types and was a reasonable request. He asked for more opinions on the ground floor residential variance request.

Chairman Rheume said he thought the overall lot usage was greater than what was allowed, but not by much, and was the same relief granted in 2017. He said the glazing was probably based on character-based zoning and looked right but may be a little bit low. He said the distance between the entryways was the desire to keep the historic Times building's façade. He said the roof setback for the new building on the Church Street façade wouldn't be visible from Church Street. He said the ordinance was driving lots of mansard roofs and that the HDC might have been suffering from 'mansard roof fatigue'. He said he didn't see where the 20 percent minimum for the ground floor use was needed but thought the first floor should be business use, which would reduce the amount of relief requested. He said it may be beneficial to either not approve that portion or stipulate that if car use was not needed, it would be a business use. Mr. Hagaman said the application met a lot of the variance criteria but asked if there had been any thought to whether there should be separation between the buildings to combat potential fire or catastrophe. Chairman Rheume said the current fire safety standards were way above what was present in the previous structure and that even if the buildings were separated, there would be several requirements for fire and safety for both building sections. Ms. Eldridge said she would be in favor of including the 23 percent residential request. Mr. Parrott said he liked the new design even better than the previous one. He said the reduction in glazing was outstanding. He noted that the Board indirectly dealt with design with respect to glazing percentages because it was an important architectural feature. He agreed with Ms. Eldridge about including the 23 percent residential request, and he agreed with Chairman Rheume about the maximum distance spacing between the entries. He said no one would have a problem with 57 feet versus 50 feet because the actual dimensions on the ground weren't very big. He said he supported the project as

presented and thought it would be a substantial improvement to the neighborhood and the City. Chairman Rheume said the Board had been thrust into the role of looking at building design, due to the character-based zoning and additional zoning requirements.

DECISION OF THE BOARD

*Mr. McDonell moved to **grant** the variances for the petition, with the following stipulation:*

- *That Item F regarding the amount of residential space on the first floor shall be approved only if there is a car lift/elevator installed in the building.*

Mr. Hagaman seconded.

Mr. McDonell said he agreed with the comments from other Board members and that he would incorporate his earlier comments. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because the requested relief would not constitute an alteration in the essential character of the neighborhood or conflict with the purposes of the ordinance. He said the difference in the Board's approving the top floor relief compared to the previous time was that before, there was concern about the sightlines down the main corner, but now there were sightlines from very few places. He said he thought the penthouse structure on the Church Street façade was more visually appealing when it wasn't above the mansard roof as it was on the main corner of the parcel, so he saw no conflict with the neighborhood's character or any threat to the public's health, safety, and welfare. He said he had no concern with allowing the buildings to be placed closely together because the existing fire codes were different. He said substantial justice would be done because it was a clear benefit to the applicant to allow him to redevelop the property, which had been vacant for quite some time, and it was a reasonable use of the property. He noted that no one had articulated any harm to the general public. He said granting the variances would not diminish the value of surrounding properties. He said the abutter was excited about having her property values increased, and the relief requested was a reasonable way to increase property values. He said literal enforcement of the ordinance would result in unnecessary hardship due to the special conditions of the property, including the entry spacing requirement, the historic use of the existing Times building, the coverage and open space requirements, and the nature of the existing improvements. He said the proposed improvements were reasonable. He noted that the Board did approve that relief in the past. He said other special conditions were the shopfront glazing and other façade requirements, and that part of it was what was there today and part of it was that strict compliance with the ordinance would bring the buildings out of character with the neighborhood. He said there were perhaps some lots in the zone where it made sense to meet that shopfront glazing requirement, but they weren't the same kind of buildings as the applicant's. He said the height of the property had no relationship between the purposes of the ordinance allowing that increased height. He said the applicant articulated a valid reason for needing the increased allowance for ground floor residential and thought it was reasonable with the stipulation imposed. He said the proposed use was a reasonable one and sort of a replication of a historic and existing use. He said, for all those reasons, the Board should approve granting the variances.

Mr. Hagaman concurred. He noted that the project was largely approved by the Board, and now that it was being brought together, there were very specific variance requests to combine the properties. He said the height variance was not a true height variance request but was more of a configuration request, given that the mansard version of the roof could be allowed by right and the offset fourth story was less dominating. He said the stipulation made a lot of sense, given the reasoning and motivation for the ground floor use variance request, and that tying those two things together with regard to the parking configuration was a reasonable stipulation to add on.

Ms. Eldridge said she would support the motion but didn't understand Mr. McDonell's tradeoff between the garage and the extra three percent. Chairman Rheaume explained that the request was driven by all the blue areas seen in the illustration. He said they were only over by three percent and a lot of the blue area was driven by the car lift area. He said the Board would like to see commercial retail be the dominating factor so that some of that blue space could be put back to residential uses. He said the stipulation would take care of the car elevator. Mr. Parrott said the stipulation was unnecessary and tied the applicant's hands. He said he didn't think the Board needed to do it but said he would support the motion. Chairman Rheaume said he thought it was a good application and would support the motion. He said the building was a 100-year investment in Portsmouth and was much more than being better than 'a hole in the ground'. He said he was confident that it would be the right building to get into that space.

*The motion was **approved** by unanimous vote, 7-0.*

The Board discussed whether they should hear all the petitions that evening, seeing that the hour was late and there were five remaining petitions, some of which were substantial.

*Vice-Chair Johnson moved to hear Petitions 7 through 11 at the October 27 meeting. Mr. Lee seconded. The motion **passed** by unanimous vote, 7-0.*

Ms. Eldridge recused herself from the petition.

E) Petition of the **Elisabeth Blaisdell Revocable Trust, Owner**, for property located at **77 New Castle Avenue**, wherein relief was needed from the Zoning Ordinance to install a mini-split unit which requires the following: 1) A Variance from Section 10.515.14 to allow a 2' side yard setback where 10' is required. Said property is shown on Assessor Map 101 Lot 50 and lies within the General Residence B (GRB) District.

SPEAKING TO THE PETITION

The applicant Elisabeth Blaisdell was present and said the structure was presently a garden shed and that they wanted to insulate it and heat a portion for a home office. She said they proposed a mini-split system with an exterior condenser and that the condenser would be hidden from view by a fence and shrubs. She reviewed the criteria and said they would be met.

Mr. Hagaman asked if there was already insulation in the structure or if a larger project was proposed. Ms. Blaisdell said it would be just office space and that the finished part would be

insulated. She said a garden shed portion would remain and the back corner would be a small bathroom. Chairman Rheume said it was a tight area for a condenser and asked if the HVAC representative had been contacted and was okay with the air flow in that area. Ms. Blaisdell said the fan was small and set on brackets that pushed it away from the house. She said the HVAC representatives were comfortable with it and had actually recommended the location.

Chairman Rheume asked how much room there was for access to the opposite side of the condenser for maintenance and whether a ladder could be brought in. Ms. Blaisdell said it had almost three feet of access that could be reached from the back side of the barn and that the condenser would be placed in the widest spot.

Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

Mr. Parrott said it was a simple request and that there weren't obvious places to place the condenser because the lot was small. He said the proposed location was a good choice for all the reasons stated. He said that type of unit was in many neighborhoods and that he had not heard any complaints. He said the location between a building and a fence made sense, and he noted that the neighbor had a similar unit. He said granting the variance would not be contrary to the public interest or to the spirit of the ordinance because there would be no change in the essential character of the neighborhood or any threat to the public's health, safety, or welfare and that no one would even notice the unit. He said substantial justice would be done because the project would be an upgrade to the property and would be a nice working space for the applicants. He said granting the variance would not diminish the values of surrounding properties because it was a tight neighborhood and the neighbors had the same type of unit, and the applicant's property value would be upgraded as well as the neighbors' properties. He said the hardship was the small size of the property and the configuration of the barn tucked into the corner, which made it unlikely to find any other place that would be as suitable. He said the applicant made the right choice in choosing the location for the condenser and that the petition should be approved.

Mr. Lee concurred and had nothing to add. *The motion **passed** by unanimous vote, 6-0.*

Ms. Eldridge resumed her voting seat.

F) Petition of **Gregory & Elizabeth LaCamera, Owners**, for property located at **200 McDonough Street**, wherein relief was needed from the Zoning Ordinance to demolish the existing structure and construct a new single family dwelling which requires the following: 1) Variance from Section 10.521 to allow: a) a lot area and lot area per dwelling unit of 2,588 square feet where 3,500 is required for each; b) 39.5% building coverage where 35% is the

maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 144 Lot 29 and lies within the General Residence C (GRC) District.

SPEAKING TO THE PETITION

The applicant Greg LaCamera was present. He said the structure was in poor condition and had been vacant for quite some time and that he reviewed neighboring properties and tried to come up with a structure to fit the neighborhood's character. He said the neighbors were in support. He reviewed the criteria and said they would be met.

Chairman Rheume said previous applicants in 2016 wanted to do similar things, and one thing that came before the Board was the idea that there would be obstructive visibility on the corner. He said the applicant's diagram showed that even the current building didn't have that concern. He asked what had changed and whether the recent sidewalk configuration was an impact. Mr. LaCamera said he didn't know. Mr. Stith said the existing house was built per the variances granted in 2016 and that possibly what was granted by the Board was never built. Chairman Rheume agreed that it was never acted upon and said he found it hard to believe that it would have been requested to put the house further on city property. He thought the sidewalk configuration was shallower at the time and created the problem area. Mr. LaCamera said the edge of the street was substantially back from the house, like every other house on the street, but thought that was the reason they were doing bigger setbacks. Chairman Rheume said he wanted to make sure that the issue wouldn't be a problem later on and that any concern with public safety was taken care of by the sidewalk configuration. He noted that the Board received a letter in support of the project.

Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

Mr. McDonell said the request was for the reconstruction of the home and had two points: one lot area and lot area per dwelling unit, and building coverage. He said the lot area and lot area per dwelling unit were driven by the lot. He said the building coverage wasn't far over the maximum of 35 percent and was in keeping with the rest of the neighborhood. He said he was always concerned when a home was torn down and reconstructed because it was usually much bigger, but in the applicant's case, he thought what was proposed was reasonable and would be in keeping with the rest of the homes in the area. He said it was decreased in current building coverage by combining the house with the garage. He said granting the variances would not be

contrary to the public interest and would observe the spirit of the ordinance because there would be no alteration in the essential character of the neighborhood or threat to the public's health, safety, or welfare. He said substantial justice would be done because the applicant had a clear benefit in that he would be able to build a new home in place of what wasn't really a workable living situation. He pointed out that no harm to the general public or neighbors was articulated. He said granting the variances would not diminish the values of surround properties, noting that he hadn't heard anything to suggest it and that having a nice new home in place of an odd out-of-shape home would increase the values of surrounding properties. He said the special conditions of the property were the size of the lot that clearly drove the lot area per dwelling unit and lot area size requests, and the building coverage request as well. He said there was no relationship between the purposes of the ordinance provisions and their application to the property. He said the proposed use was a reasonable one and that it would stay a single-family home. He said for all those reasons, the Board should grant the variances.

Mr. Lee concurred and said a nice new home on that corner would be a huge asset to the neighborhood.

Chairman Rheume said he would support it, noting that it was a good project and that the amount of relief requested was a very modest amount. He said it was a small lot and basically unbuildable. He said the Board recognized that even though the modest lot sizes for the GRC were pretty small, many of the neighborhoods had even smaller lots. He said the total lot coverage was less than what existed and the request for 39.5% building coverage was just shy of meeting in the middle. He said the applicant could take advantage of the tight setback against the property line, which was allowed to give a similar appearance and setback to the other homes in the area, and was in keeping with the character of the immediate adjacent properties.

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

*It was moved, seconded, and passed unanimously to **suspend** the 10:00 meeting ending rule.*

G) Petition of the **Woodbury Avenue Cooperative, Inc., Owner**, for property located at **1338 Woodbury Avenue**, wherein relief is needed from the Zoning Ordinance to demolish the existing structures and replace them with 6 new mobile home units which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,480 square feet where 7,500 square feet per dwelling is required. 2) A Variance from Section 10.334 to allow a lawful nonconforming use to be extended, enlarged or changed except in conformity with the Ordinance. Said property is shown on Assessor Map 237 Lot 70 and lies within the Mixed Residential Business (MRB) District.

The applicant was not present.

DECISION OF THE BOARD

*Vice-Chair Johnson moved to **postpone** the petition to the October 27, 2020 meeting. Mr. Lee seconded.*

Vice-Chair Johnson said it was unfortunate that the applicant couldn't be present but that there would be time to fit his petition into the next meeting. Mr. Lee concurred.

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

Chairman Rheume stated that the remainder of the petitions would be heard at the October 27, 2020 meeting.

H) Petition of **Bacman Enterprises, Inc., Owner**, for property located at **140 Edmond Avenue**, wherein relief was needed from the Zoning Ordinance to redesign previously approved parking which requires the following 1) Variance from Section 10.1113.20 to allow off-street parking spaces to be located in the required front yard or between a principal building and the street. 2) Variance from Section 10.1114.32(a) to allow vehicles to enter and leave a parking area by backing out into or from a public street or way. 3) Variance from Section 10.1114.32(b) to allow vehicles to enter and leave each parking space without requiring the moving of any other vehicle. Said property is shown on Assessor Map 220 Lot 81 and lies within the Single Residence B (SRB) District.

*It was moved, seconded, and passed unanimously (7-0) to **postpone** the petition to the October 27, 2020 meeting.*

I) Petition of **Karen & Rick Rosania, Owners**, for property located at **32 Boss Avenue**, wherein relief was needed from the Zoning Ordinance to add a second story to an existing dwelling and enclose rear deck which requires the following: 1) A Variance from Section 10.521 to allow a 14' front yard where 30' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 153 Lot 5 and lies within the Single Residence B (SRB) District.

*It was moved, seconded, and passed unanimously (7-0) to **postpone** the petition to the October 27, 2020 meeting.*

J) Petition of **Lori Sarsfield, Owner**, for property located at **56 Clinton Street**, wherein relief was needed from the Zoning Ordinance for the addition of attached one car garage which requires the following: 1) A Variance from Section 10.521 to allow a 5' right side yard where 10' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 158 Lot 6 and lies within the General Residence A (GRA) District.

*It was moved, seconded, and passed unanimously (7-0) to **postpone** the petition to the October 27, 2020 meeting.*

K) Petition of **Matthew & Sarah Currid, Owners**, for property located at **542 State Street**, wherein relief was needed from the Zoning Ordinance to convert a single-family dwelling into a

two-family with new 10' x 18' two-story deck which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 2,175 square feet where 7,500 square feet per dwelling is required. Said property is shown on Assessor Map 127 Lot 18 and lies within the Mixed Residential Office (MRO) District.

*It was moved, seconded, and passed unanimously (7-0) to **postpone** the petition to the October 27, 2020 meeting.*

III. OTHER BUSINESS

There was no other business.

IV. ADJOURNMENT

The meeting was adjourned at 10:16 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary