ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
April 26, 2016

A public hearing of the Zoning Board of Adjustment was held on Tuesday, April 26, 2016 at 6:30 PM in Room 208, City Hall.

Members in attendance were:

Gerry Reppucci, Chair
Jack Currier, Vice Chair
J.P. Boucher, Clerk
Mariellen MacKay
Rob Shaw
Kathy Vitale

Carter Falk, AICP, Deputy Planning Manager/Zoning

Mr. Reppucci explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Reppucci explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Reppucci also explained procedures involving the timing light.

1. **Sandey Ndegwa (Owner) 3 Kennedy Drive (Sheet A Lot 731) requesting the following: 1) special exception to convert an existing single-family home into a two-family home, and; 2) variance for minimum lot area, 10,000 square feet existing, 14,520 square feet required. RA Zone, Ward 7. [TABLED FROM 4-12-16 MEETING]**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

MOTION by Mr. Currier to take the case off the Table.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

Sandey Ndegwa, 3 Kennedy Drive, Nashua, NH. Mr. Ndegwa said that he is requesting to convert his home into a two family

home. He said it would be the whole first floor of the structure. He said that there is plenty of parking spaces for both of the units. He said that there are three homes with accessory dwelling units, at 5 Kennedy Drive, 19 Kennedy Drive, and 8 Superior Drive. He said that he didn't really see any two-family homes in the neighborhood.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Kenneth Gray, 5 Kennedy Drive, Nashua, NH. Mr. Gray said that he is not in favor of a two-family home. He said he wouldn't mind if it were an in-law unit.

Letter from Arthur Graves, 4 Kennedy Drive, Nashua, NH. The letter from Mr. Graves was put into the record.

MOTION by Mr. Shaw to deny the variance request for the two-family, as per the advertisement. Mr. Shaw stated that the variance is needed for the land area for a two-family is 14,520 square feet, and only 10,000 square feet is existing, which is a significant reduction of land area needed for relief.

Mr. Shaw stated that the request is not within the spirit and intent of the ordinance. He said that there was no evidence either way in relation to the property values.

Mr. Shaw stated that the request would be contrary to the public interest, as there are no other two-family homes in the area, and the neighborhood doesn't support a two-family home, therefore, substantial justice is not served.

SECONDED by Mr. Currier.

MOTION CARRIED 4-1 (Mr. Reppucci).

MOTION by Mr. Shaw to deny the special exception request as advertised. Mr. Shaw said that the use of a two-family is listed in the table of uses, there is no likely impact to traffic congestion or pedestrian safety. He said that the use will not overload public water, drainage or sewer or other municipal systems.

Mr. Shaw said that the special regulations are not fulfilled, due to the land area not being met, and that the use will impair the integrity and be out of character with the neighborhood.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

2. **Dino & Josephine Frioni (Owners) 47 Forest Park Drive (Sheet 50 Lot 46) requesting variance to exceed maximum driveway width, 18 feet existing, 24 feet allowed, up to 34 feet proposed. R9 Zone, Ward 6.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Rob Shaw

Mr. Reppucci said that this case is being taken earlier, as the applicant has young children.

Dino Frioni, 47 Forest Park Drive, Nashua, NH. Mr. Frioni said that they have three cars now, and also has a boat and a trailer. He said he uses his back yard to try to get them out of sight. He said that he needs the extra width, up to 34 feet. He said that the ten extra feet is needed but five or six extra feet would be fine too, but ten would make it easy to pull in and out.

Mrs. Josephine Frioni, 47 Forest Park Drive, Nashua, NH. Mrs. Frioni stated that the lot is kind of on an angle, and passed out a picture for the Board to see.

Mr. Frioni said that if you look at the picture, there is driving on the grass, and it doesn’t look right.

Mrs. Frioni said that the intention is to re-do the entire driveway, and are here to see if the Board allows us to extend it.

Mr. Reppucci asked if there is a setback for the driveway.

Mr. Falk said that there is no side yard setback for driveways.

Mr. Reppucci said that driveways get a maximum of a 24 foot wide curb-cut, and after the front yard setback, the driveway can be wider.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Letter submitted by an abutter expressed concern about property values, stating that there are many construction vehicles and trailers on the lot.

SPEAKING IN FAVOR – REBUTTAL:

Mr. Frioni said that the Code Enforcement Department has already been to his house, and said that there were no violations.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS – REBUTTAL:

No one.

Further discussion ensued.

MOTION by Mr. Reppucci to approve the variance application as advertised on behalf of the owner. Mr. Reppucci said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

Mr. Reppucci said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Reppucci said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Mr. Boucher.

MOTION CARRIED 3-2 (Mr. Currier & Ms. Vitale)

3. **Karen A. & Paul R. O'Donnell (Owners) 22 Wellington Street (Sheet 65 Lot 185) requesting variance to encroach 3'-9" into the 10 foot required left side yard setback to construct an attached one-story 12'x24' home addition. RA Zone, Ward 3.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Karen O'Donnell, 22 Wellington Street, Nashua, NH. Mrs. O'Donnell said that they are asking for the addition for her mother, it'll be a small sitting room and a bathroom with a shower. She said that she can't do stairs anymore, and would like to keep her in the house.

Mr. Currier said that there would be about 6 feet or so to the property line after the addition is put in.

Mrs. O'Donnell said it will be streamlined with the house.

Houghton said he's requesting approval for a massage therapy business. He said that they'd have sports and therapeutic massage services, and float tank services. He said that the float tank is a 5'x8' tub filled with 10 inches of water, and 1,000 pounds of Epsom salt, brought to body temperature.

Mr. Houghton said that the hours of operation would be 9:00am – 9:00 pm, with 1-2 people per hour.

SPEAKING IN FAVOR:

Letter from Brian Huber, 16 Wellington Street, Nashua, NH. Mr. Huber is in support of the proposed home addition, and lives right next door.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, which is for additional space per testimony.

Mr. Currier said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Currier said that it will have no adverse impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner to allow a small addition on this old home.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

4. **10 North Southwood, LLC (Owner) 10 North Southwood Drive (Sheet G Lot 591) requesting variance to encroach 7'-11" into the 10 foot required setback to install a new ground sign. PI Zone, Ward 2.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Rob Shaw

Robert Brown, COO - WaveGuide, 10 North Southwood Drive, Nashua, NH. Mr. Brown said that they're seeking a variance to encroach 7'-11" into the 10 foot front setback for a ground sign. He said the overall size of the sign is 12'x11'. He said that the existing property line is actually 20 feet from the curb, so the sign would actually be 22 feet from the curb. He said that the prior owners, the Federal Post Office, had a sign exactly where the proposed sign would be located, and there is a concrete pad there already for the new sign. He said if the sign were placed further back, it would reduce its visibility. He said that there is not a safety or visibility hazard with the sign as there is 22 feet of space between the proposed sign and the

curb. He said that they've been there since February 2013, and the sign is necessary to identify the building.

Mr. Boucher asked if it will be an internally lit sign.

Mr. Brown said it will not be internally lit, he said that they'd like to put lights on the pad to shine on the sign.

Mr. Currier said that the sign is within the character of the area, and it's similar to other signs further down the road, and it doesn't seem out of place.

Mr. Reppucci said it' not a residential area, it's sort of industrial, and said it doesn't really matter how the sign is lit, and the sign is sort of small, it's designed well.

Mr. Shaw said his only concern would be if something changed with North Southwood Drive, where it's expanded, but that might be so far down the road it's nothing to really worry about right now.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, which is an unusually large setback of the front property line, and that the previous tenants sign was in the same location that the proposed sign is.

Mr. Currier said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Currier said that it will have no negative impact on surrounding properties, there won't be any sight line problems, it is similar to other signs in the area. He said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Ms. Vitale.

MOTION CARRIED UNANIMOUSLY 5-0.

5. **Kenneth R. & Sylvie Gray (Owners) 5 Kennedy Drive (Sheet A Lot 372) requesting variance to exceed maximum driveway width, 16 feet existing (on east side), 24 feet permitted - an additional 12 foot wide driveway proposed (on west side). RA Zone, Ward 7.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Kenneth Gray, 5 Kennedy Drive, Nashua, NH. Mr. Gray said that they recently built a garage in the back yard with living space above it for their son, and now, the request is to construct a driveway for access to it without tearing up the yard. He said that the street doesn't have a curb there.

Mr. Gray said that their existing driveway is actually 18 feet wide, not 16 feet as identified in the application.

Mr. Shaw said that the way the case was advertised, the request would be more, so the Board cannot approve what is in excess of the advertisement, so it either has to be re-advertised, or the Board could approve it if there is two less feet somewhere between the two driveways.

Mr. Falk said that the advertisement was for a total of 28 feet. He said that considering that the existing driveway is 18 feet, they could do a 10 foot wide driveway and it would be ok with the ad. He said that past the front yard setback, the driveway can be wider anyways, and in this zone, that would be after 25 feet from the front property line.

Mr. Gray said that he can be ok with the new driveway being ten feet wide.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mrs. MacKay to approve the variance application as advertised on behalf of the owner. Mrs. MacKay said that the driveway is actually 18 feet existing on the east side, and the proposal is to add an additional 10 feet wide driveway on the west side. She said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, the owners have a large lot.

Mrs. MacKay said that the proposed use would be within the spirit and intent of the ordinance.

Mrs. MacKay said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

6. **Hemant V. & Lekha H. Oturkar (Owners) 22 Salmon Brook Drive (Sheet B Lot 2784) requesting special exception to work in the 75-foot prime wetland buffer of Salmon Brook to remove trees in rear yard. R18 Zone, Ward 8.**

7. **Krishna & Latha Mangipudi (Owners) 20 Salmon Brook Drive (Sheet B Lot 2785) requesting special exception to work in the 75-foot prime wetland buffer of Salmon Brook to remove trees in rear yard. R18 Zone, Ward 8.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale

Rob Shaw

Mr. Reppucci said that the applicants for these cases are neighbors, and their cases are virtually similar, and the Board will hear the cases together.

Hemant Oturkar, 22 Salmon Brook Drive, and Krishna Mangipudi, 20 Salmon Brook Drive, Nashua, NH.

Mr. Reppucci asked if each property owner will be meeting the nine special regulations for working in the wetland buffer.

Both owners said that they will.

Mr. Reppucci referred to the letter dated January 8th from the Conservation Commission.

Mr. Shaw said that Mr. Oturkar's application was to take down 13 trees, but the Conservation Commission is recommending that only 6 trees to be taken down.

Mr. Oturkar said that these trees are close to his house, and he said in the mitigation, he's replacing each tree taken down with two new planted trees. He said that the Conservation Commission recommended that only 6 trees be taken down, the worst ones. He said he'd be happy with taking down the 6 trees, but would prefer more.

Mr. Shaw said that the Board tries to abide by the Conservation Commission's recommendations, but are not bound to them. He asked if there is any justification why greater than 6 trees should be taken down.

Mr. Oturkar referred the Board to the pictures in his package. He said that the trees are close to his house, he said he can live with the 6, but would like more.

Mr. Shaw asked if there would still be a reasonable amount of risk to the home if more trees stay on the lot.

Mr. Oturkar said yes.

Mr. Shaw said that the Board has forms from the Conservation Commission, and papers from the environmental company.

Mr. Reppucci asked about the mitigation of replacing the trees, and asked if it's proportional, two trees to be replanted for each tree to be removed.

Mr. Oturkar agreed.

Mr. Reppucci asked about Mr. Mangipudi's request, and it looks as if the Conservation Commission is allowing him to remove the trees he has requested.

Mr. Mangipudi agreed.

Mr. Currier said that the area has a lot of pine trees on this side of the street, and asked if the trees are more of a threat to the house, or less, than the other houses on the street.

Mr. Mangipudi said he wants to be a good neighbor. He said that some of the trees are leaning towards his bedroom.

Both owners agreed that they believe these trees are more of a threat than other houses.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Ms. Vitale said that she wants to follow the recommendations and guidelines set forth by the Conservation Commission, and stick to the six trees being cut down.

Mr. Currier said he appreciates what the applicants have done, especially hiring the environmental company involved and meeting with the Conservation Commission. He said he also prefers to stick with the recommendations of the Conservation Commission.

Mr. Reppucci said he thinks these owners have done their homework, they've approached this situation in the right way, and they have valid concerns that the trees may come down on their houses. He said that if there are 13 trees that potentially could come down on their house, why limit it to removing 6 trees, and they're also providing some mitigation of

replacing two trees per tree they remove.

Mr. Shaw agreed with Mr. Reppucci. He said he is encouraged that they hired the environmental scientists, and the mitigation plan that was proposed by the applicants. He said this is not a case of an after-the-fact approval and that the trees are already taken down. He said if he had any tall pines that were posing a risk to his house, he'd want to take down all the trees he'd be concerned about. He said that tree removal is costly. He said he's supportive of the application except for the limitation from the Conservation Commission on 22 Salmon Brook Drive.

Ms. Vitale said she didn't hear any testimony that the trees are dead. She said they're live trees, healthy trees, and it would be an extreme circumstance if they just come down. She said that even if they do come down, they could fall the opposite way. She said that when these trees are taken out, the water absorption changes, and this is along Salmon Brook. She said that we should be held to a higher standard when taking care of our wetland buffers. She said that there is no reason to take out healthy trees.

Mr. Currier said that in the environmental letter, it states that the number of trees to be removed has been limited to the few that are most likely to be damaging during a storm event.

Mr. Reppucci asked if it indicates how many trees are to be removed.

Mr. Currier said for 20 Salmon Brook Drive, it says the removal of at least 5 trees will not significantly impair the wetland capacity to provide wildlife and fishery functions, and the replacement trees will improve wildlife habitat diversity.

Mr. Shaw said that the letter for 22 Salmon Brook Drive also actually only speaks to 5 pine trees to be removed for potential safety hazards in a storm.

Mr. Boucher said that there's a common thread of these 5 trees, and wondered if they are the same 5 trees, near the property line.

Mr. Oturkar said that they are not the same trees. He said the 5 trees in Mr. Mangipudi's yard are different from his. He said that his cluster of trees are on the side of his house, and said

his own trees are in the rear of the house and yard.

Mr. Shaw asked if there was any discussion on the health of these trees.

Mr. Oturkar said that the environmental scientist walked around and said that as long as you're not taking the roots out, and do the suggested mitigation, so the tree trunk still sits in the ground and the soil would not be moved. He said that the trees wouldn't be pulled out of the ground, the roots stay there. He said that he was told that the mitigation should suffice. He said to remove trees is very expensive, and can only do a few at a time.

Mr. Mangipudi said that the Conservation Commission wants the trees to be removed to be identified with tags, and they want to come in and verify that those are the trees that the Conservation Commission wants us to take down, so even before the trees are taken down, they have to verify them.

Mr. Reppucci said that he feels that the mitigation plan makes up for what they're doing. He said that the mitigation plan can make up for 6 trees, and for 13 trees. He said that they just want to protect their houses, it makes sense. He said that there is a formula for the mitigation plan.

Mr. Shaw said that the environmental scientist speaks to both properties, it's almost identical language on both letters, but it's understood that it's not possible to make up the diameter of the trees, and it mentions the replacement trees of a 6-foot height, which will sufficient to replace a habitat and water absorption capacity from the trees that are removed with replacement trees, so overall, the net result is that tall trees will be removed, but are coming back with doing something that will not change the hydrological property, and if anything, it seems as if they're going to be adding some further variety in terms of native species. He said that he feels as if the mitigation and restoration is pretty significant and there's no damage to the soils or disruption to the soils and space.
Mr. Currier said that the environmental company should be able to address the fact that the 13 trees are in danger to the house. He said he takes it as a balance between safety and wetland, and this comes down to homeowner preference. He said he's good with the application as it stands, and is reluctant to approve more, because there's not a mitigation plan in front of

us for that. He said he's for the application that the Conservation Commission and the environmental company came up with.

Mr. Boucher said that the mitigation is pretty clear, and significant resources are going into the mitigation plan. He said he'd be in support of the application, and to remove that stipulation for that property.

Mr. Shaw said that with all the talk about 13 trees, he said he's willing to support 10 trees.

Mr. Reppucci said he'd like to see mitigation that follows the original formula. He said he could go with 10 trees, it is what the application says.

Mr. Currier said he's good with the application from the Conservation Commission, and would like to stick with that. He said that if there is a motion for 10 trees, he wouldn't support it.

MOTION by Mr. Reppucci to approve the special exception for 22 Salmon Brook Drive as advertised, on behalf of the owner.

Mr. Reppucci stated that the use is listed in the Table of Uses, Section 190-112. He stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, it will not overload public water, drainage or sewer or other municipal systems.

Mr. Reppucci said that all special regulations are fulfilled per testimony of the applicant. He said that there is a recommendation from the Conservation Commission dated January 8, 2016, and the letter makes six recommendations, the sixth one being no more than 6 trees being cut down. He said that the Board is approving all the recommendations, except that the Board is changing it to 10 trees to be cut down, with the understanding that the mitigation process that occurs for additional trees beyond the 6 trees will follow the formula laid out in the first 6 trees, it will be proportional.

Mr. Reppucci said it will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of residents.

SECONDED by Mr. Shaw.

MOTION CARRIED 3-2 (Ms. Vitale and Mr. Currier)

Mr. Currier said he's in favor of removing 6 trees, as the Conservation Commission stated, not 10 trees.

MOTION by Mr. Reppucci to approve the special exception for 20 Salmon Brook Drive as advertised, on behalf of the owner.

Mr. Reppucci stated that the use is listed in the Table of Uses, Section 190-112. He stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, it will not overload public water, drainage or sewer or other municipal systems.

Mr. Reppucci said that all special regulations are fulfilled per testimony of the applicant. He said that there is a recommendation from the Conservation Commission dated January 8, 2016, and the letter makes five recommendations, with all of them being met.

Mr. Reppucci said it will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of residents.

SECONDED by Mr. Shaw.

Mr. Shaw said that in this request, it is to take down 5 trees.

MOTION CARRIED UNANIMOUSLY 5-0.

Mr. Reppucci recommended that the Conservation Commission meeting minutes be incorporated into the record for both of these two cases.

8. **Guy P. & Rene D. Normand (Owners) 35 Catalina Lane (Sheet G Lot 299) requesting variance to encroach 15 feet into the 20 foot required front yard setback (on Biscayne Parkway) to construct an attached single-story 25'x30' home addition. R18 Zone, Ward 3.**

Voting on this case:

Gerry Reppucci

Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Guy Normand, 35 Catalina Lane, Nashua, NH. Mr. Normand said that the addition would be 25'x30' for a bedroom and bathroom. He said that it shows on the drawing a 6'x14' porch off of the bedroom, it's not in the request.

Mr. Reppucci asked if there are any architectural drawings that shows what the addition would look like.

Mr. Normand said that they don't, they didn't want to spend all that money on an architect at this point. He said that the addition will be a single story, and the roof line will tie in to the existing roof line.

Mr. Currier said that the addition might be close to Biscayne Boulevard, and asked if the addition would be in character with the properties in the neighborhood.

Mr. Normand said he believes it will tie in to the other houses in the neighborhood. He said it will tie in very well. He said that in the pictures it shows where it's roped off.

Mr. Reppucci asked if in the pictures, if it's a driveway area where there's no grass.

Mrs. Normand said it's an old driveway, it's just dirt, sometimes a trailer is parked there.

Mr. Reppucci said that there would be 15 feet from the addition to the street, and the aesthetics change if cars are parked right there. He asked if cars would be parked on that pad there that would go right onto the street, and asked if he'd have any problem if the Board were to put on a restriction.

Mr. Normand said he does have his trailer, and he can't park in the street anyways. He said that his trailer is 16 feet long.

Mr. Currier asked if there is a garage on the house.

Mr. Normand said that there is a two-stall garage on the other side of the house.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, which is a reasonable expansion, with a special condition that it is a single-story addition, of which the roof line will be appropriately matched to the house.

Mr. Currier said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Currier said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

9. **Danny Rondon & Katherine Rondon-Escalera (Owners) 14 Carroll Street (Sheet 138 Lot 70) requesting the following: 1) special exception to maintain an existing accessory (in-law) dwelling unit; and the following variances: 2) to exceed maximum square footage of accessory dwelling unit, 700 sq.ft permitted, 853.5 sq.ft proposed; and 3) to exceed maximum floor area for an accessory dwelling unit, 30% allowed - 40% proposed. R9 Zone, Ward 1.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Rob Shaw

Katherine Rondon & Danny Rondon, 14 Carroll Street, Nashua, NH. Ms. Rondon said that the application is pretty thorough, and said that she is trying to legalize the in-law apartment that is there since the home was purchased 15 years ago, it was there when the home was purchased. She said that she had to have her boiler replaced, and when the inspection was set up, it came to light and said that she is working to get it legalized.

Mr. Currier asked what relative is living there.

Mrs. Rondon said it's her cousin, and her brother lived there before.

Mr. Currier asked a about the requirement for egress windows on the plan.

Mrs. Rondon said it's a window that can be pushed out, it has a little ladder that you step up to get out. She said she has permits submitted for all the work that is required.

Mr. Shaw asked about the criteria for approval, and asked if she is familiar with them.

Mrs. Rondon said she wasn't aware of them, and was given a copy of the ordinance. Mr. Shaw read them, and she said that she'll be able to meet all of them.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner, with both of the dimensional variances considered collectively. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, which is to essentially to maintain an in-law apartment in the basement, and the math for the size and percent is a little over the requirements.

Mr. Currier said that the proposed use would be within the spirit and intent of the ordinance to have the in-law apartment as described in the application.

Mr. Currier said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner for the accessory dwelling unit.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

MOTION by Mr. Currier to approve the special exception for the in-law apartment as advertised, on behalf of the owner.

Mr. Currier stated that the use is listed in the Table of Uses, Section 190-32. He stated that the use will not create undue traffic congestion or unduly impair pedestrian safety, it will not overload public water, drainage or sewer or other municipal systems.

Mr. Currier said that all special regulations are fulfilled per testimony of the applicant. He said that it will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of residents.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

10. **Douglas Juonis (Owner) MET General Contracting, Inc. (Applicant) 6 Bitirnas Street (Sheet 70 Lot 25) requesting variance to exceed maximum accessory use area, 40% allowed, 102% proposed, to construct a 1,200 sq.ft garage addition to existing garage, along with a 363 sq.ft carport addition. RB Zone, Ward 4.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay

Rob Shaw

Douglas Juonis, 8 Bitirnas Street, Nashua, NH. Mr. Juonis said that he also owns 6 Bitirnas, 28 Bitirnas, and two other lots on the street. He said that two years ago, his neighbors tree fell on the barn and destroyed it, and wants to build a new one that is somewhat larger.

Mr. Currier said that the proposal is pretty clear from the plot plan and the drawings that were submitted. He said that the lots here are very long, going down to the river, and thought the request is in keeping with the character of the neighborhood.

Mr. Shaw asked if there will be any living space in the structure.

Mr. Juonis said no.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Letter from Marilyn Forest, read into the record. She said that twice, wind storms have brought down limbs onto Mr. Juonis's garage. She said that she is concerned that a future wind event could bring down another tree, or limb. She said she didn't mind if he were to cut down any tree on her property within 50 feet of the property line, at his expense.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS – REBUTTAL:

Mr. Juonis said that he'd have to show that letter to his attorney before he'd agree to that.

Mr. Reppucci said that her trees on her property don't really have much to do with the request before the Board.

Mr. Juonis was given a copy of the letter from Mrs. Forest.

MOTION by Mrs. MacKay to approve the variance application as advertised on behalf of the owner. Mrs. MacKay said that the variance is needed to enable the applicant's proposed use of the

property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, as per testimony, the barn was taken by a tree, and the applicant wants to replace it.

Mrs. MacKay said that the proposed use would be within the spirit and intent of the ordinance.

Mrs. MacKay said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

11. **Jacqueline T. Whelan (Owner) 38 Balcom Street (Sheet 95 Lot 19) requesting the following variances: 1) minimum lot area, 6,000 sq.ft required, 5,914 sq.ft proposed for one lot, and 2) minimum lot area, 6,000 sq.ft required, 5,914 sq.ft proposed for second lot – to re-subdivide one lot into two lots to construct an additional single-family home. RB Zone, Ward 6.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Rob Shaw

Richard Maynard, Maynard & Paquette Engineering, East Pearl Street, Nashua, NH. Mr. Maynard said that the lot has frontage on three streets, Balcom, National and Sacred Heart Drive. He said each of the proposed lots would be 5,914 square feet in size, which is in character with the other lots in the neighborhood.

Mr. Maynard said that in 2005, the previous owner consolidated the lots by caveat, into one lot. He said that the owner would like to re-subdivide and return the property into two lots as originally created by the 1955 subdivision plan #1149.

Mr. Maynard said that the public interest would be served in the re-creation of a buildable lot for an affordable single-family home. He said that the proposed lots would be just under the 6,000 square foot size requirements, it's 1.5% less than the 6,000 square foot. He said that the lots would be in character with the neighborhood.

Mr. Maynard said that substantial justice would be done, in that it would enable the owner to utilize the property in a similar manner as a majority of others in the neighborhood. He said that there will be no negative impact on property values, some may say that a new home would increase values.

Mr. Maynard said that the public or private rights of others will not be impacted, and the request is in character with the neighborhood, most all of the lot sizes are similar to the ones requested.

Mr. Reppucci said it's such an incredibly small percentage below the requirements, it's indistinguishable.

Mr. Shaw said that it's a very minor relief.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Shaw to approve the variance application as advertised on behalf of the owner, with both requests considered collectively. Mr. Shaw said that the variance is needed to enable the applicant's proposed use of the property, which is to revert the property back to how it was originally been divided into two lots, and the vast majority of the lots in this area from the original 1955 plan are non-conforming, and as noted, these proposed lots would be more conforming to the neighborhood and will seek a balance as to how these lots are situated.

Mr. Shaw said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Shaw said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served.

SECONDED by Ms. Vitale.

MOTION CARRIED UNANIMOUSLY 5-0.

MOTION by Mr. Reppucci that he'd like to re-open the case for the Koppers (Beazer) site again, at 2 Hills Ferry Road, to amend his motion to approve it, to say that we will incorporate the Conservation Commission meeting minutes into our record. He said that the reason why is that he failed to do it on the original motion, and if that case ever gets to Court, it has to be part of our record.

Mr. Reppucci said that it's still within the 30-day appeal period, so the Board can open it up if we want to. He said he doesn't want to change anything else, it's only to have in the record that we are incorporating the Conservation Commission's meeting minutes, he said it's usually the Board's practice anyways.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

MOTION by Mr. Reppucci to amend the Motion to approve to say that we should include the associated Conservation Commission meeting minutes into our record for the Beazer property case.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REGIONAL IMPACT:

The Board determined that there are no cases of Regional Impact.

REHEARING REQUESTS:

None.

MINUTES:

3-22-16:

MOTION by Mr. Currier to approve the minutes, waive the reading, and place them in the permanent file.

SECONDED by Mrs. MacKay.

MOTION APPROVED UNANIMOUSLY 5-0.

ADJOURNMENT:

Mr. Reppucci called the meeting closed at 10:26 p.m.

Submitted by: Mr. Boucher, Clerk.

CF - Taped Hearing