

1. Zoning Board Of Adjustment Regular Webex Agenda(PDF)

Documents:

[20200623 ZBA AGENDA.PDF](#)

2. 20200623 ZBA Case Packets

Documents:

[20200623 7 PLUM DR.PDF](#)

[20200623 158 AMHERST ST.PDF](#)

3. 20200623 ZBA Decision Sheets

Documents:

[20200623 ZBA DECISIONS.PDF](#)



**City of Nashua**  
**Planning Department**  
229 Main Street  
Nashua, New Hampshire 03061-2019

Planning & Zoning 589-3090  
Fax 589-3119  
WEB [www.nashuanh.gov](http://www.nashuanh.gov)

June 8, 2020

The following is to be published on ROP June 14, 2020, under the Seal of the City of Nashua, Public Notice Format 65 MP 51.

The Zoning Board of Adjustment will meet on Tuesday, June 23, 2020 via WebEx. Real-time public comment can be addressed to the Board utilizing WebEx virtual meeting software for remote access. This will allow users to view the meeting and ask questions to the Board via the chat function. The public is also encouraged to submit their comments via email ([planningdepartment@nashuanh.gov](mailto:planningdepartment@nashuanh.gov)) to the Department email or by mail (please make sure to include your name/address and comments) by 5:00 p.m. on June 23, 2020 and read into the record at the appropriate time. Letters should be addressed to City of Nashua, Planning Department, P.O. Box 2019, Nashua, NH 03061. Plans can be viewed online starting June 17, 2020, at [www.nashuanh.gov](http://www.nashuanh.gov) in the Calendar or Agendas and Minutes.

To access WebEx:

<https://nashuanh.webex.com/nashuanh/j.php?MTID=mfe67c4820219f9315003dd0768ba577f>

Meeting number/access code: **129 683 6350**

Password: **e7EbrYPbt24**

To join by phone: 1 (408) 418-9388 - Meeting number/access code: **129 683 6350**

If you are not able to connect to WebEx, please contact the Planning Department at **(603) 589-3056**.

1. Andrew Cott & Jeannine LaBranche (Owners) 7 Plum Drive (Sheet B Lot 1724) requesting variance from Land Use Code Section 190-16 (E)(2) to construct an attached 12'W x 20'L x 5'-5"H deck to encroach 5 feet into the 40 foot required rear yard setback. R18 Zone, Ward 8.
2. 158 Amherst Street LLC (Owner) Hatch Plumbing and Heating LLC (Applicant) 158 Amherst Street (Sheet 51B Lot 113) requesting use variance to allow a plumbing office/shop. RA Zone, Ward 4.

OTHER BUSINESS:

1. Review of Motion for Rehearing:
2. Review of upcoming agenda to determine proposals of regional impact.
3. Approval of Minutes for previous hearings/meetings.

"SUITABLE ACCOMMODATIONS FOR THE SENSORY IMPAIRED  
WILL BE PROVIDED UPON ADEQUATE ADVANCE NOTICE."



**City of Nashua**  
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**VARIANCE APPLICATION (ZBA)**

**PLEASE NOTE: INCOMPLETE OR ILLEGIBLE APPLICATIONS WILL BE RETURNED TO APPLICANT.**

This application must be completed and submitted to the Planning Department no later than the dates listed on the Zoning Board of Adjustment (ZBA) schedule sheet. Please print clearly or type.

**I. VARIANCE INFORMATION**

1. ADDRESS OF REQUEST 7 Plum Dr.  
 Zoning District R18 Sheet 0000B Lot 01724

2. VARIANCE(S) REQUESTED:

Requesting a variance for a 20'Lx12'Wx5'5"H deck that would encroach approximately 92 sq. ft. over the rear 40' setback.

**II. GENERAL INFORMATION**

1. **APPLICANT / OPTIONEE** (List both individual name and corporate name if applicable)

(Print Name): Andrew Cott and Jeannine LaBranche

Applicant's signature [Signatures] Date 05/25/2020

Applicant's address 7 Plum Dr.

Telephone number H: 603-595-9226 C: 339-223-2564 E-mail: ENDICOTT9@YAHOO.COM

2. **PROPERTY OWNER (Print Name):** Andrew Cott and Jeannine LaBranche

\*Owner's signature [Signatures] Date 05/25/2020

Owner's address 7 Plum Dr.

Telephone number H: 603-595-9226 C: 339-223-2564 E-mail: ENDICOTT9@YAHOO.COM

\*Agents and/or option holders must supply written authorization to submit on behalf of owner(s).

**OFFICE USE ONLY** Date Received 5/25/20 Date of hearing 6/23/20 Application checked for completeness: CS

PLR# A20-0052 Board Action \_\_\_\_\_

\$ \_\_\_\_\_ application fee  Date Paid \_\_\_\_\_ Receipt # \_\_\_\_\_

\$ \_\_\_\_\_ signage fee  Date Paid \_\_\_\_\_ Receipt # \_\_\_\_\_

\$ \_\_\_\_\_ certified mailing fee  Date Paid \_\_\_\_\_ Receipt # \_\_\_\_\_

Land Use Code Section(s) Requesting Variances From: 140-16 (E)(2)

III. PURPOSE OF REQUEST

Answer all questions below. Provide as much information as available to give the ZBA the necessary facts to review your case. Attach additional sheets if necessary. See "Procedures for Filing a Variance" for further information.

- 1. Granting of the requested variance will not be contrary to the public interest, because: (The proposed use must not conflict with the explicit or implicit purpose of the ordinance and that it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

Granting this request will not be contrary to the public interest because many of the homes in this area have decks of similar size and the deck is located in the rear of the house and not visible from the street.

- 2. The proposed use will observe the spirit of the ordinance, because: (The Proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

The proposed use does not conflict with the purpose of the ordinance and doesn't alter the essential character of the neighborhood given the small degree of encroachment over the setback, in our opinion.

- 3. Substantial justice would be done to the property-owner by granting the variance, because: (The benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

We very much enjoy living in our neighborhood and our back yard in particular. We would like to be able to walk out of our back door and onto the proposed deck in the same way our neighbors do.

- 4. The proposed use will not diminish the values of surrounding properties, because: (The Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

The proposed deck, built with pressure-treated lumber and composite decking, will enhance the property and increase its value and will not diminish the value of neighboring properties. The old deck that was removed was worn out; the new deck would be a significant improvement, both structurally and aesthetically.

- 5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship, because: (The applicant must establish that because, because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way. Also, you must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood. Alternatively, you can establish that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.

The requested deck height of 5'5" exceeds I UC 190-16E(2) by only 1'5" and granting the variance would allow the deck to be level with the back door of the house. Our elderly family members would enjoy visiting with us outside and the ability to safely walk directly out of the main living level would be very valuable to all of us.

IV. USE VARIANCE ADDITIONAL INFORMATION

Please answer all questions below that are applicable. Your answers to these questions will allow staff to better understand your request.

- a. Total number of employees [ ] Number of employees per shift [ ]
- b. Hours and days of operation [ ]
- c. Number of daily and weekly visits to the premises by customers, clients, vendors and solicitors [ ]
- d. Number of daily and weekly commercial deliveries to the premises [ ]
- e. Number of parking spaces available [ ]
- f. Describe your general business operations:

[ ]

[ ]

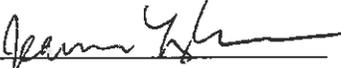
- g. Describe any proposed site renovations, including, but not limited to – landscaping, lighting, pavement, structural changes, signage, access and circulation:

[ ]

[ ]

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all the city ordinances and state laws regulating construction. I understand that only those point specifically mentioned are affected by action taken on this appeal.

  
 Signature of Applicant



5/25/2020  
 Date

ANDREW COTT AND JEANNINE LABRANCHE  
 Print Name

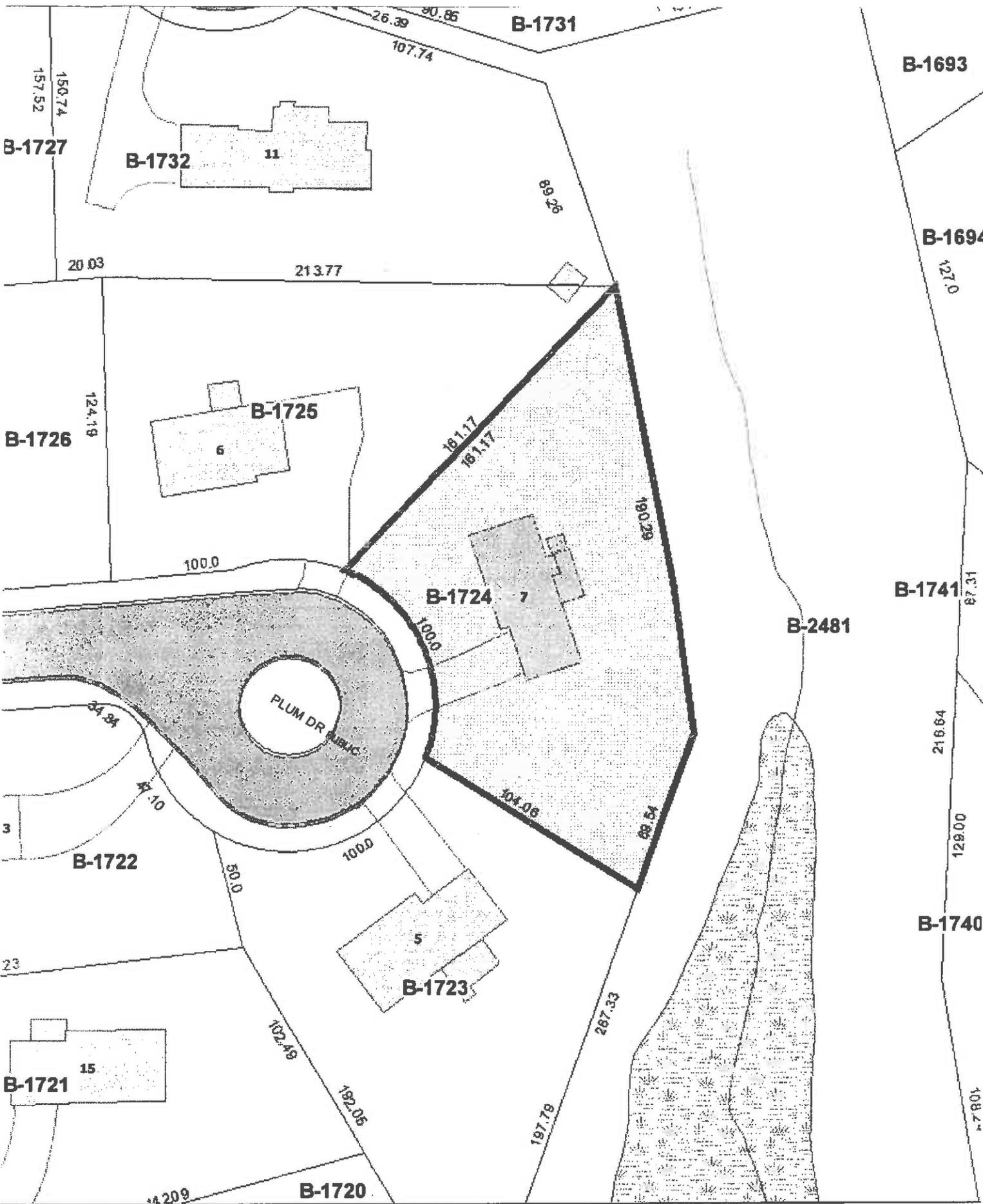
5/25/2020  
 Date

The staff report for a Use Variance request will be available no later than Friday of the week before the ZBA meeting. If you would like a copy, please indicate below:

I will pick it up at City Hall

Please email it to me at ENDICOTT9@YAHOO.COM

Please mail it to me at [ ]

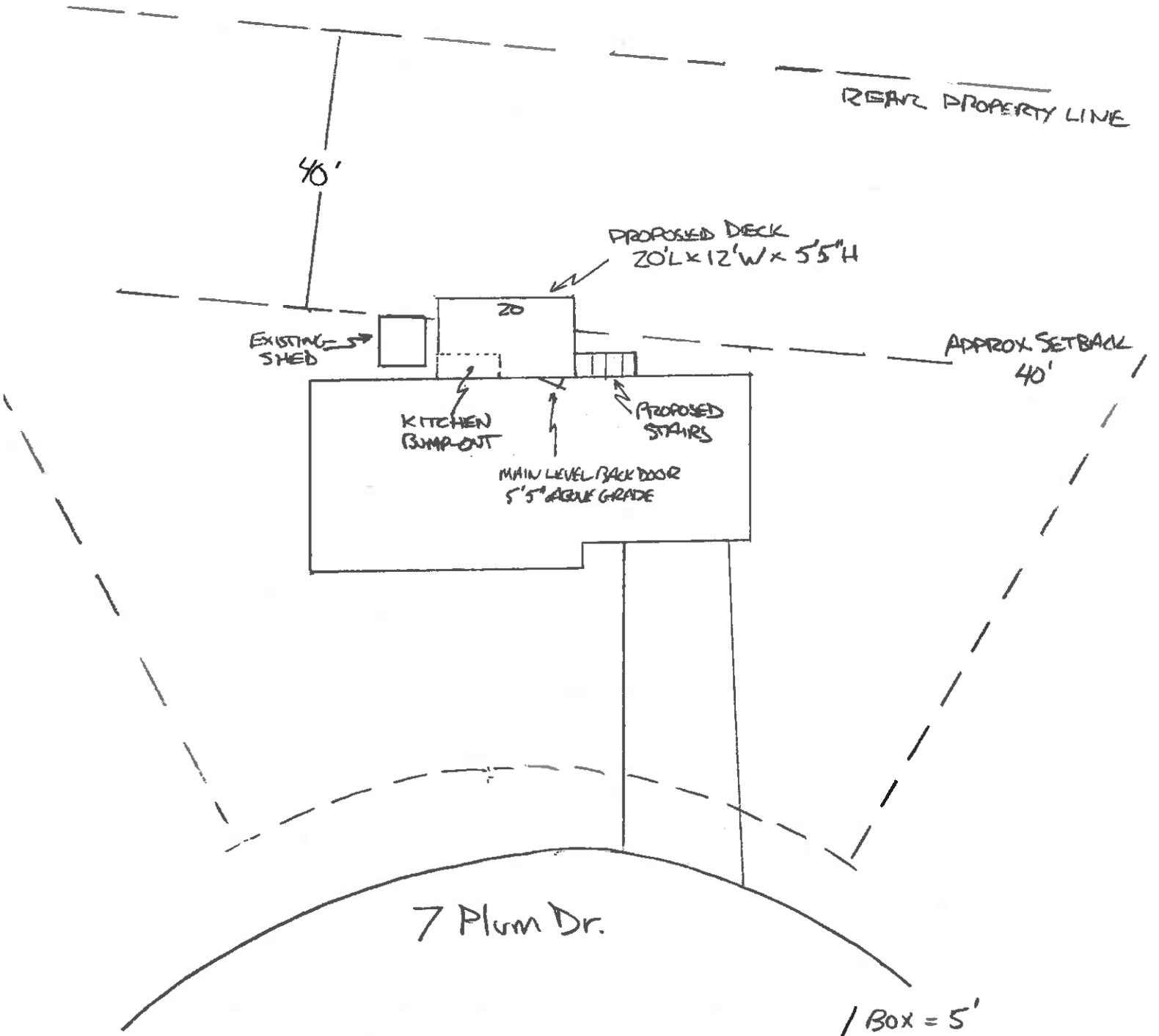


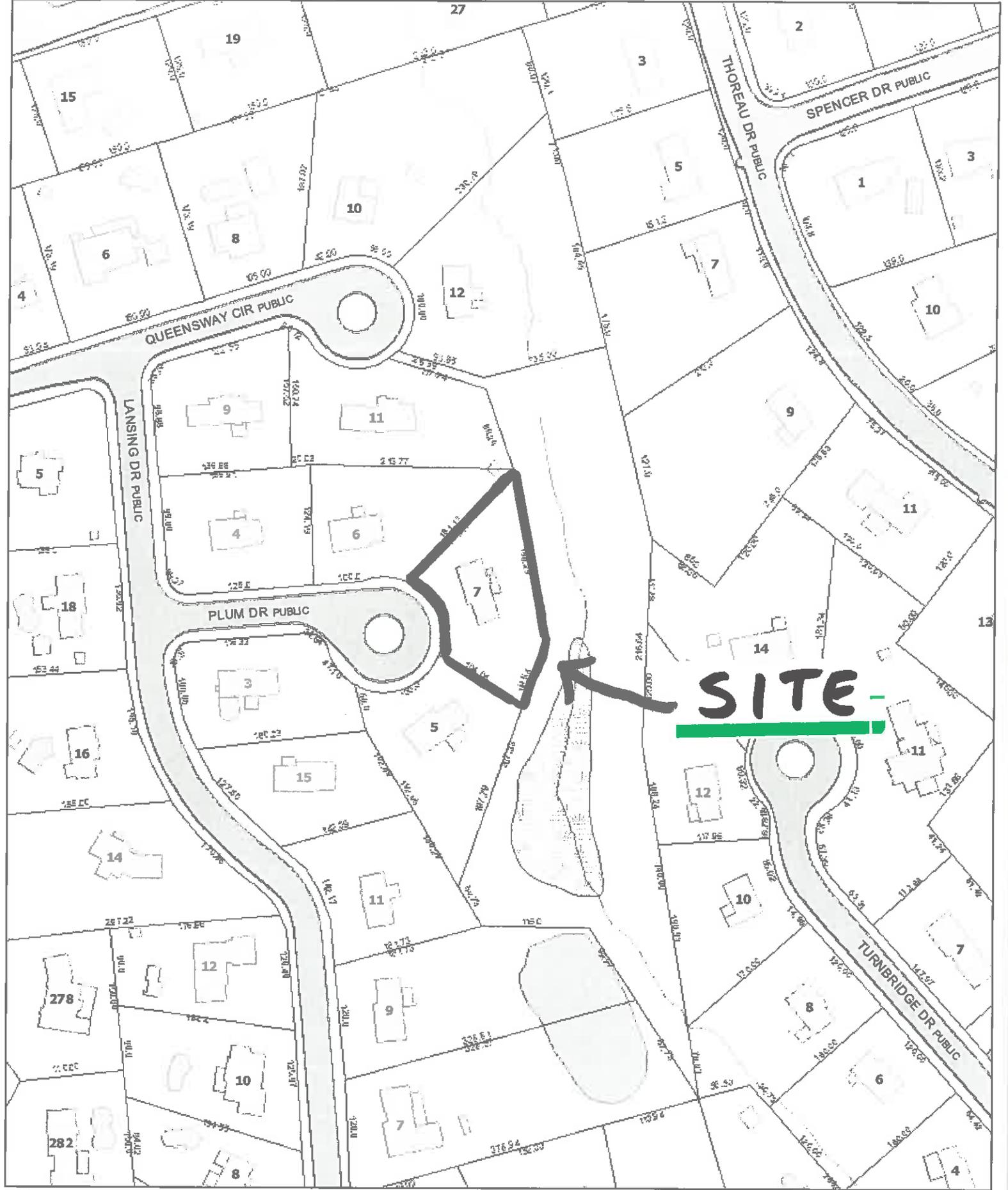
# 7 Plum Drive





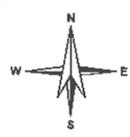
# Old Maid Brook





**SITE**

# 7 Plum Drive





**City of Nashua**  
**Planning Department**  
 229 Main Street  
 Nashua, New Hampshire 03061-2019

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**VARIANCE APPLICATION (ZBA)**

**PLEASE NOTE: INCOMPLETE OR ILLEGIBLE APPLICATIONS WILL BE RETURNED TO APPLICANT.**

This application must be completed and submitted to the Planning Department no later than the dates listed on the Zoning Board of Adjustment (ZBA) schedule sheet. Please print clearly or type.

**I. VARIANCE INFORMATION**

1. ADDRESS OF REQUEST 158 Amherst Street  
 Zoning District RA Sheet 61B Lot 113

2. VARIANCE(S) REQUESTED:

Plumbing office / shop

**II. GENERAL INFORMATION**

1. **APPLICANT / OPTIONEE** (List both individual name and corporate name if applicable)

(Print Name): Hatch Plumbing and Heating LLC (Matthew Hatch)  
 Applicant's signature [Signature] on behalf Hatch P&H LLC Date 5-26-2020  
 Applicant's address 204 Jenison Rd Milford NH 03055  
 Telephone number H: 603-547-8899 C: 547-8899 E-mail: MatthewH@hotmail.com

2. **PROPERTY OWNER** (Print Name): 158 Amherst Street LLC

\*Owner's signature [Signature] on behalf of 158 Amherst St LLC Date 5-26-2020  
 Owner's address 158 Amherst Street NASHUA, NH 03064  
 Telephone number <sup>B</sup> N: 603/880-7660 C: \_\_\_\_\_ E-mail: harold@AcePrintingCompany.com

\*Agents and/or option holders must supply written authorization to submit on behalf of owner(s).

<b>OFFICE USE ONLY</b>	Date Received _____	Date of hearing _____	Application checked for completeness: <u>LF</u>
PLR <u>A20-0053</u>	Board Action _____		
\$ _____ application fee <input type="checkbox"/>	Date Paid _____	Receipt # _____	
\$ _____ signage fee <input type="checkbox"/>	Date Paid _____	Receipt # _____	
\$ _____ certified mailing fee <input type="checkbox"/>	Date Paid _____	Receipt # _____	
Land Use Code Section(s) Requesting Variances From: <u>190-15, Table 15-1 # 149</u>			

III. PURPOSE OF REQUEST

Answer all questions below. Provide as much information as available to give the ZBA the necessary facts to review your case. Attach additional sheets if necessary. See "Procedures for Filing a Variance" for further information.

- 1. Granting of the requested variance will not be contrary to the public interest, because: (The proposed use must not conflict with the explicit or implicit purpose of the ordinance and that it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

The applicants business will be minimal traffic and not a store front, and not be open to the general public

- 2. The proposed use will observe the spirit of the ordinance, because: (The Proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

The property will not change in its intended use

- 3. Substantial justice would be done to the property-owner by granting the variance, because: (The benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

The property will be a perfect fit for our plumbing service business and our office.

- 4. The proposed use will not diminish the values of surrounding properties, because: (The Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

Because the use of the property will not change. And will fit in with the surrounding properties.

- 5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship, because: (The applicant must establish that because, because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way. Also, you must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood. Alternatively, you can establish that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.

The property is set up for commercial use. There is no kitchen or bath for a residence.

IV. USE VARIANCE ADDITIONAL INFORMATION

Please answer all questions below that are applicable. Your answers to these questions will allow staff to better understand your request.

- a. Total number of employees 4 Number of employees per shift 4
- b. Hours and days of operation M-F 8-5
- c. Number of daily and weekly visits to the premises by customers, clients, vendors and solicitors 1 Salesman
- d. Number of daily and weekly commercial deliveries to the premises Once daily
- e. Number of parking spaces available 7
- f. Describe your general business operations:

Office space and storage. A place to house service vans.

- g. Describe any proposed site renovations, including, but not limited to – landscaping, lighting, pavement, structural changes, signage, access and circulation:

New sign for Plumbing Company

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all the city ordinances and state laws regulating construction. I understand that only those point specifically mentioned are affected by action taken on this appeal.

[Signature]  
Signature of Applicant

5-26-2020  
Date

Matthew H. Hatch  
Print Name

5-26-2020  
Date

The staff report for a Use Variance request will be available no later than Friday of the week before the ZBA meeting. If you would like a copy, please indicate below:

I will pick it up at City Hall

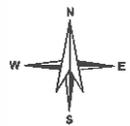
Please email it to me at \_\_\_\_\_

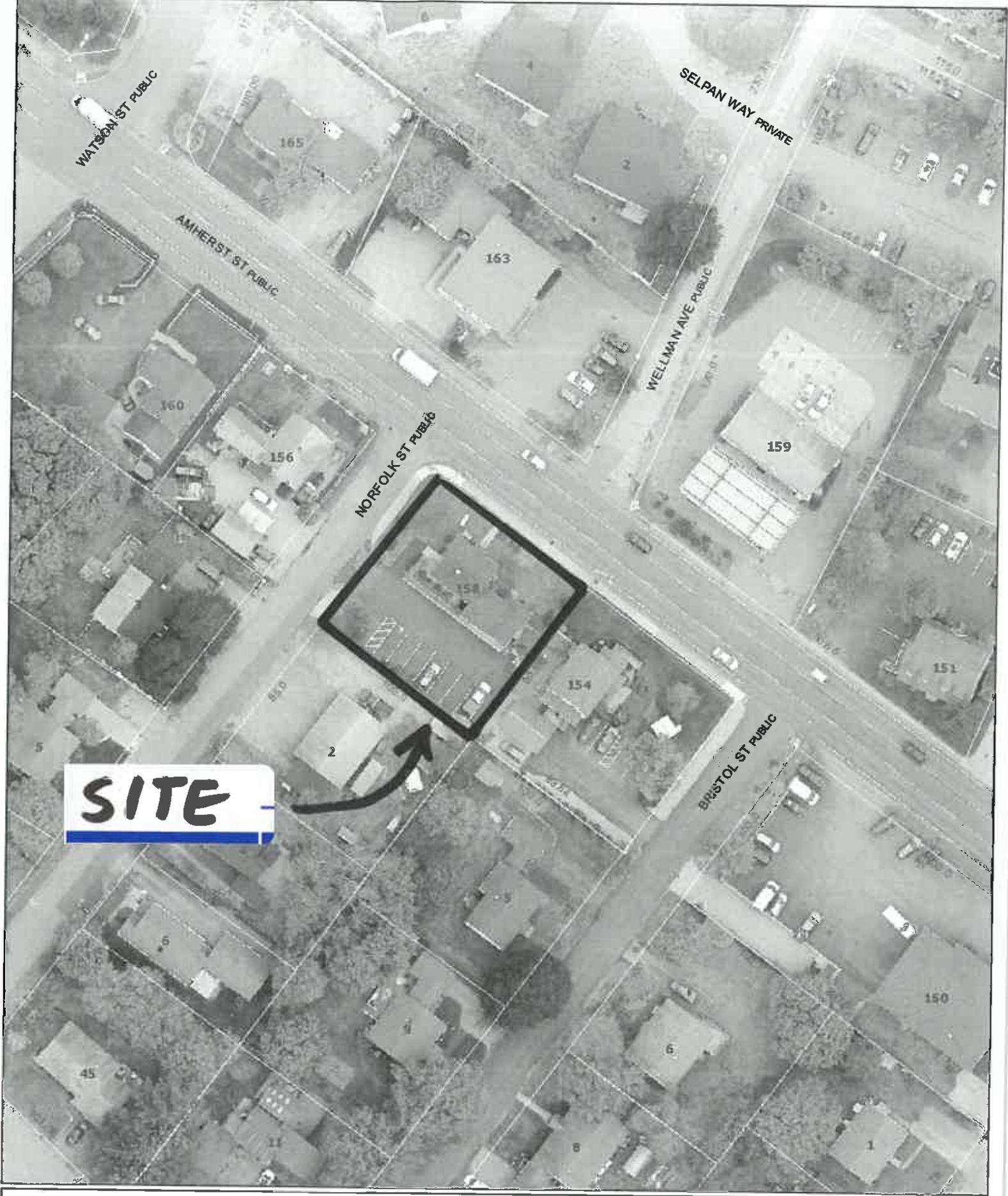
Please mail it to me at 204 Jennison Rd Milford NH 03055



**SITE**

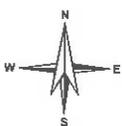
# 158 Amherst St





**SITE**

# 158 Amherst St







this criteria. Mr. Reppucci stated that the request is within the spirit and intent of the ordinance, per testimony, it will not adversely affect the property values of surrounding parcels, there was no negative opposition on this. Mr. Reppucci stated that the request is not contrary to the public interest, it should be advantageous to make it easy for people to find the school, and substantial justice is served to the general public to have these signs.

Mr. Reppucci said that the special conditions are that the sign will not be an electronic message changing sign, and that all lighting on the signs is to be off at 10:00 p.m.

**SECONDED** by Ms. Vitale. Ms. Vitale went over all the benefits of the sign, for both the school and for the community, she said it is comparable to other private schools and estates, and will be a benefit to the neighborhood.

Mr. Reppucci reiterated the positive aspects of the signage and landscaping.

**MOTION CARRIED 3-1 (Mr. Currier).**

3. Paul E. Grigas (Owner) 158 Amherst Street (Sheet 61B Lot 113) requesting use variance to convert a single family home to professional offices. RA Zone.

Voting on this Case:

Sean Duffy

Jack Currier (acting as Chair for this case)

Bob Carlson

Robert Shaw

Kathy Vitale

Attorney Gerald Prunier, 20 Trafalgar Square, Nashua, NH. Atty. Prunier identified the location, proposed for professional office space. He said this part of Amherst Street is in transition, and has been for a long while, changing from residential to commercial. Atty. Prunier identified the surrounding parcels, most all of them are commercial. He said some of the buildings which appear to be single-family residences already have some type of office use, like a chiropractor, and an insurance office.

Atty. Prunier said the traffic has increased on Amherst Street

as well, and no one is going to live in a single-family house in this location due to the traffic.

Atty. Prunier said that with the Belanger v. Nashua case, the Court said that the City must change their zoning ordinance to reflect the current character of the neighborhood. He said with the surrounding parcels, it doesn't make sense for single family any more, while a professional office would be more appropriate for the neighborhood, it would be a more reasonable use and would not be out of character, as the building has been renovated and cleaned up significantly.

Mr. Reppucci asked about the required parking.

Atty. Prunier said there will be nine spaces, which would meet the ordinance for office parking spaces. He said the attached garage will be used as part of the office space.

Mr. Carlson asked if the house has been renovated as residential, or for office.

Atty. Prunier said it's been renovated, but his client hasn't taken out the kitchen yet.

Ms. Vitale asked about the future use of this part of the City, in the Master Plan.

Mr. Falk said the Future Master Plan Map identifies this area as Commercial use.

Mr. Shaw asked if the garage is to be functioning.

Atty. Prunier said it will be used as part of the office space.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No One.

**MOTION** by Mr. Duffy to grant the use variance on behalf of the applicant. Mr. Duffy stated that a zoning restriction as applied interferes with a landowner's reasonable use of he

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING

May 27, 2008

Page 10

property, considering the unique setting of the property in its environment, this is located in one of the highest traffic corridors of a State owned thoroughfare in the City of Nashua, it is an area in transition over a number of years, even though single-family homes are a permitted use in this area, and the abutters are both commercial, and commercial is across the street, and the essential character of the neighborhood is one in transition. Mr. Duffy stated that the request is within the spirit and intent of the ordinance, a site plan will be required so there will be quite a lot of additional review, it is a less intensive use than any of the abutting properties, and is less intrusive, it is in keeping with the area.

Mr. Duffy stated that the request will not adversely affect the property values of surrounding parcels, and there was no expert testimony, it is not contrary to the public interest, and substantial justice is served with reasonable development rights in this area.

**SECONDED** by Mr. Carlson.

**MOTION APPROVED UNANIMOUSLY 5-0.**

**REGIONAL IMPACT:**

The Board did not see any items of Regional Impact on the next agenda.

**MINUTES:**

May 13, 2008:

**MOTION** by Mr. Currier to waive the reading and place these minutes on file.

**SECONDED** by Mr. Shaw.

Mr. Currier said the minutes should reflect him as Clerk, not Acting Clerk. Mr. Falk will make the appropriate changes.

**MOTION CARRIED UNANIMOUSLY 5-0.**

Mr. Falk said he contacted Corporation Counsel to meet with the Board, and hasn't heard a response back yet.

Ms. Vitale said that when this ordinance was proposed by Ald. Teeboom, maybe it wasn't discussed as thoroughly as it could have been in the case of meeting that three to zero vote, and an applicant having to convince 100% of three members versus a percentage of five members. She said that convincing 100% of three members sometimes is a different dynamic than three out of five members.

Mr. Falk said the very next case on the agenda has been postponed two or three times, because the applicant wasn't ready due to contract and purchase and sale issues. He said that hypothetically, what if an applicant came to the meeting, and said that their engineer, architect and other members of their group are stuck in traffic and can't make it to the meeting, if this ordinance were to hold true, would the Board insist they make a presentation even though under the circumstances they are not able to? He said the Board cannot force someone to testify for a case if they're not ready to.

Mr. Reppucci said that would be a valid reason to table a case, but what we're addressing is the specific ordinance that the Aldermen put forward that forbids tabling cases with less than five Board members. He said right now, there are three members here, not five, and that's why they want to table the case.

Mr. Currier said he wants to make a motion to table this case, because everyone here in the audience with an interest in the case does not have an objection to tabling it. He said although he may take some heat by doing this, but in this case, it's the right thing to do.

**MOTION** by Mr. Currier to table this request to the January 13, 2009 meeting.

**SECONDED** by Ms. Vitale.

**MOTION CARRIED UNANIMOUSLY 3-0.**

- 
4. Paul E. Grigas (Owner) 158 Amherst Street (Sheet 61B Lot 113) requesting use variance to convert a previously approved professional office into a printing company. RA Zone. Ward 4. [POSTPONED FROM THE OCTOBER 28, 2008 MEETING]

Voting on this Case:

Jack Currier

Kathy Vitale

Gerry Reppucci

Attorney Gerald Prunier, 20 Trafalgar Square, Nashua, NH. Atty. Prunier stated that he wanted to incorporate the past proceedings and evidence for Paul Grigas for the variance earlier granted at this site into the record. He said this request is for a printing company, and this use is not much more than an office use.

Atty. Prunier passed out pictures that the applicant took of the printing machines that they will have. The larger machines will be in the garage, and the site will look the same. He said most of the equipment is normal copying equipment that any office has. The only difference is the larger machines in the garage. He said that there will be very little traffic, maybe a few cars per day, most of the work is done over the phone, and there are two employees. He said this is not like a newspaper printing business, it is very small, it is a professional office-type of setting.

Mr. Reppucci asked if there are any ventilation issues with the inks or solvents.

Atty. Prunier said there are no issues, they have an existing shop and everything is fine.

Ms. Vitale stated that about 4.4% of the business is retail oriented, and if there will be walk-in customers.

Atty. Prunier said there will be no self-serve.

Atty. Prunier said that the machines they use are very quiet, as shown in the pictures.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No One.

**MOTION** by Mr. Currier to grant the use variance on behalf of the owner, Paul Grigas. Mr. Currier stated that the zoning restriction as applied interferes with the landowners reasonable use of the property, considering the unique setting of the property in its environment, there are other businesses in this locale, low-impact businesses, and as testified, this printing business, although not previously approved professional office, is also, by testimony, is a low-impact business, therefore, by having a printing business, it's within the spirit and intent of the ordinance, it will not adversely affect the property values of surrounding parcels, the printing business is not contrary to the public interest, and by allowing this use, substantial justice is served.

**SECONDED** by Ms. Vitale.

**MOTION CARRIED UNANIMOUSLY 3-0.**

Attorney Prunier said that he has historically stated that if there's less than five members present, that he's reserving this as a right to go to Court, because this is an important issue. He said to all the applicants, as well as the abutters, they should have a full Board, and said he never heard of the ordinance that requires you to go forward with less than a full Board, and all the Attorneys he knows, unanimously, feel this ordinance is unconstitutional and unfair to both sides, and that applicants are entitled to a 5 member vote, and this is what the State Legislature wanted, you can go with less members, it is up to the applicant, but stated that this ordinance should be looked at again. He said he'd like to take another look at it with some of the Aldermen to get it repealed, and to let all of us have notice of an ordinance.

Mr. Reppucci said the process has already started, with a letter to the Corporation Counsel.

**REHEARING REQUESTS:**

None.

**REGIONAL IMPACT:**

The Board did not see any items of Regional Impact on the next agenda.

**MOTION** by Mr. Boucher to approve the special exception request on behalf of the owner, with five children.

Mr. Boucher said that it is listed in the Table of Uses, Section 190-47.

Mr. Boucher said it will not create undue traffic congestion or unduly impair pedestrian safety, the supporters of this application feel that five children would be a lesser incursion and impact than nine.

Mr. Boucher said it will not overload public water, drainage, sewer or other municipal systems.

Mr. Boucher said that all special regulations are fulfilled, from the child care special regulations for a facility located within a dwelling, per testimony of owner.

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

**SECONDED** by Mr. Minkarah.

**MOTION CARRIED 3-1 (Mr. Currier).**



7. 158 Amherst Street LLC (Owner) Ali Bird/Zoomies LLC (Applicant) 158 Amherst Street (Sheet 61B Lot 113) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#27) to allow a dog daycare and boarding business. RA Zone, Ward 4.

Voting on this case:

JP Boucher, Chair  
Mariellen MacKay, Clerk  
Jack Currier  
Jay Minkarah

Ali Bird, Zoomies, 34 Franklin Street, Nashua, NH. Ms. Bird said that this business has been an initiative of hers for a number of years, and doesn't take the request lightly.

Ms. Bird said that she would be open during the business week only, while boarding would be available 7 days a week, but with drop-offs being by appointment only during the day. She said that accommodations for boarding would only be inside, with 24/7 on-site staff supervision. She said that to meet industry standards, they should have approximately 15 dogs, and there would be 1-2 staff members on site at any given time.

Ms. Bird said for parking, many facilities have more dogs than recommended for best management practices, between 70-100 square feet per dog, and many facilities are staffed by younger, less experienced employees, who are not really trained to keep dogs safe, happy and quiet. She said that they'll use several techniques to keep the dogs quiet, and a majority of the time, they'll be indoors, but they'll need 3-5 bathroom breaks during their stay. She said that they'll put up a solid fence so that the dogs won't see activity on the other side, and all dogs will be supervised at all times, and each dog will get two hours of rest time. She said that they have the option of installing sound-proofing panels inside, as well as windows, which will also help to block outside stimulus. She said that the dogs will not be left outside unattended to bark.

Ms. Bird said that they are looking to move the outdoor area to the corner of the lot, and will keep the seven parking spaces as they are. She said that the average duration of a dog care drop-off and pickup is under 60 seconds, sometimes under 20 seconds, as owners are on their way to/from work and don't have time to chat, and want a short stop. She said that drop-offs and pickups will be staggered, with dogs arriving anywhere from 8:00 am to the noon time frame, and said that the parking lot will never be full at any given time. She said that Granite State Dog Training on 101A has 50 dogs, and have 8 parking spaces.

Ms. Bird said for waste management, with the bags tied appropriately, and the can top on tightly, the odor cannot be detected from a few feet away. She said that the waste will be taken away immediately after it's made, and she will insure that the property will be clean. She said that for the urine, there will be artificial pet grass, with several layers underneath that break down urine and filter the odor, and it will be sprayed down regularly, and neighbors will not smell it.

Ms. Bird said that for fencing, they'll have a minimum of an 8-foot high fence, and will be solid, and underneath it, there will be netting and wiring so they cannot dig out.

Ms. Bird said that they will not be having dogs out on leashes outside the premises, the owners will bring them in and out, there will be no walking around the neighborhood. She said that they are not the noisy, unattended dog day care center.

Mr. Minkarah asked if she has looked at other properties.

Ms. Bird said that they've been looking for several months, and had another site in mind but it didn't work out. She said that there are not a lot of properties that would fit this type of use. She said that she's attracted to this site because it fits their needs, and doesn't need a lot of work to get up and operating, and it will be a smaller, more personal use, a more homey feel.

Mr. Currier asked about the astro-turf.

Ms. Bird said that there is a layer of artificial grass on top, and three or four layers underneath, followed by crushed gravel, or crushed stone, and it helps liquids wash away and get filtered, instead of sitting on the top, and there is an odor material that looks like ice-melt.

Mr. Boucher said that he heard of an 8-foot tall fence, and said that any fence over 6 feet in height would require a variance, and the Board cannot consider a fence over 6 feet tonight.

**SPEAKING IN FAVOR:**

Amy Weber, 16 Shady Lane, Nashua, NH. Ms. Weber said that her dog stays with Ali. She said that drop-off and pickup with her is very quick and easy, and has never experienced a long drop-off time.

George Stergion, 15 Cimmarron Drive, Nashua, NH. Mr. Stergion said that he is the Realtor for this transaction. He said that there is no data on whether or not this use would impact property values as compared to the use that is there now. He said that there is a need out there for dog care businesses. He said that Ali has really good control over her business.

Harold Brodell, 158 Amherst Street, Nashua, NH. Mr. Brodell said that most of the area around here is current businesses. He said that there is no current evidence that property values will go down. He said that the owner has addressed the odor from dog waste. He said that Ali is very well versed about the dog industry.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

James Hogan, 51 Pine Hill Avenue, Nashua, NH. Mr. Hogan passed out a letter to the Board members. Mr. Hogan said that he heard that six dogs barking is the equivalent of 87 decibels. He said that another report had it at 118 decibels, and a jackhammer has 110 decibels. He said that his wife and himself are highly opposed to the request. He said that in his opinion, the applicant has not satisfied any of the conditions for approval. He said that the current printing business is quiet all day. He said that the dog business does not meet any of the points of law.

Marilyn Hogan, 51 Pine Hill Avenue, Nashua, NH. Mrs. Hogan agreed with her husband's statements. She said that they can see the parking area and back of the property at 158 Amherst Street. She said that she has talked to several neighbors, on Norfolk Street and Milford Street, and they are not in favor of the application. She said that dogs will be barking, and neighbors will hear everything. She said that this is a quiet, small neighborhood, and that's what the homeowners want.

Steven Debona, 7 Bristol Street, Nashua, NH. Mr. Debona said that he emailed a letter to the Board. He said for property values, he believes that they will go down.

Mr. Currier said that occasionally, the Board gets conflicting letters about property values, some say that they'll go down, others say they will not go down.

Mr. Debona said that a lot of dog businesses are in commercial areas, or industrial zones, and this site is in a residential area. He said that when fire trucks go by, his dogs bark. He read his email letter into the record.

Thomas Hogan, 14 Orlando Street, Nashua, NH. Mr. Hogan said that when he is at his parents' house, and looks out the window, the proposed dog business is very close, and any noise made by

the dogs will be hears. He said that it appears as if the plan is changed for the outside area for the dogs, to be at the corner, but putting in soundproofing and the fence, and AstroTurf for the dogs, and the chemical substance in the AstroTurf, is quite a bit for change to the site. He said that 20 dogs worth of bathroom events is a lot, especially with dogs being held overnight. He said that this is not the place for this use.

Tim Hogan, 29 Sullivan Street, Nashua, NH. Mr. Hogan said that in his neighborhood, the dogs howl when the fire trucks go by, and if one dog starts barking, it'll set the other dogs off too. He said that Norfolk Street is a very narrow street, and said that he avoids it if he can, and putting any extra traffic on Norfolk Street is unacceptable. He said that he has a six foot high solid fence, and dogs still bark when he's in his back yard, through the fence.

Nancy Chabot, 5 Hooker Street, Nashua, NH. Ms. Chabot said that she owns NCC Business Solutions, at 154 Amherst Street. She said she submitted a letter to the Board. She said she is very concerned with this application. She said the fence at the property line is very close, about 15 feet away from the whole side of the building. She said that she runs a business here, and is on the phone most of the day, and the conference room is right in front, as well as an office, and said that even if they had three dogs, there would be no way for her to conduct business here, whether they're barking or not barking. She said that she was approved for a quiet office use by the Board, as the businesses on Amherst Street made a good buffer between Amherst Street and the residences, and said she's done everything she can to fit into the neighborhood. She said that the proposed use will be detrimental to her business and her property, and doesn't feel that this is the proper location for the dog care and boarding. She said that she came before the Board in 2011 and has taken great lengths to fit into the neighborhood.

Mr. Boucher read letters into the record in opposition from Andrea & Peter Wasluk, Attorney Jim Tamposi, and from Century 21.

**SPEAKING IN FAVOR - REBUTTAL:**

Ms. Bird said that this is Amherst Street, it's a main drag, and 24,000 vehicles travel on this road daily, there is a gas station right across the street, and it's not a quiet area. She said that if dogs are barking, they haven't been trained to not bark. She said that she trains dogs not to bark, and their behavior can change. She said that the curb appeal is for the outside appearance, and this property will be impeccable. She said her first degree is in Interior Design, and said that she cares how things look, and will have it clean. She said that the dogs will not be left alone if they are there overnight with the boarding dogs. She said that it will be a crate-free facility.

Mr. Boucher asked how many dogs will be there a day, including the overnight boarding.

Ms. Bird said that she wants a small enough operation that 1-2 people can manage it. She said she wants to leave it a little flexible, due to holidays. She said on an average basis 10-15 for daycare.

Mr. Boucher asked what the maximum number of dogs would be.

Ms. Bird said a total of 20 dogs.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:**

Mr. Tim Hogan said that there is a concern with the solid waste issues of storage and removal and odors. He said that there is a concern with the liquid waste and runoff. He said that there is still a concern with the fence height and at the intersection, it's a difficult turn from Amherst Street to begin with onto Norfolk Street, it's risky to put more traffic and activity there. He said that the neighbors just cannot support this application.

Mr. Minkarah said that he appreciated the applicant's presentation, it was very thorough and has no doubt it would be a competent business. He said that he doesn't believe that this is the right location for this use. He said that the previous variance granted for this site was reasonable, it was a quiet professional office, a printing establishment, low impact businesses buffering the residential uses. He said that it will be a real challenge to get the parking to work here.

Mr. Currier said he was also impressed by Ms. Bird's presentation, especially the passion she displayed. He said that a use variance runs with the land, and not the person. He said that he's struggling to find support, as the use will be noisy with more traffic.

Mrs. MacKay said that this area is busy, and understands why she was attracted to this site. She said that in spite of the applicant presenting an amazing plan, and she sounds completely qualified to run the business, she said she has major concerns with the waste products and there's no place for it to go. She said that she also has extreme reservations to having 20 dogs, the property is just too small, and cannot support this.

Mr. Boucher said that the applicant was very well prepared, and has every confidence that she would run a good business. He said that there are a lot of challenges here, and they would be to the detriment of the neighbors. He said that the variance runs with the land, and not the person. He said that he doesn't think that this property is so unique that some other more appropriate use could go there, and cannot support the request.

**MOTION** by Mr. Currier to deny the request on behalf of the applicant as advertised. Mr. Currier stated that the variance is not needed to enable the applicant's proposed use of the property, the Board finds that there are plenty of other businesses that could be supported in this RA Zoned piece of property, and the Board is very concerned with the overall level of activity that the proposed dog day care would bring, not necessarily by this applicant, but by the business in general.

Mr. Currier said that the Board finds that the dog day care and boarding business is not within the spirit and intent of the ordinance.

Mr. Currier said that the Board finds that it could devalue properties, and disturb the existing businesses next door, as well as the homeowners nearby.

Mr. Currier said that the use is contrary to the public interest, and substantial justice is not served.

**SECONDED** by Mr. Minkarah.

**MOTION CARRIED UNANIMOUSLY 4-0.**

**ZBA MEETING ATTENDANCE**

MEETING OF:

Robert Shaw  
Jack Currier  
J.P. Boucher  
Mariellen MacKay

Jay Minkarah  
Steve Lionel  
Efstathia Booras  
Nick Kanakis

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**APPROVAL OF MINUTES**

Minutes of

MOTION BY:

SECONDED BY:

Corrections:

APPROVED

DENIED

TABLED

\*\*\*\*\*

Minutes of

MOTION BY:

SECONDED BY:

Corrections:

APPROVED

DENIED

TABLED

\*\*\*\*\*

**STAFF ATTENDANCE**

Carter Falk

Kate Poirier

Marcia Wilkins

\*\*\*\*\*

**REGIONAL IMPACT**

Yes

No

1. Andrew Cott & Jeannine LaBranche (Owners) 7 Plum Drive (Sheet B Lot 1724) requesting variance from Land Use Code Section 190-16 (E)(2) to construct an attached 12'W x 20'L x 5'-5"H deck to encroach 5 feet into the 40 foot required rear yard setback. R18 Zone, Ward 8.

**VOTING MEMBERS:**

**REQUEST #1**

MOTION TO: **Approve/~~Deny~~/~~Table~~**

MOTION BY: Lionel

SECONDED BY: Boucher

- 1) The Board found that the variance ~~is/is not~~ needed to enable the applicant's proposed use of the property, and given there ~~are/are not~~ special conditions associated with the property, the benefit sought by the applicant ~~can/cannot~~ be achieved by some other method reasonably feasible for the applicant to pursue.
- 2) The Board found that the spirit and intent of the ordinance being kept in good faith to **Approve/~~Deny~~** this request.
- 3) The Board found that property values ~~will/will not~~ be negatively impacted by this request.
- 4) The Board found that the request ~~is/is not~~ contrary to the public interest.
- 5) Substantial justice ~~will/will not~~ be served to the applicant by granting this request.

**Board finds that the lot contains following special conditions : The irregular shape, topography change from front to back of lot, and large conservation area on back side of lot.**

VOTE: Unanimous (Lionel, Shaw, Boucher, MacKay, Currier )

Clerk: Jack Currier

2. **158 Amherst Street LLC (Owner) Hatch Plumbing and Heating LLC) (Applicant) 158 Amherst Street (Sheet 51B Lot 113) requesting use variance to allow a plumbing office/shop. RA Zone, Ward 4.**

**VOTING MEMBERS:**

**REQUEST #1**

MOTION TO: **Approve/Deny/Table**

MOTION BY: Lionel

SECONDED BY: Shaw

- 1) The Board found that the variance ~~is/is not~~ needed to enable the applicant's proposed use of the property, and given there ~~are/are not~~ special conditions associated with the property, the benefit sought by the applicant ~~can/cannot~~ be achieved by some other method reasonably feasible for the applicant to pursue.
- 2) The Board found that the spirit and intent of the ordinance being kept in good faith to **Approve/Deny** this request.
- 3) The Board found that property values ~~will/will not~~ be negatively impacted by this request.
- 4) The Board found that the request ~~is/is not~~ contrary to the public interest.
- 5) Substantial justice ~~will/will not~~ be served by supporting this request.

**Board finds special conditions to be that there are numerous businesses on Amherst Street nearby, and that a business currently exists in the property.**

VOTE: Unanimous (Lionel, Shaw, Boucher, MacKay, Currier )

Clerk: Jack Currier