

ZBA MEETING ATTENDANCE

MEETING OF:

Robert Shaw
Jack Currier
J.P. Boucher
Mariellen MacKay

Jay Minkarah
Steve Lionel
Efstathia Booras
Nick Kanakis

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. **Energy North Natural Gas, Inc., c/o Liberty Utilities (Owner) 25 Van Buren Street & 38 Bridge Street (Sheet 41 & 39 Lots 11 & 26) requesting special exception from Land Use Code Section 190-112 to work within the 75-ft prime wetland buffer of the Nashua River to install an impermeable cap as required by the NHDES remedial action plan, including regrading, repaving and expanding the site's existing parking lot, and improve the stormwater management system. GI Zone, Ward 7. [TABLED FROM 7-14-2020 MEETING]**

VOTING MEMBERS: Shaw, Currier, MacKay, Boucher, Lionel

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Shaw

SECONDED BY: Lionel

- 1) This use **is** listed in the Table of Uses, City of Nashua Land Use Code Section **190-**
- 2) This use **will not** create undue traffic congestion or unduly impair pedestrian safety.
- 3) This use **will not** overload public water, drainage or sewer or have negative impacts on municipal systems.
- 4) Special use regulations **are** fulfilled. The nine wetland conditions are met with the application.
- 5) This use **will not** impair the integrity, **will not** be out of character with the neighborhood, and **will not** be detrimental to the health, morals or welfare of residents.

Stipulations of Approval: The Board incorporates the NCC letter of approval into this application, and appreciates the applicant's consideration of a possible public easement.

VOTE: Unanimous 5-0

Clerk: Jack Currier

2. Pennichuck Water Works & Pennichuck Water Works, Inc. (Owners) GSSG New Hampshire, LLC (Applicant) “L” Ferry Road, “L” Westland Avenue, “L” Stanwood Drive, “L” Appledore Street, “L” Marlboro Street, “L” Independence Avenue, “L” Claredon Street, and 206 Concord Street (Sheet 52 Lots 1, 7, 14, 23, 24, 28, 39, 49, 61, 65, 81, 82, 85, 96, 97, 104 and 118) requesting special exception from Land Use Code Section 190-24 (F)(3) to allow underground electric utility construction, relocate existing fencing, improve surface of existing gravel drive along Old Harris Road, and tree clearing within a portion of the Conservation Zone to allow for a proposed solar array project (allowed use). R18 Zone, Ward 3. [TABLED FROM 7-14-2020 MEETING]

VOTING MEMBERS: Currier, Boucher, MacKay, Shaw, Lionel

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Lionel

SECONDED BY: Shaw

- 1) This use **is** listed in the Table of Uses, City of Nashua Land Use Code Section **190-**
- 2) This use **will not** create undue traffic congestion or unduly impair pedestrian safety.
- 3) This use **will not** overload public water, drainage or sewer or have negative impacts on municipal systems.
- 4) Special use regulations **are** fulfilled.
- 5) This use **will not** impair the integrity, **will not** be out of character with the neighborhood, and **will not** be detrimental to the health, morals or welfare of residents.

Stipulations of Approval: The minutes of the NCC meeting and the NCC letter are to be incorporated into the ZBA record,

VOTE: Unanimous 5-0

Clerk: Jack Currier

3. Rivier University (Owner) John Parker (Applicant) 436 South Main Street (Sheet 1 Lot 1) requesting variance from Land Use Code Section 190-102 to exceed maximum wall identification sign area, 12-sqft permitted – 58-sqft proposed for the Science and Innovation Center building. R9 Zone, Ward 7. [TABLED FROM 7-14-2020 MEETING]

VOTING MEMBERS: MacKay, Boucher, Currier, Shaw, Lionel

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Shaw

SECONDED BY: Boucher

1. The Board found that the variance **is** needed to enable the applicant's proposed use of the property, and given there **are** special conditions associated with the property, the benefit sought by the applicant **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** this request.
3. The Board found that property values **will not** be negatively impacted by this request.
4. The Board found that the request **is not** contrary to the public interest.
5. Substantial justice **will** be served to the applicant by granting this request.
Special Conditions: The science center is a large structure, and the proposed sign is in concert with the size of the building. Board finds that the 12 sq ft requirement is not warranted in this situation.

Stipulations of Approval: None

VOTE: Unanimous 5-0

Clerk: Jack Currier

4. Cynthia M. Doyle (Owner) 50 Westgate Crossing (Sheet C Lot 1417) requesting variance from Land Use Code Section 190-264 to exceed maximum accessory use area, 40% permitted, 46% proposed – to erect an 18-foot round above-ground swimming pool. R9 Zone, Ward 5.

VOTING MEMBERS: Lionel, MacKay, Shaw, Boucher, Currier

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Boucher

SECONDED BY: Shaw

1. The Board found that the variance **is** needed to enable the applicant's proposed use of the property, and given there **are** special conditions associated with the property, the benefit sought by the applicant **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** this request.
3. The Board found that property values **will not** be negatively impacted by this request.
4. The Board found that the request **is not** contrary to the public interest.
5. Substantial justice **will** be served to the applicant by granting this request.

Stipulations of Approval: None

Special Conditions: Board finds that the adjacent conservation land and the moderate sized detached garage warrant the small overage of accessory use area for the proposed pool.

VOTE: Unanimous 5-0

5. Wilmar, LLC (Owner) Colbea Enterprises, LLC (Applicant) 4 Blackstone Drive (Sheet H Lot 520) requesting variance from Land Use Code Section 190-41 (B)(5) for minimum distance to drive-thru exit, minimum of 60 feet required – 8 feet proposed. GB Zone, Ward 2.

VOTING MEMBERS: Lionel, MacKay, Shaw, Boucher, Currier

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Lionel

SECONDED BY: Boucher

1. The Board found that the variance **is** needed to enable the applicant's proposed use of the property, and given there **are** special conditions associated with the property, the benefit sought by the applicant **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** this request.
3. The Board found that property values **will not** be negatively impacted by this request.
4. The Board found that the request **is not** contrary to the public interest.
5. Substantial justice **will** be served to the applicant by granting this request.

Stipulations of Approval: None

Special Conditions of Property: Board finds that this configuration of this drive thru lane will not result in any public safety issues since there will be no pedestrians near the drive-thru exit / drive-thru left turn.

VOTE: Unanimous 5-0

6. Colleen & John Lyons DuPre (Owners) 7 Fairway Street (Sheet 1 Lot 102) requesting variance from Land Use Code Section 190-223 for minimum lot area, 40,000 sq.ft required for a proposed lot to be serviced by an individual sewage disposal system – 33,497 sq.ft proposed. R9 Zone, Ward 7.

VOTING MEMBERS: Lionel, MacKay, Shaw, Boucher, Currier

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Boucher

SECONDED BY: Shaw

1. The Board found that the variance **is** needed to enable the applicant's proposed use of the property, and given there **are** special conditions associated with the property, the benefit sought by the applicant **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** this request.
3. The Board found that property values **will not** be negatively impacted by this request.
4. The Board found that the request **is not** contrary to the public interest.
5. Substantial justice **will** be served to the applicant by granting this request.

Stipulations of Approval: None

Special Conditions: Board finds that this is a unique lot in that a traditional sewer cannot be feasibly attached to the proposed lot. Also, the slight underage of 40,000 sq ft for this lot is a reasonable request since there are no, and will be no other wells or septic in the vicinity. Additionally, the existing ledge makes tying into the public sewer uniquely challenging.

VOTE: Unanimous 5-0

Clerk: Jack Currier

- 7. Maria R. Fassina (Owner) 4 Laurel Court (Sheet E Lot 2111) requesting special exception from Land Use Code Section 190-15, Table 15-1 (#3) to allow an accessory (in-law) dwelling unit in basement of existing house. R9/PRD Zone, Ward 5.**

[CASE WITHDRAWN]

8. **Tige W. & Heidi A. McNulty (Owners) Golden Home Services, LLC (Applicant) 62 Nagle Street (Sheet 102 Lot 68) requesting variance from Land Use Code Section 190-264, to exceed maximum accessory use area, 40% permitted - 54% proposed – to construct a deck for existing 21-foot round above-ground swimming pool. RB Zone, Ward 6.**

VOTING MEMBERS: Lionel, MacKay, Shaw, Boucher, Currier

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Boucher

SECONDED BY: Shaw

1. The Board found that the variance **is** needed to enable the applicant's proposed use of the property, and given there **are** special conditions associated with the property, the benefit sought by the applicant **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** this request.
3. The Board found that property values **will not** be negatively impacted by this request.
4. The Board found that the request **is not** contrary to the public interest.
5. Substantial justice **will** be served to the applicant by granting this request.

Stipulations of Approval: None

Special Conditions: Board finds that this lot is larger than most in the neighborhood, and that the house is relatively small. Therefore, this requested overage of accessory use area for a pool deck is warranted.

VOTE: Unanimous 5-0

Clerk: Jack Currier

9. Jack LoBrutto (Owner) 61 Almont Street (Sheet 103 Lot 33) requesting variance from Land Use Code Section 190-192 (C) to exceed maximum driveway width, 22 feet existing, 24 feet permitted – an extra 8’x21’ driveway proposed on right side of existing driveway for a total width of 30 feet. RB Zone, Ward 6.

VOTING MEMBERS: Lionel, MacKay, Shaw, Boucher, Currier

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Boucher

SECONDED BY: Shaw

1. The Board found that the variance **is** needed to enable the applicant’s proposed use of the property, and given there **are** special conditions associated with the property, the benefit sought by the applicant **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** this request.
3. The Board found that property values **will not** be negatively impacted by this request.
4. The Board found that the request **is not** contrary to the public interest.
5. Substantial justice **will** be served to the applicant by granting this request.

Stipulations of Approval: None

Special Conditions: Board finds that there are other properties in the neighborhood that have wider driveways, and that this property is limited to a short driveway length.

VOTE: Approve: Boucher, Shaw, MacKay, Lionel Disapprove: Currier

Clerk: Jack Currier

10. Palms Edge, LLC & Theresa Corriveau Rev. Trust (Owner) 137 Palm Street, “L” Pine Street and “L” Palm Street (Sheet 99 Lots 31, 35 and 69) requesting variance from Land Use Code Section 190-16, Table 16-3 for minimum lot area, 49,547 square feet existing - 62,712 square feet required, to allow 18 multi-family units in two buildings - one building with 6 units and one building with 12 units. RC Zone, Ward 6.

VOTING MEMBERS: Lionel, MacKay, Shaw, Boucher, Currier

REQUEST #1

MOTION TO: Approve

MOTION BY: Boucher

SECONDED BY: Lionel

1. The Board found that the variance **is** needed to enable the applicant’s proposed use of the property, and given there **are** special conditions associated with the property, the benefit sought by the applicant **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** this request.
3. The Board found that property values **will not** be negatively impacted by this request.
4. The Board found that the request **is not** contrary to the public interest.
5. Substantial justice **will** be served to the applicant by granting this request.

Stipulations of Approval: None

Special Conditions: Board finds that the benefits to the neighborhood, namely the excess parking that is proposed, and the public connection of Palm Street to Ash Street outweigh the 4 unit overage. Board concurs that many properties in the area are denser than this proposal.

VOTE: Unanimous 5-0

Clerk: Jack Currier

- 11. Hannaford Bros. Co (Owner) Merritt Place, LLC (Applicant) 8 Merritt Parkway (Sheet C Lot 2544-8) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#15) to allow up to 160 multi-family dwelling units in one building. R30/FUOD Zone, Ward 9.**

[CASE POSTPONED TO AUGUST 25, 2020]