

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. **Carol R. Houde (Owner) 25 Eastman Street (Sheet 110 Lot 63) requesting variance from Land Use Code Section 190-264 to exceed maximum accessory use area, 40% permitted – 51% proposed – to construct a 12’x16’ shed. RA Zone, Ward 6.**

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

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.

Board finds that the proposed 12’ X 12’ shed, as stated by the applicant, is consistent with land uses in neighboring properties, and would not show any overcrowding on the property.

Stipulations of Approval: Applicant states the shed will be 12’ X 12’.

VOTE: Unanimous 5-0

2. **Amie E. & Adam C. Groff (Owners) 44 Taylor Street (Sheet 7 Lot 74) requesting variance from Land Use Code Section 190-16, Table 16-3 to encroach 5 feet into the 10 foot required right side yard setback to construct an attached 12'x15' addition. RA Zone, Ward 7.**

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

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 existing structure is 6' into the 10' right yard setback, and that it is reasonable to construct an addition that also encroaches on the right yard setback.

VOTE: Unanimous 5-0

3. **Jeffrey S. Locke II & Melissa S. Hopkins (Owners) 7 Greenlay Street (Sheet 138 Lot 48) requesting variance from Land Use Code Section 190-16, Table 16-3 to encroach 2'-9" into the 10 foot required right side yard setback to remove existing mudroom and garage and construct an attached two-story addition. R9 Zone, Ward 1.**

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

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Shaw

SECONDED BY: MacKay

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 existing garage is 2' into the right side setback, and that this proposal is only 8" more than the garage. Board also finds that the existing home is angled on the property, which places the back right corner of the proposed addition into the right side setback. This incursion is much smaller than if the entire right side of the proposed addition would be within the setback.

VOTE: Unanimous 5-0

Clerk: Jack Currier

4. **John Gergos (Owner) Richard Maynard, Maynard and Paquette Engineering Associates (Applicant) 37 Lovewell Street (Sheet 96 Lot 107) requesting the following variances from Land Use Code Section 190-16, Table 16-3: Lot 107 - 1) minimum lot frontage, 50 feet required, 49.56 feet proposed, 2) minimum lot width, 60 feet required, 49.56 feet proposed, and for Lot 108 – 3) minimum lot frontage, 50 feet required, 49.56 feet proposed, and 4) minimum lot width, 60 feet required, 49.56 feet proposed – to reestablish original lot lines created in 1880 and construct new single-family house on Lot 107. RB Zone, Ward 6.**

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

REQUEST #1-4

MOTION TO: **Approve**

MOTION BY: Boucher

SECONDED BY: MacKay

1. The Board found that the variances **are** 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 original circa 1880 lot designs are reasonable for this neighborhood.

VOTE: In favor: MacKay, Boucher, Lionel

Not in Favor: Currier, Shaw

3-2

Clerk: Jack Currier

5. Hassan & Zainub Jafri (Owners) 7 Owls Head Drive (Sheet H Lot 586) requesting variance from Land Use Code Section 190-31 to encroach 4'-3" into the 6 foot required right side yard setback to construct a 16'x19' carport. R9/R40 Zone, Ward 2.

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

REQUEST #1

MOTION TO: **Deny**

MOTION BY: Shaw

SECONDED BY: Currier

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

Stipulations of Approval:

Board finds that there are no special conditions of the property, and that the request is a matter of owner usage. Board thinks that other reasonable means, such as a larger shed, would accomplish the same result without a side yard setback incursion.

VOTE: In favor of denial: Shaw, Currier, Lionel, MacKay Not in favor: Boucher

4-1

Clerk: Jack Currier

6. Lorna A. Saunders (Owner) 9 Ryan Way (Sheet G Lot 7) requesting variance from Land Use Code Section 190-44 to exceed 6 foot maximum fence height – 8 feet proposed for a 40 foot long section along left side of house. R18 Zone, Ward 2.

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

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Boucher

SECONDED BY: MacKay

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

Board finds that there are similar 8' high fences within this condo association, and that the 10' set back from the home minimizes the view / impact to the street. Board notes that the abutting neighbor is in support of this fence.

VOTE: Unanimous 5-0

7. **David B. & Debra A. Fillebrown (Owners) 4 Hyannis Street (Sheet F Lot 319) requesting variance from Land Use Code Section 190-31 to encroach 10 feet into the 20 foot front yard setback (on Pelham Street) to install a 24 foot round above-ground swimming pool. R9 Zone, Ward 1.**

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

Stipulations of Approval: None

Board finds that this corner lot is challenged to place a pool, and that a pool is a typical and common accessory in this neighborhood. Board also finds that the walkway and topography prohibit a reasonable placement elsewhere on the property.

VOTE: In favor: MacKay, Boucher, Shaw, Lionel Not in favor: Currier

4-1

8. **20 Hamilton Street, LLC (Owner) 20 Hamilton Street (Sheet 100 Lot 148) requesting variance from Land Use Code Section 190-16, Table 16-3, for minimum land area, 5,050 sq.ft existing, 10,454 sq.ft required – to add one additional dwelling unit within an existing two-family dwelling. RC Zone, Ward 6.**

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

REQUEST #1

MOTION TO: **Approve**

MOTION BY: Boucher

SECONDED BY: MacKay

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

Board Finds that the 3rd unit has been present for probably several decades, and that is in concert with the neighborhood. Board notes that the applicant will adhere to all life-safety requirements.

VOTE: In favor: MacKay, Boucher, Shaw, Lionel Not in favor: Currier

4-1

9. **Kenneth, Timothy, Jeffrey and Kevin Forrence (Owners) 3 & 9 Fifth Street (Sheet 87 Lots 309 & 310) requesting the following variances from Land Use Code Section 190-16, Table 16-3: 1) Proposed Lot 87-309-1: for minimum lot area, 12,444 sq.ft required, 8,600 sq.ft proposed; and, 2) Proposed lot 87-309-2: minimum lot area, 12,444 sq.ft required, 8,600 sq.ft proposed - both requests to combine existing lots 87-309 and 87-310 and re-subdivide into three lots, with lot 87-310 remaining as a conforming single-family detached dwelling, and requesting a two-family dwelling on the remaining two lots. RB Zone, Ward 4.**

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

Fisher V Dover Test: Motion by Shaw to proceed with application, due to a material difference in this application versus the previous Oct 2020 application. Seconded by Boucher. In favor: Currier, Shaw, Boucher, Lionel. Abstain: MacKay **4-0**

REQUEST #1 & 2

MOTION TO: **Approve**

MOTION BY: Boucher

SECONDED BY: Shaw

1. The Board found that the variances **are** 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 neighboring properties are primarily 2 & multifamily and that this request is in concert with the abutting property densities, if not less-dense than the abutting properties.

VOTE: Unanimous 5-0

Clerk: Jack Currier

10. Liberty Simon Street, LLC (Owner) 44 Simon Street, LLC, Thomas F. & Jeffrey Monahan, Principals (Applicant) 44 Simon Street (Sheet E Lot 2247) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#15) to allow a 4-5 story, 176-unit multi-family building with parking garage under. PI Zone, Ward 4.

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

REQUEST #1

MOTION TO: **Deny**

MOTION BY: Lionel

SECONDED BY: Currier

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

Stipulations of Approval:

Board does not find that there are any special conditions on the property that warrant relief from the PI Zone. Board finds that the property remains ideally suited for PI zoning, and that a change to residential use is problematic for the surrounding PI zoned businesses.

VOTE: Unanimous 5-0