

**Zoning Board of Adjustment
April 12, 2022**

- 1. Daniel & Nicole Campbell (Owners) 34 Whitford Road (Sheet C Lot 1642) requesting special exception from Land Use Code Section 190-16 (E) (3) (a) for a minor encroachment to encroach up to 5 feet into the 20 foot required right side yard setback to construct an attached 28' x 27.5' garage addition with rooms above. R30 Zone, Ward 5.**

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

REQUEST #1

MOTION TO: Approve

MOTION BY: Boucher

SECONDED BY: Shaw

- 1) This use **is** listed in the Table of Uses, City of Nashua Land Use Code Section **190-16 (E)(3)(a)**
- 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 not** 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 the residents.

Stipulations: None

VOTE: 5-0

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- 2. Edward A. Brousseau (Owner) 141 West Hollis Street (Sheet 87 Lot 4) requesting variance from Land Use Code Section 190-44 to exceed maximum fence height, 6 feet permitted - 8 feet proposed, for the entire 163 foot length of west side of lot. RB Zone, Ward 4.**

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

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.

Special Conditions: Board finds that the fence meets the criteria because the neighboring property use is intense and the 8' will provide reasonable mitigation. Board also finds that the fence will not create any sight line problems with West Hollis St traffic.

Stipulations: Board notes that this approval is for the full 163' length of fence.

VOTE: 4-1 (Minkarah opposed)

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- 3. 45 Broad Street Properties (Owner) Jillian Arsenault (Applicant) 45 Broad Street (Sheet 61 Lot 169) requesting variance from Land Use Code Section 190-16, Table 16-3, for minimum open space, 50% required, 50% existing – 33% proposed, to add additional parking spaces to north and east side of existing garage. RA Zone, Ward 4.**

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

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: Board finds that the property is uniquely shaped with significant unoccupied space along the abutting railroad. Although zoned RA, this property has served as a business for many years, and the proposed open space is typical for similar businesses.

Stipulations: The owner is to maintain a solid fence along the side and back of property.

VOTE: 5-0

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- 4. Lawrence Berger (Owner) 5 Scotia Way (Sheet C Lot 1736) requesting the following: 1) A determination whether a material change of circumstances affecting the merits of the application has occurred, or that the application is for a use that materially differs in nature and degree from the variance for a driveway that was denied by the ZBA on 7-28-2020; and, if so: 2) variance from Land Use Code Section 190-17 (E)(1) to exceed maximum driveway width, 24 feet permitted, 19 feet existing – an additional 10 foot wide driveway proposed on right side of lot, for a total width of 29 feet. R9 Zone, Ward 5.**

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

FISHER VS. DOVER DETERMINATION: 1

MOTION: PASS

MOTION BY: Currier

SECONDED BY: Boucher

1. The Board found that a material change of circumstances affecting the application **has** occurred.
2. The Board found that the application **is** for a use that materially differs in nature and degree from a previous application.

VOTE: 2-3 (Minkarah, Shaw, Mackey opposed) MOTION FAILS

FISHER VS. DOVER DETERMINATION: 2

MOTION: FAIL

MOTION BY: Minkarah

SECONDED BY: Shaw

1. The Board found that a material change of circumstances affecting the application **has not** occurred.
2. The Board found that the application **is not** for a use that materially differs in nature and degree from a previous application.

VOTE: 3-2 (Currier, Boucher opposed) MOTION PASSES

FISHER VS. DOVER DETERMINATION NOT MET. VARIANCE NOT HEARD.

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- 5. Weverson Araujo (Owner) 65-67 Gilman Street (Sheet 94 Lot 74) requesting use variance from Land Use Code 190-15, Table 15-1 (#102) to allow an esthetician's office in a portion of a first floor unit within a three-unit building. RB Zone, Ward 6.**

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

REQUEST #1

MOTION TO: Approve

MOTION BY: Shaw

SECONDED BY: Kanakis

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 notes that the proposed business will occur on the second floor apartment in which the owner lives. Board believes the business will be a minor use within the structure.

Stipulations: Board stipulates that there is to be no parking on the grass / lawn.

VOTE: 3-2 (Currier, Boucher opposed)