

EXPANDED DRAFT MEETING SUMMARY
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ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
March 23, 2021

A public hearing of the Zoning Board of Adjustment was held on Tuesday, March 23, 2021 at 6:30 PM, via Zoom.

Steve Lionel, Chair, asked for a Roll Call. All members stated that they are alone:

Steve Lionel, Chair
Mariellen MacKay, Vice Chair
Jack Currier, Clerk
JP Boucher
Rob Shaw
Efsthathia Booras
Jay Minkarah

Carter Falk, Deputy Planning Manager/Zoning
Kate Poirier, Zoning Coordinator

Mr. Lionel explained the Board's procedures, stating that the Board is operating under the Governor's Executive Order via Zoom. Mr. Lionel explained how public access is available by telephone, and additional access means by video or other electronic access, as well as the meeting being streamed through the City's website on Nashua's Community Link and also on Channel 16 on Comcast. Mr. Lionel identified the points of law required for applicants to address relative to variances and special exceptions. Mr. Lionel 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.

1. Dorothy L. Grant (Owner) 80 Caldwell Road (Sheet 105 Lot 45) requesting special exception from land Use Code Section 190-15, Table 15-1 (#3) to allow an accessory (in-law) dwelling unit - by replacing existing breezeway and one car garage with a new breezeway and two car garage, with accessory dwelling unit above garage. R9 Zone, Ward 6. [TABLED FROM 3-9-2021 MEETING]

Voting on this case:

Steve Lionel, Chairman

Mariellen MacKay, Vice Chair
Jack Currier, Clerk
Rob Shaw
JP Boucher

**APPLICANT STILL REVISING PLANS, THIS CASE TO BE RE-ADVERTISED
WHEN IT IS READY TO COME BACK BEFORE THE BOARD**

2. Monica L. Savoie (Owner) 27 Sullivan Street (Sheet 61 Lot 107) requesting variance from Land Use Code Section 190-264 to exceed maximum accessory use area, 40% permitted, 53% proposed - to erect a 16'x32' in-ground swimming pool. RA Zone, Ward 4.

Voting on this case:

Steve Lionel, Chairman
Mariellen MacKay, Vice Chair
Jack Currier, Clerk
Rob Shaw
JP Boucher

Monica Savoie, 27 Sullivan Street, Nashua, NH. Ms. Savoie said that she is looking to install a 16'x32' in-ground swimming pool in her back yard. She said that she is a little over the accessory use percentage, the Code requires a maximum of 40% and the request will be 53%, with the shed, garage and the pool combined.

Ms. Savoie said that her neighbors are aware of the request, and one of them wrote a letter in support, the others expressed support verbally. She said that it's a private back yard, and said that she's received estimates for the fencing around the pool as well to meet the building code.

SPEAKING IN FAVOR:

Letter read into the record by Mr. Lionel from Tim Hogan and Pamela Day, 29 Sullivan Street, Nashua, NH.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Board members all expressed support for the application.

MOTION by Mrs. MacKay to approve the application on behalf of the applicant as advertised. Mrs. MacKay stated 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 the variance, as was stated, if the garage was attached to the house, the variance would not be necessary, and it will have the safety fence.

Mrs. MacKay said that the request is within the spirit and intent of the Ordinance.

Mrs. MacKay stated that the request will not adversely affect the property values of surrounding parcels.

Mrs. MacKay said that it is not contrary to the public interest, as no neighbors are in opposition, and substantial justice to the owner will be served.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL OF THE VOTING MEMBERS.

3. Poppy Venetos Revocable Trust (Owner) 35 Elm Street (Sheet 81 Lot 79) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#18) to convert an existing hair salon into a single-family home. D-1/MU Zone, Ward 4.

Voting on this case:

Steve Lionel, Chairman
Mariellen MacKay, Vice Chair
Jack Currier, Clerk
Rob Shaw
JP Boucher

TC Liakos, 1½ Lamb Road, Nashua, NH. Mr. Liakos said that his sister Poppy owns the property, and is speaking on her behalf.

Poppy Venetos, 37 Ledgewood Hills Drive, Nashua, NH. Mrs.

Venetos said that she is requesting to change the property into a single-family home.

Mr. Liakos said that his sister has owned the house for over 35 years, it was bought that way, and the upstairs has two bedrooms and one bedroom downstairs, and she converted it into a hair salon, and now it is closed due to covid and his sister is retiring. He said that the surrounding area, such as Vine Street, Ash Street, Pine Street, there is a mixed use of single-family, multi-family and storefronts. He said that he owned a commercial property on Pearl Street that he converted to a similar situation, and it's served the community very well as there is a high demand for single-family homes. He said that she's tried to sell it for several years as commercial and everyone who was interested wants it as a single-family.

Mr. Liakos said that it will not change the spirit and character of the neighborhood, and the front façade would stay the same, the parking is ok, and the front landscaping is nice, and it will just be converted into what is was when his sister bought it. He said the bathroom will be fixed up, and the kitchen will be remodeled. He said that they have a letter of support from the next door neighbor.

SPEAKING IN FAVOR:

Michael Lefavor, 243 Stonebridge Drive, Nashua, NH. Mr. Lefavor said that he submitted a letter of support as well. He said that inside, the structure is functionally a single-family home, as it has bedrooms, a kitchen, and the only work to be done is to remove a couple salon booths and changing the front door, and removing the ground sign outside. He said it's listed for sale on Zillow as a commercial property for some time, and she's trying to sell the property and retire. He mentioned several other single-family homes nearby.

Mr. Lionel read a letter of support from Maynard & Lesieur, from Cheryl Applestein and Larry Lesieur, owners.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Currier asked if at some point in the past, if this portion of Elm Street was zoned residential.

Mr. Falk said not to his knowledge, the zoning has been in place here for quite some time as D-1/MU. He said that he does believe that this house, as well as several others nearby on Elm Street, look very residential.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC HEARING:

Board members all expressed support for the application.

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised. Mr. Boucher stated 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 the variance, it was clearly a single-family home in the past, as several other homes in the area, and there is a mix of businesses and homes in the neighborhood.

Mr. Boucher said that the request is within the spirit and intent of the Ordinance.

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice to the owner will be served.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL OF THE VOTING MEMBERS.

4. Colbea Enterprises, LLC, Andrew Delli Carpini, Authorized Agent (Owner) Peter Dolloff, Sequel Management & Development, Inc. (Applicant) 8 Blackstone Drive (Sheet H Lot 653) requesting the following: 1) use variance from Land Use Code Section 190-15, Table 15-1 (#15) to allow an 18-unit multi-family development consisting of three buildings with six units in each; and, 2) variance from Land Use Code Section 190-16, Table 16-3 to exceed maximum density in the GB Zone, 17 multi-family units permitted, 18 multi-family units proposed. GB Zone, Ward 2.

Voting on this case:

Steve Lionel, Chairman
Mariellen MacKay, Vice Chair
Jack Currier, Clerk
Rob Shaw
JP Boucher

Peter Dolloff, Sequel Management & Development, 2 Knightsbridge Drive, Nashua, NH. Mr. Dolloff said that Chris Rice from TF Moran is with him. Mr. Dolloff said that Colbea Enterprises has purchased these two lots, and they have already been subdivided and approved by the Planning Board, and they will be starting construction soon on a convenience store and gas station at the corner lot. He said that their lot is the one directly in back of where the gas station will be.

Mr. Dolloff said that it is a 1.4 acre lot, and two variances are proposed, one is for the use of multi-family, and the other one is a density variance. He said that the property is surrounded on three sides by RC zoned property, which allows 12.5 dwelling units per acre. He said that all the Blackstone Drive neighborhoods have four associations, and were built in the 1980's. He said that the neighborhood around the subject lot is made up of over 600 units.

Mr. Dolloff said that the property is bordered on three sides by Knightsbridge Arms Condominiums on two sides and across Blackstone Drive to the right is Millstone 1. He said that they are bordered on three sides by RC zoning that allows 12.5 dwelling units per acre. He said that they used the same density when this lot was planned out, at 1.4 acres it allows 17.5 units, so they rounded it up to 18 units, which is why there is the density variance for the GB Zone.

Mr. Dolloff said that they propose to build three story townhome condominiums, they will have a one car garage, three bedrooms, 2 1/2 bathrooms, and will be very similar to the 34 townhomes nearby on Deerwood Drive off of Amherst Street. He said that these units have been very widely well received, and has transformed the Deerwood Drive neighborhood in a very positive way. He said that as shown on the plan in yellow highlighting, there is an easement, on land that is owned by Knightsbridge Condominiums, and the only access to the subject lot would have been through the back of the convenience store, but they have

granted an easement out front. He said that Knightsbridge is made up of 288 units, and in order to get the easement, they had to go to the Board of Directors, and then to the Community, and the Association is represented by Counsel, and they had to get a two-thirds vote of the unit owners of Knightsbridge Arms to grant this easement, which was accomplished, and there were only 24 unit owners of 288 that voted against the easement, so it's clear that the Knightsbridge Arms Community sees this as an excellent transition parcel from the commercial use on Amherst Street to another residential use, as opposed to a more commercial use. He said that they are very pleased with the community support for the project. He said that they do have the vote for the easement, so that would be the main entryway into the property, the second smaller access that goes in back of the convenience store will be a gated access, so it won't allow through-traffic, but will be accessible for emergency vehicles.

Mr. Dolloff said that they meet all of the other criteria, such as the setbacks, the green space, and all the drainage requirements. He said that there is already ample water, sewer, electricity on Blackstone Drive and it's already stubbed into the convenience store lot. He said that the traffic to the new development will be negligible to what is already out there.

Chris Rice, TF Moran, Portsmouth, NH. Mr. Rice said he was the civil engineer who worked on the gas station/convenience store.

Mr. Shaw asked about a green highlighted area to the north, a rectangular shape.

Mr. Rice said originally, this was one piece of property that was subdivided into two lots, and the rectangular piece in the back was a lot line adjustment, and that portion of the property was given back to the auto body shop to the west, so the lot that Sequel is purchasing does not include that piece, it belongs to the property owner to the west, the Piekarski's.

Mr. Minkarah asked if the lot has been subdivided legally already.

Mr. Rice said that it has been subdivided, and it also has been recorded at the Registry of Deeds, within the past month.

Ms. Poirier said that when the application was submitted, the

subdivision process hadn't quite been completed, but it is now.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Boucher said that he is in support, it is abutted by Millstone and it fits in, and will not be an issue. He said that he is ok with the extra one unit for density. He said that it will serve the City very well here, probably better than the storage facility, and the neighbors seem to be supportive.

Mr. Shaw said that it is a 3% overage for density, and will fit well with the surrounding community.

Ms. Booras said that she is in support of the application as submitted.

Mr. Minkarah said he is in support, the use is reasonable, and since it's been subdivided off from Amherst Street, it is more challenging to use for commercial purposes. He said that the use and the density is reasonable.

Mrs. MacKay said that she is in support, and now since it's been subdivided, it is off of Amherst Street, and is in keeping with the neighborhood, and housing is absolutely needed in the City.

Mr. Currier said that the easement is needed for this property, and with the site being surrounded by other residences off of Amherst Street. He said that he would have a harder time if the access through the gas station was not going to be gated.

Mr. Lionel said that he is in support, and the fact that the easement is granted is a big plus, and the new use as residence seems to fit well within the immediate surroundings, and there are no complaints from any abutters.

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised, with both requests considered collectively. Mr. Boucher stated that the variances are 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 the variances, the Board stated that the lot is surrounded by the large Millstone complex, and there are several units there, and it sits back from the road, the Board stated that the intended use will fit in better with the area, and recognize that the overage in dwelling units is only 3% over, and that is quite reasonable.

Mr. Boucher said that the request is within the spirit and intent of the Ordinance.

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice to the owner will be served.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL OF THE VOTING MEMBERS.

5. Dacey Family Trust, Michael J., Linda M. and James P. Dacey, Trustees (Owners) Daniel Bergeron (Applicant) 29 Dane Street (Sheet 110 Lot 177) requesting the following variances from Land Use Code Section 190-16, Table 16-3: 1) for minimum lot width for "Lot A", 75 feet required, 61.84 feet proposed; and, 2) for minimum lot with for "Lot B", 75 feet required, 60.22 feet proposed - both requests to raze existing house and subdivide one lot into two lots. RA Zone, Ward 6.

Voting on this case:

Steve Lionel, Chairman
Jack Currier, Clerk
Rob Shaw
JP Boucher
Efsthathia Booras

Mariellen MacKay, Vice Chair **[RECUSED]**

Attorney Gerald Prunier, Prunier & Prolman P.A, 20 Trafalgar Square, Nashua, NH. Atty. Prunier said that this is an older

single-family neighborhood, surrounded by lots of various sizes. He said that the proposal is to remove the house on the lot and construct two single-family, single-story homes on each lot. He said that all of the dimensions and the density are met, except for the lot width. He said that the lots are required to have 7,500 square feet, and these lots have 10,698 sq.ft and the other lot has 10,332 sq.ft.

Atty. Prunier said that there are many smaller lots in the neighborhood that have the frontage, but do not have the width. He said that the Board should have a drawing of what the houses would look like.

SPEAKING IN FAVOR:

Mr. Lionel read a letter of support from Keller Williams into the record.

Richard Maynard, Maynard & Paquette Engineering, 31 Quincy Street, Nashua, NH. Mr. Maynard said that the house on the lot is somewhat run down, and needs to be removed, and the proposed two lots greatly exceed the RA Zone lot sizes of 7,500 square feet, and they will be two of the larger lots in the neighborhood. He said that the homes will be single-story, with a one-car garage. He said that they will be brand new homes, and will enhance property values and increase values. He said that the new houses would be about 75 feet away, so there is plenty of separation and the lots are over 10,000 square feet in size, and there are numerous lots that are undersized in the area. He said that they will be standard one-story single-family houses, and will meet all setbacks.

Mr. Boucher asked what would be the approximate distance from the back of the house to the rear property line.

Mr. Maynard said that the approximate distance shown and as proposed on the plans is 75 feet. He said that is substantial.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Barbara Viti, 4 Ordway Ave, Nashua, NH. Mrs. Viti said that she is concerned about having two houses there. She said that two houses are excessive, and will cause disruption to the neighborhood and it will not add value. She said she is all for tearing down the existing house and building a newer home, but

is against the subdivision.

Marianne Title, 18 Herrick Street, Nashua, NH. Mrs. Title said that she is very concerned about the loss of her privacy, and increased activity at the lot in back. She said that the plans do not show a single-story, they show a second story window. She said that there is a buffer of some junk trees that screens her back yard to the subject lot, however, they're not in good condition and has every reason to suspect that they will be cut down during construction. She said that it will look very crowded on that lot, and doesn't see how the value will be added to the neighborhood by increasing density in this neighborhood, which has a lot of large yards.

Mr. Lionel said that the Board also has a letter of opposition from 18 Herrick Street, and read it into the record.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Prunier said that the window on the second floor that was mentioned is for an attic, and the house is one story. He said that the lots are over 10,000 sq.ft in size, where the RA district allows 7,500 sq.ft and less, so they are large lots and they don't infringe upon the density, they increase the density in the neighborhood, they will add value, the houses will have a large distance in the back, so they will not infringe upon their privacy and to give the residences a nice back yard for children to play in.

Mr. Boucher asked if the houses will be rental units or will be sold.

Atty. Prunier said that they will be actively sold.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

No one.

END OF PUBLIC HEARING, BEGINNING OF THE PUBLIC MEETING:

Mr. Lionel reminded everyone that Mrs. MacKay recused, and Ms. Booras will be voting.

Mr. Minkarah said he's struggling with this one a little bit. He said that the frontage requirements are for adequate spacing

between buildings and density control. He said that the side yard setbacks will be met and the proposed lots exceed the minimum density requirements by about 25%. He said that in the surrounding neighborhood there are a number of lots that are both smaller and lots that have less than the 75 foot frontage requirement. He said that he appreciates the neighbors concerns, and whether one or two houses get built here, there will be an impact, as trees could be cleared. He said that he is in support.

Mr. Currier said that the proposed lot sizes, over 10,000 sq.ft, is substantial for the RA Zone. He said he understands the rear yard abutters concern about losing some privacy, and the back yards in the neighborhood are valued, and there are a lot of families here. He said that the homes would be situated up front in the lots, and feels better if there were a stipulation that a minimum of 75 feet would be provided to the rear property line, as testified to by the applicant, plus, the single-story as well. He said that with the large lot sizes, and the other two stipulations for single-story buildings and the 75 foot distance to the rear lot line, he would be in support.

Mr. Boucher said he finds support for the application. He said that he understands the concerns of the abutters. He said that the lot sizes are much larger than what is required, and is comfortable with the proposed stipulations. He said that the proposed lot sizes would be in character with the neighborhood.

Mr. Shaw said that he struggled a lot with this one. He said that there are some things that are favorable, such as single-story, the 75 foot distance to the rear. He said that there does seem to be a wide mix of widths of properties in the neighborhood. He said on in one sense, even though the lots are large, those won't be appreciated from the street. He said that there would be two homes that have the minimum side yard setbacks all the way around, it may seem a bit crowded on this lot.

Mr. Lionel said that he struggled with this at first. He said that the immediate neighborhood of this lot have lots that are wide, and if you go one block over, there are a mix of smaller ones. He said that by splitting this lot into two lots would maybe have a jarring appearance compared to the other lots. He said that the lots would be large, and the rear yard setback would be much larger than the ordinance requires, and likes the

75 foot setback to the rear.

Ms. Booras said that she's struggling with this application as submitted, but would be in support with the stipulations that have been previously mentioned.

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised, with both requests considered collectively. Mr. Boucher stated that the variances are 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 the variances, the Board stated that although the current lot is very large, the proposed lots will still exceed the minimum square foot requirements for this zone. He said that there is a lot of different lot width sizes in the neighborhood.

Mr. Boucher said that the request is within the spirit and intent of the Ordinance.

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels, there was a letter submitted that the values would increase, but it's just an opinion.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice to the owner will be served.

Mr. Boucher said that there are two special conditions. He said that the first one is that the rear setback will be a minimum of 70 feet and the second one is that the homes will be constructed as one-story single-family homes. He said that the window shown is attic space, not livable space.

Mr. Falk asked if the 70 feet setback is only for the principal structure, and asked about accessory structures such as pools, sheds, detached garages, as setbacks for those are 6 feet to a side or rear property line.

AMENDED MOTION by Mr. Boucher that the 70 feet is for the principal structure.

SECONDED by Ms. Booras.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL OF THE VOTING MEMBERS.

MISCELLANEOUS:

MINUTES:

3-9-2021:

MOTION by Mr. Shaw to approve the minutes as presented, waive the reading, and place the minutes in the file.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS

REGIONAL IMPACT:

Ms. Poirier said that there is an extra week in the schedule, and will email the Board the Agenda when it is available.

ADJOURNMENT:

MOTION by Mr. Shaw to adjourn the meeting at 8:04 p.m.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE MEMBERS.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing