

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
March 28, 2023

A public hearing of the Zoning Board of Adjustment was held on Tuesday, March 28, 2023 at 6:30 PM, both in person at City Hall and via Zoom.

Mariellen MacKay, Chair, asked for a Roll Call:

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

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

Mrs. MacKay explained the Board's procedures, saying that real-time public comment can be addressed using Zoom, or by telephone, or in person. Mrs. MacKay said that real-time comments via audio will be addressed at the conclusion of the public hearing, and the public is encouraged to submit their comments for future meetings via email to the Planning Department, which is Planningdepartment@nashuanh.gov, or by mail, at P.O. Box 2019, Nashua, NH, 03061. Mrs. MacKay identified the points of law required for applicants to address relative to variances and special exceptions. Mrs. MacKay explained how testimony we 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.

Mr. Falk said that the case at 46 Cox Street will not be going this evening, it will be re-advertised and come back at the 4-11-2023 meeting.

- 1. Marcelo S. Gouveia (Owner) 48 Ross Street (Sheet 95 Lot 14) requesting the following: 1) special exception from Land Use Code Section 190-15, Table 15-1 (#3) to allow an accessory (in-law) dwelling unit in basement; and, 2) variance from Land Use Code Section 190-32 (B)(1) to exceed maximum size of accessory dwelling unit, 750 sq.ft allowed - 920 sq.ft proposed. RB Zone, Ward 6. [POSTPONED FROM THE MARCH 14, 2023 MEETING].**

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
Rob Shaw
JP Boucher

Tiago, family friend/translator, for Mr. Gouveia. Mr. Tiago appeared on zoom. He said that the owner plans on building an in-law apartment in his basement, and the room downstairs has an existing utility room down there, but the entire basement area is about 920 square feet, which is more than the 750 square feet that is allowed. He said that the way the basement is set up, the best use of it will be to use the whole basement.

Mrs. MacKay said that the owner has signed the accessory dwelling unit affidavit.

Mr. Tiago said that the space would be used by his in-laws.

Mr. Shaw asked if the utility room will be used as living space, or it mechanical equipment.

Mr. Tiago said that is where the water heater and furnace is, it is not living space.

Mr. Shaw said that the Board would not count that in the calculations, the room is 8'x8', so it would be reduced from 920 square feet to 856 square feet.

Mr. Falk said that that it shouldn't count towards their space.

Mr. Minkarah asked if there is an interior staircase.

Mr. Tiago said that there is, and it will remain.

Mr. Minkarah asked if that is how the resident on the main floor would access the basement.

Mr. Tiago said that there is also an exterior stairway, but there would be two, one through the main house, and one from the exterior.

Mr. Lionel said that he noticed a second driveway on the property, and asked if the owner received a variance for that.

Mr. Tiago said it was already there when the owner moved in. He said that the owner moved there in 2014-15, and it was already there, but he's redone it the same size.

Mr. Lionel said that the owner should apply for a variance for the driveway.

Mr. Currier said the application talks about a window opening, the note says proposed second entranceway.

Mr. Tiago said that is what the Fire Marshal wants them to do, it's another fire exit.

Mr. Currier said that the second unit in the basement would have to meet any Fire standards, to meet the Code.

Mr. Tiago said yes.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Mrs. MacKay read an email from Karen Marcoux, 43 Ross Street, Nashua, NH, in opposition.

Mrs. MacKay read an email from George & Nancy Goodwin, next door neighbors, in opposition.

Mrs. MacKay said that there is a summary from Code Enforcement.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Tiago said that a business is not run out of the house. He said that they have a cleaning business but there is no equipment at the house, it is just homeowner cars with the company name on them, and there are two teenagers with cars.

Mrs. MacKay asked about the letter from Code Enforcement, and read it into the record, saying that it is closed, as the trash is removed.

Mr. Gouveia said that it was there due to a landscaping job, but it was only there for a week or so.

Mr. Currier asked about the driveway, and asked if it is the testimony that it hasn't been expanded since 2014.

Mr. Tiago said that when the owner moved into the house, it was already a base there, and added a new layer of asphalt. He said it already had a parking area there, but it was all broken up, it was not a lawn, there was a thin layer of asphalt.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel said that on the whole, he would support the application, and the accusations stated by the neighbor are either addressed or not correct, and other issues have been resolved.

Mr. Boucher said that he is in support of the application, and it doesn't make sense to carve out another small, 106 square feet just to meet the Code, and the number that they are using is less than what was advertised. He said that the driveway issue is not germane to this case.

Mr. Minkarah said he is in support, and agrees that the other issues are ancillary issues, and the square footage that is over is less, and there isn't any other good way to do this. He said that whomever resides there won't have full exclusive use, and the owner has use of the utility room down there.

Mr. Nehiley said that after listening to the testimony today, agrees that it is a reasonable application, and there is no other way to really take out the extra square footage, and it isn't egregious.

Mr. Shaw said that he is in support, and doesn't have anything else to add to what was stated already.

Mr. Currier said that he is in support, it's a ranch house and it's reasonable to have the basement as a unit versus walling off a little more to make it 750 square feet. He said that he was hung up on the issue of the driveway, as the second driveway was the fresh driveway, and it looks new, and overall it looks more than 24 feet. He said that one of the criteria is that the

accessory unit has to have one additional parking space, but the testimony was that there was already a driveway, and said that his support on this is based upon that there was a driveway there prior to this owner buying it in 2014, and maybe it was a thin and broken up asphalt driveway, but that is a driveway, it wasn't a lawn that someone was parking on.

Mrs. MacKay said that she is in support of the application.

MOTION by Mr. Shaw to approve the special exception application on behalf of the owner as advertised. Mr. Shaw stated that the use is listed in the Table of Uses, Section 190-15, Table 15-1 (#3).

Mr. Shaw said that the use will not create undue traffic congestion or unduly impair pedestrian safety.

Mr. Shaw stated that the use will not overload public water, drainage, sewer or other municipal systems.

Mr. Shaw said that the special regulations have been fulfilled per testimony, and said that there is a variance for the square footage overage that will be addressed for the variance.

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

SECONDED BY Mr. Lionel.

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

MOTION by Mr. Shaw to approve the variance application on behalf of the owner as advertised, except that is was advertised at 920 square feet, but through testimony, 856 square feet is the appropriate calculation. Mr. Shaw 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 cannot be achieved by some other method reasonably feasible for the applicant to achieve, other than the variance, as the key is that it is to finish off a basement in the home, and the area required to meet the variance is a little over 100 square feet, and there is no reasonable benefit to not have the applicant be able to use that part of the dwelling, just to meet the

criteria.

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

Mr. Shaw stated that the Board does not believe the request will negatively impact property values.

Mr. Shaw stated that the request is not contrary to the public interest, and substantial justice will be served to the applicant.

SECONDED by Mr. Boucher.

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

2. Ronald P. & Estelle G. Hudon (Owners) Lefavor Folio, LLC (Applicant) 115 Lock Street (Sheet 41 Lot 21) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#15) to remove existing building and construct one 8-unit multi-family building, along with associated site improvements. GI Zone, Ward 3. [POSTPONED FROM THE MARCH 14, 2023 MEETING].

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
Rob Shaw
JP Boucher

Attorney Andrew Prolman, Prunier & Prolman, 20 Trafalgar Square, Nashua, NH. Atty. Prolman said that they are seeking a use variance to allow up to 8 townhouse units here, it is in the General Industrial district. He said that the applicant was before the Board a couple years ago, who developed 111-113 Lock Street, it was a very similar case, where 18 units were approved, he said that 10 have been built, and 8 are currently under construction, and will be coming online for sale in the next few months.

Atty. Prolman said that the area is zoned General Industrial, GI, and many years ago there were GI type industries in this

area, the district runs from Lock Street down to Bridge Street to East Hollis Street and down to Crown Street. He said that the area is cut off by the Nashua River. He said that it's south of the Nashua River that is more appropriate for General Industrial, directly across the river is the PSNH Substation, BAE, and many other industrial uses, but north of the river, it's all residential.

Atty. Prolman said that north of the river in this area, there are three uses that are not residential, the BAE parking lot, the Heritage Baptist Church, and the Nashua Swim & Tennis Center, and other than those, all the other uses are residential, with a healthy mix of multi and single family uses, and the three non-residential uses are not GI-type uses.

Atty. Prolman said that Mr. Falk's staff report indicates comparable density in the area. He said that what they are proposing for the 8 units is comparable to the area, there is a multi-family development right next door at 113, and there is one at 95 Lock Street built by the same developer. He said that what is proposed fits in the area. He said that the Board has been given a preliminary plan, for 8 units, and there is some more engineering work to do, so it may be that only 6 or 7 units fit on the site, the plan does show an encroachment into the wetland buffer to the south, and if necessary, will be back for further relief in the buffer, but if there are fewer units built, it can be pulled back to avoid the wetland buffer.

Atty. Prolman said that the variance is not contrary to the public interest, what is proposed is similar if not the same as the character of the neighborhood all around. He said that the area has been changing over time.

Atty. Prolman said that they believe they meet the spirit of the ordinance, it won't have any impact on the health or safety or welfare of the residents, and it is in compliance with the character of the neighborhood.

Atty. Prolman said that substantial justice will be served to grant, as the property will be developed to allow for much needed housing stock in the City, and it will be affordable, and won't be super expensive homes, they will be in the \$300,000 range.

Atty. Prolman said it will not affect any property values of the

area, and new construction is occurring right next door, and these units will be very similar, if not identical in layout and construction.

Atty. Prolman said that for hardship, the neighborhood has changed greatly over the past 30 years, and the industrial zoning shouldn't apply, as there is a natural cutoff with the Nashua River, and there is no fair and substantial reason to prohibit the proposed use.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS, COMMENTS OR CONCERNS:

Attorney Brian Major, 19 Technology Way, Nashua, NH. Atty. Major distributed some information to the Board. He said that he represents Smart Investments, LLC, the owner of 119 Lock Street, an abutting property. He said his clients have owned this property for over 25 years, it is a 42,500 square foot lot, and the density is approximately, 2,656 square feet of land per unit, with about 34 parking spaces, and 25,000 square feet of the lot consumed by the building and parking lot, with leaves 41% open space. He said that he is a good landlord, with below-market rentals on all the units.

Atty. Major said that his clients property does have parking problems. He said that the land is a beautiful lot, a beautiful play area for the children on the west side of the lot. He said that he agrees with the applicant, in that there is no reason to adhere to the GI requirement, as this area is clearly residential, all the surrounding properties are residential. He said that if you apply the RC zone standards, which is located across the street, there is a requirement of 3,484 square feet of land per dwelling unit. He said that if you apply this number to the applicants lot, it leaves you with a maximum of 5.7 units, not 8. He said in using the same standard to his clients property, it would leave you with 7.52 units.

Atty. Major said that the problem is that there is less than 20% green space on the lot. He said that there are balconies shown on the plan, which would impose into the side yard setback of 10 feet. He said that there would be a 35-foot tall building on the property line, and people don't park in garages. He said

that the development is too high, there is no green space, and there is an intrusion into the setbacks, there are wetland issues, and while residential for perhaps six units is ok, but not for eight units.

Mr. Currier asked what the square footage density calculation of his clients property.

Atty. Major said it is 2,656 square feet per unit. He said that they have 16 units, and they are two stories tall, about 24 feet in height.

Jamie Rogers, 4 Sapphire Lane, Nashua, NH. (on zoom). Ms. Rogers said that she lives next door, and her unit looks out onto the proposed development. She said that there is a row of trees between the two lots, they are large trees, beautiful trees, that allow privacy, and asked if this line of trees would be removed.

SPEAKING IN FAVOR - REBUTTAL:

Tom Zajac, Hayner Swanson, 3 Congress Street, Nashua, NH. Mr. Zajac said that for parking, this project will have 15 parking spaces, which is the maximum under the Ordinance, at 1.9 spaces per unit. He said each unit would have a one-car garage under. He said that open space requirement is 10% and 26% is proposed on the plan. He said that for the setbacks, all the buildings are within the setbacks for this zone, and are consistent along the street. He said that balconies can encroach a minor amount into a setback, so everything proposed will meet the ordinance. He said that the plan still needs a little work, and for the trees, they will save as many as possible, it is a tight site, but will try to keep as many as they can.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Ms. Rogers said that her questions have been answered, and is glad that they will try to save as many trees as they can.

Atty. Major stated that they are ok with a residential use, but if they're going to use this as an RC zone requirement, they should use that criteria.

MOTION by Mr. Shaw to allow the applicant to make a statement after the rebuttal period is over.

SECONDED by Mr. Boucher.

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

Atty. Prolman stated that Mr. Falk has a statement.

Mr. Falk said that if the Board is to support this request, he asks that the applicant provide photographs of the inside and outside of the house, as it is an old historical house and Staff would like a record of what is there for the files. He said that staff would request this as a stipulation of approval.

Atty. Prolman said that they are happy to oblige.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC HEARING:

Mr. Boucher said that he is generally in favor of the application, the abutters have valid points, but as noted by the applicant, they may need to revise this plan, but is in support of the application.

Mr. Minkarah said that in general, he is in support, and overall, in terms of the density, it really is less dense than the property that was already approved to the west, and it's a little denser than the property that exists to the right, so it's in-between, and the general density doesn't bother him. He said that what gives him pause, in that in order to achieve that density, they do have to maximize use of the site, and they'd have to intrude on that wetland buffer. He said that is where he's having pause, by approving this as submitted, it would necessitate violating another provision of the zoning ordinance. He said that he does not have an issue with the density, and could see supporting six, maybe seven units, but certainly not eight.

Mr. Nehiley said that he doubts that any industrial business has any interest in occupying this lot. He said that this area is all residential, and there is a pressing need for housing, and it should fit in. He said that he is concerned about the wetland buffer, but in general, is in favor.

Mr. Shaw said that for residential use, it makes sense. He said he is struggling with this one, as the treatment of this is more

like the RC zone, yet, the setbacks for the entire project, the open space requirement, all those things are meeting the GI criteria, but essentially being asked to handle this as if it were already in the RC zone, so that even though there are these other very recently approved minor density usages, is not so keen about putting yet another intensively dense use on this site, because it can kind of meet the GI criteria in one sense, and wouldn't meet the RC zone like it's supposed to be mirroring it. He said that he would feel much more comfortable if the Board had an application that is much more adherent to the RC zone in all aspects, setbacks, open space, etc. He said that he cannot support the application as presented.

Mr. Currier said that he is on board with the residential use over the industrial use, but gets some pause on adhering to the GI requirements versus the RC requirements. He said he would be struggling with a variance that would further require asphalt and development in the Nashua River wetland buffer.

Mr. Lionel said that he is in support of a residential use here, but is not so taken that all the RC zone requirements are met. He said that he would be concerned with extending the driveway into the wetland buffer, and would not want to see that, and if it were up to him, he'd rather see the project shrunk down to six units, so that it would not impact the wetland buffer.

Mrs. MacKay said that we're being asked to look at a picture that is square, but need to use the round criteria to meet into that square. She said that she agrees with a lot of what other members have already stated. She said that it looks like two sets of criteria are being used to rationalize this project, and does not know if we can, or if we can work it out.

Mr. Boucher said regardless of the number of units, it will be lined up the same way it's lined up. He said that this application is not for encroachment into the wetland buffer, and the applicant stated that, and it would be a separate case if this moves forward. He said that they still have to meet parking requirements. He said that this application is for 8 units, but if they can only build 6 or 7, but they are shooting for 8 units. He said that if the Board approves 8 units, it doesn't necessarily mean that they'll build 8 units. He said that if they can't get parking, they won't get any further approvals, and they won't put in 8 units.

Mr. Currier said he's not sure what the ask is, whether it's RC setbacks or GI. He said that there are two struggles here, one is if there is any movement towards open space or setbacks, and the incursion into the wetland. He said that those are two hang-ups. He said that by going in the buffer, it will require additional relief, and that is counter to what we do, and thought about tabling this case for two weeks out or four weeks, for the applicant to address the concerns that the Board has about the wetland buffer and density.

Mr. Minkarah said the RC issue is somewhat of a red herring. He said it is the GI zone, they are not asking to rezone this property to RC, there are a myriad of RC requirements that this property may or may not meet. He said that the abutters attorney brought this issue up about the RC standards by comparing open space. He said whether or not they're using RC standards it doesn't matter, as they can't ask for a variance from RC standards because it's not an RC zone, it's a GI zone. He said that the issue is the unit count, that's what it comes down to, if you reduce the number of units, you increase the open space. He said that the issue comes down to a plan that does not meet another provision of the Zoning ordinance, and it's troublesome to be asked to approve a plan that doesn't meet the zoning. He said that if they were seeking relief also from the wetland buffer, that's fine. He said that by addressing the density addresses the neighbors concern, and the open space issues.

Mr. Shaw said that it is important to consider the property more like an RC zone, when it's asked to be developed as a nod to the RC zone. He said that to put a bunch of housing in the GI zone, when it is not permitted, is already a big ask, we understand why, and the Board agrees that it is not practical to ask for a GI type of use, however, the closest thing we have is the RC one across the street. He said that another issue that bothers him is that the plan shows the dumpster at the farthest encroachment down into the wetland buffer, and that is not the best thing to have there with trash and other things blowing around and things get set next to dumpsters, it just doesn't feel good.

Mrs. MacKay seems like Mr. Currier's idea of a motion seems like the direction to go in.

Mr. Shaw said that the Board should ask the applicant if they are interested in tabling the case.

Atty. Prolman said that they have no objection to tabling this case for two weeks, and April 11 is fine.

MOTION by Mr. Shaw to table the application on behalf of the applicant to the April 11, 2023 meeting, so that the applicant can address the concerns that the Board raised in the deliberations, regarding usage in the wetland buffer, and the possible relationship of the RC criteria.

SECONDED by Mrs. MacKay.

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

*** 5 minute break***

3. The Bowman Family Rev. Trust, Robert & Candie Bowman, Trustees (Owners) Robert Bowman (Applicant) 31 Orchard Street (Sheet 118 Lot 27) requesting variance from Land Use Code Section 190-16, Table 16-3 to encroach 13 feet into the 25 foot required front yard setback (on Orchard Avenue) to replace an existing front porch with a new 8'x21' roofed farmers porch. RA Zone, Ward 7.

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
Rob Shaw
JP Boucher

Robert Bowman, 31 Orchard Avenue, Nashua, NH. Mr. Bowman said that they are looking to construct a farmers porch on the front of their house. He said that their kitchen area is very small, and are looking to renovate it and add the farmers porch, and in doing so, would eliminate one of the two doors to the outside. He said it would make the house more valuable, and other houses in the neighborhood have front farmers porches as well, so it would be in character with the neighborhood.

Mr. Nehiley said that it looks as if the house is close to the street.

Mr. Bowman agreed.

Mr. Nehiley said that it looks like some of the farmers porches have them recessed into the house, so they're not sticking out from the front of the house, and asked him if he made any consideration to wrapping it around the side of the house.

Mr. Bowman said that the reason for the porch is to have an entrance to the house from the driveway through the porch.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Minkarah said that he supports the application, and said that the porch is a reasonable use, and the house at 29 Orchard seems to be at least closer to Orchard than this house.

Mr. Nehiley said that after hearing the owners testimony, for safety purposes, would prefer that he'd not go into the street to get to the car. He said that the house is located at the end of the street, so there's very little traffic, and it's within the character of the neighborhood.

Mr. Shaw said that he is in support, the house is set so far forward on the lot, and it's a large lot, and no detriment to not support this case.

Mr. Currier said that he is in support, it's an old house and perhaps it was the only one in the neighborhood way back when, and it's been that way for generations, and that is a special condition of the property, and it seems as if the house next to it is as close or closer to the street.

Mr. Lionel said that he is in support of the application.

Mr. Boucher said that he is in support of the application.

Mrs. MacKay said that she is in support of the application.

MOTION by Mr. Boucher to approve the variance application on behalf of the owner 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, the home is situated in the far front right corner of the lot, and the house was built pre-dating zoning ordinances, and the benefit cannot be achieved by some other method reasonably feasible for the applicant to achieve, other than the variance.

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

Mr. Boucher stated that the Board does not believe the request will negatively impact property values.

Mr. Boucher stated that the request is not contrary to the public interest, and substantial justice will be served to the applicant.

SECONDED by Mr. Shaw.

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

4. Larry W. Kittle (Owner) Alpha Contracting Services, Inc., c/o Helton Rodrigues (Applicant) 58 Chandler Street (Sheet 42 Lot 254) requesting variance from Land Use Code Section 190-16, Table 16-3, for minimum land area, 5,520 sq.ft existing - 6,970 sq.ft required, to construct a two-family structure, where a 6-22-2021 ZAB approval for lot width was granted for approval of a single-family home. RC Zone, Ward 3.

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
Rob Shaw
JP Boucher

Nate Chamberlain, Fieldstone Land Consultants, 206 Elm Street, Milford, NH. Mr. Chamberlain said that they would like to construct a two-family, where the lot size would only allow a single-family home. He said that while driving on the street,

there is only one single-family home on the street, possibly two, and the rest are all duplex and multi-family units. He said that it is within the spirit of the neighborhood, and the proposed house would be constructed in the same footprint as presented in 2021.

Mr. Chamberlain said that the variance would not be contrary to the public interest, as the surrounding area is mostly all multi-family, duplexes, and it will fit in the neighborhood.

Mr. Chamberlain said that the proposed use will observe the spirit and intent of the ordinance, as it is in keeping with many other duplex units on the street, and will be in harmony of the area.

Mr. Chamberlain said that substantial justice will be done to the property owner by granting the variance, it will allow the owner to develop the parcel into a property in harmony with surrounding properties, and it will not cause harm to the general public, or other individuals. He said that the proposed use will not diminish the values of surrounding parcels, because it is new construction and will have a positive impact.

Mr. Chamberlain said that hardship is going to be granted, as the proposal is consistent with its surroundings, and will not alter the essential character of the neighborhood, and the proposal and its density is fair and reasonable.

Mr. Lionel said that two years ago, they received permission for a single-family here, and the Board granted it for a single-family home, and the reason given by various Board members was that it was acceptable as a single-family lot. He asked why a single-family home was fine in 2021, and now that has changed.

Mr. Chamberlain said at that time, in 2021, the buyer was not known, where the current buyer has a preference for a duplex, using the same footprint as presented in 2021, with each unit taking one floor.

Mr. Nehiley asked about any off-street parking.

Mr. Chamberlain said that there will be a driveway to accommodate at least two vehicles, and it would all be off-street parking.

Mr. Currier asked what the idea is with the off-street parking, with the larger part of the lot in the back.

Mr. Chamberlain said it will be a dual-wide driveway, and the home in back of it. He said that there is not enough room for a driveway in the back.

Mr. Currier said that he doesn't think anything has changed in that neighborhood, and there is a mix of uses, but the presentation in 2021 was such that it was going to be a single-family home, and it would be consistent with the neighborhood. He said that he's struggling with the fact that now the relief is for a two-family home.

Mr. Boucher asked how many bedrooms the units would have.

Mr. Chamberlain said that they'd most likely be two bedrooms.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Nehiley said that Chandler Street is full of multiunit buildings, and the Board just heard a case a couple months ago for this street. He said that a two-family is certainly in the character of the area. He said that in general, is in support, and understands that a couple years ago it was presented for a single-family. He said it would be in the character of the neighborhood.

Mr. Shaw said that he's struggling with this, as two years ago they made the argument to only have a single-family, and it still is a significant relief.

Mr. Currier said that he is also struggling with the application. He said that it is a mixed neighborhood, and the Board just had one nearby. He said that the lot is under, it's at 79%, and with the property skinnied down, it makes a two-family more challenging here than a single-family, as there

would be two different families with two different schedules, and Chandler Street is a cut-through and speeds are kind of high.

Mr. Lionel said that he is not in favor of this coming back. He said that the Board was told two years ago that this would be a single-family residence, and that Chandler Street is narrow, crowded.

Mr. Boucher said that the neighborhood is mostly multi-family. He said that the site is doable, even with the parking, and the unit is not a side-by-side, it's an up and down style. He said that he doesn't find enough to deny the application, and will support it.

Mr. Minkarah said that he is struggling with this one, if this were a free-standing lot that is coming to the Board for the first time for a duplex, he may be inclined to support it, as it would be consistent with the density. He said that he would have liked to see a plan that shows how they'd accommodate the parking, without parking in the street.

Mrs. MacKay said that for parking, she can see cars parked on the front lawn. She said that Chandler Street, on any given day, is seriously a drag strip, people go flying up that hill, and flying towards the stop sign, and there's always cars parked on either side, and you're just praying that no one is coming in the opposite way. She said that it's a difficult decision, the area looks like it would fit, however, do we want to fill the bucket so full that it overflows. She said that she would have liked to see a plan showing the house and driveway.

Mr. Shaw said that when the Board was deliberating on this case before, if the request was for a two-family for this second lot, he would have expected that it would have been carved up differently, so that they could have met the land area, and there is some extra land on the remaining lot, it could have been somewhat like a flag lot in a different way. He said that the Board found sufficient comfort with the single-family home, and now it's proposed for another dwelling unit. He said that he cannot support it.

Mr. Currier said that the single-family criteria was very persuasive the first time, and that was a reasonable request, and cannot support this request.

Mrs. MacKay said that she agrees.

MOTION by Mr. Lionel to deny the variance application on behalf of the owner as advertised. Mr. Lionel stated that the variance is not needed to enable the applicant's proposed use of the property, given that there are no special conditions of the property, and the benefit can be achieved by some other method reasonably feasible for the applicant to achieve, other than the variance.

Mr. Lionel said that the request is not within the spirit and intent of the Ordinance.

Mr. Lionel stated that the Board does not have any specific testimony on the impact to property values, there is mixed use in the neighborhood, but this is an already small lot and will be a more intense use than what is there now.

Mr. Lionel stated that the request is contrary to the public interest, and substantial justice will be served by not supporting this request to the applicant.

SECONDED by Mr. Shaw.

MOTION CARRIED 4-1 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

REGIONAL IMPACT:

The Board did not see any cases of Regional Impact for the March 28, 2023 meeting.

MINUTES:

February 28, 2023:

Mr. Minkarah stated that on Page 7, five lines up from the bottom, Mr. Nehiley said that the Board had a very long conversation on this, and clearly thought that the driveway

should stay at 40 feet, and said that it should read that it should "not".

Mr. Minkarah pointed out the fifth paragraph from the top, where it starts with Mr. Minkarah, it should state "presented" instead of present.

Mr. Falk said that staff will make the appropriate changes.

MOTION by Mrs. MacKay to approve the minutes as presented, along with the edits, waive the reading, and place the minutes in the file.

SECONDED by Mr. Shaw.

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

ELECTION OF OFFICERS FOR 2023:

MOTION by Mr. Currier for the following slate of Officers for 2023: Mrs. MacKay to serve as Chair, Mr. Shaw to serve as Vice Chair, and Mr. Boucher to serve as Clerk.

SECONDED by Mr. Lionel.

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

ADJOURNMENT:

MOTION by Mrs. MacKay to adjourn the meeting at 8:47 p.m.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing