

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
May 23, 2023

A public hearing of the Zoning Board of Adjustment was held on Tuesday, May 23, 2023 at 6:30 PM, both in person at City Hall and via Zoom.

Rob Shaw, Acting Chair, asked for a Roll Call:

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

Sam Durfee, Planning Manager  
Kate Poirier, Zoning Coordinator

Mr. Shaw explained the Board's procedures, saying that real-time public comment can be addressed using Zoom, or by telephone, or in person. Mr. Shaw 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](mailto:Planningdepartment@nashuanh.gov), or by mail, at P.O. Box 2019, Nashua, NH, 03061. Mr. Shaw identified the points of law required for applicants to address relative to variances and special exceptions. Mr. Shaw 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.

- 1. Dayle A. & George H. Fenton (Owners) 15 Cliff Road (Sheet B Lot 1820) requesting special exception from Land Use Code Section 190-16 (E)(3)(a) for a minor encroachment to encroach a maximum of 2'-6" into the 10 foot required left side yard setback to construct an attached 16'x31'-6" one-car garage. R9 Zone, Ward 9.**

Voting on this case:

Steve Lionel  
JP Boucher  
Jack Currier

Rob Shaw  
Jay Minkarah

George Fenton, 15 Cliff Road, Nashua, NH:

Mr. Fenton said he has lived here since 1980. They would like to add a single car garage to the house. The house is on a loop road, off of Harris, so the front corner has 11-ft from the corner of the new structure to the property line, but on the back corner they need 2.5-ft. That's the exception they are asking for.

Mr. Fenton said the majority of the houses on the street have a garage, it's not going to be out of the character on Cliff Rd. As we get up in years, we would like to have one car covered for the wintertime. On the back of the garage we would also like to put in a laundry room, to help from going up and down the stairs in the basement. That's what they're asking for.

Mr. Currier said he would like to reiterate what was said. Their property is skinnier in the back. Given the way the house is situated, because Cliff Rd is kinda curvy.

Mr. Fenton said correct. We're on the inside.

Mr. Currier said those conditions end up why you're cutting into the setback on the rear and not on the front. He noticed an angled part to the left. Would the intention to still be that way, or would be the garage be one parking space?

Mr. Fenton said the garage would be one parking space. That space where they slant would be just parking for the other car.

Mr. Nehiley said on the left side of the house there is currently a chain link fence and some larger bushes. Will they remain after the project is done?

Mr. Fenton said the fence is his neighbor's. The shrubs are his, and he would like to keep them there.

**SPEAKING IN FAVOR**

None

**SPEAKING WITH OPPOSITION, QUESTIONS, OR CONCERN**

None

**END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:**

Mr. Boucher said he is in support of the application. With the somewhat odd shape of property and the location of the house, a one car garage is reasonable. Because of the property line, it's just the left rear corner. It fits into the neighborhood, and he finds that it meets the criteria.

Mr. Currier said he finds support for this. He would have been concerned if the abutter showed concern. It might be less of an impact with the garage because one car would be there versus angled parking and headlights coming over. They haven't heard any objections. He also appreciated the detailed design in their package; this was complete with architectural plans and he thinks it will be a tasteful addition.

Mr. Lionel expressed support for the reasons already stated.

Mr. Minkarah said it's a permitted use and consistent with the character of the area. It meets all the criteria.

Mr. Nehiley said he is in support for the reasons stated by his colleagues.

Ms. Booras said she is in also support for the reasons stated by her colleagues.

Mr. Shaw said the house looks like it was slightly turned a few degrees versus the property lines. The sides of the house aren't exactly parallel, and it is a minimal encroachment. It's a reasonable request.

**MOTION** by Mr. Lionel to approve the special exception application on behalf of the owner as advertised. Mr. Lionel stated that this is listed in the table of uses.

Mr. Lionel said there is no testimony that this will create undue traffic congestion or impair pedestrian safety.

Mr. Lionel stated that the Board does not believe the request will overload public water, drainage, or sewer, or have negative impacts on municipal systems.

Mr. Lionel stated that special regulations are fulfilled.

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

**SECONDED** by Mr. Currier

**MOTION CARRIED 5-0**

**2. Shirley A. Dutton 2015 Revocable Trust (Owner) Kathryn Dutton (Applicant) 14 Benson Avenue (Sheet 10 Lot 44) requesting special exception from Land Use Code Section 190-47 (B) for a major home occupation to operate a life coach/herbalist business. RB Zone, Ward 7.**

Voting on this case:

Steve Lionel  
JP Boucher  
Jack Currier  
Rob Shaw  
Josh Nehiley

Kathryn Dutton, 14 Benson Avenue, Nashua, NH:

Ms. Dutton said she wants to start a small part time business, life coaching and herbalism. The life coaching will be done mostly by video. The herbalism she wants to teach a couple of classes a month, probably Thursday evenings. There would be a maximum of seven people coming to her house, that's all she has the space for. That's all she has.

Mr. Currier asked if there would be parking enough.

Ms. Dutton said there's parking on the street. She also has a large driveway that will fit at least four cars.

Mr. Currier asked if the driveway was adjacent to the house.

Ms. Dutton said yes, it's on the right.

**SPEAKING IN FAVOR**

None

**SPEAKING WITH OPPOSITION, QUESTIONS, OR CONCERN**

None

**END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:**

Mr. Currier said he is in support of the application. He had a little bit of pause with the seven clients at a time. In looking at this site, it looked like there was reasonable parking. The testimony tonight is that it won't be an issue, and that there are lots of other people parking there too. He missed the four car driveway. In summary he thinks it's a low impact business and meets the criteria.

Mr. Nehiley said he is also in favor. With the potential seven customers, there would be three cars on the street. He thinks there is plenty of parking there. He thinks the neighbors won't even notice, as the majority of the business is online. It won't bring down property values, all criteria are met.

Mr. Minkarah said he also supports the application. Parking was a concern, but there is onstreet parking and they didn't hear any concerns from the neighbors.

Ms. Booras said she supports the application.

Mr. Lionel said like his colleagues he was concerned about the parking, but testimony was that there will be sufficient parking and it is a low impact one night a week use.

Mr. Boucher said he is in favor. The applicant meets all criteria.

Mr. Shaw said he is in support. The level of activity would be similar to a social gathering with friends. It might be different if it was every day, but this seems to be equivalent to the level of a social gathering. He feels comfortable with this application.

**MOTION** by Mr. Currier to approve the special exception application on behalf of the owner as advertised. Mr. Currier stated that this is listed in the table of uses.

Mr. Currier said the Board does not believe that this will create undue traffic congestion or impair pedestrian safety.

Mr. Currier stated that the Board does not believe the request will overload public water, drainage, or sewer, or have negative impacts on municipal systems.

Mr. Currier stated that special regulations are fulfilled.

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

**SECONDED** by Mr. Lionel

**MOTION CARRIED 5-0**

**3. Milki V. Caraballo-Cuevas (Owner) 82-82½ Lock Street (Sheet 45 Lot 258) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#35) to operate a barbershop in a portion of an existing building. [Approved by Zoning Board on 6-13-2017, but the barbershop never opened up]. RC Zone, Ward 3.**

Voting on this case:

Steve Lionel  
JP Boucher  
Jack Currier  
Rob Shaw  
Efstathia Booras

Milki Caraballo-Cuevas, 82-82 ½ Lock Street, Nashua, NH:

Mr. Caraballo said he would like to be granted what was once approved for a barbershop. We have parking in the back and on the side of the building, it will not interfere with the peace of the neighborhood.

Mr. Nehiley said in regards to parking, when he did a driveby it didn't look like there was a lot of parking available. He didn't see anything besides what a resident would use.

Mr. Caraballo said there is parking in the rear. In the back and side it fits about six vehicles. When you go on Lock Street, would take a left. In the rear there is space for parking.

Mr. Nehiley said it's enough parking to handle the folks working there, he noticed on the plan there are six booths. Where are

customers going to park? There is no parking as you head south on Lock Street. You would either have to park to the north or park on Chandler, and the Board has already had discussions in the past about the amount of traffic on Chandler. Where will the customers park?

Mr. Caraballo said it's not six barbers at one time, some barbers work at certain hours and others work at other hours. It's by appointment. The barbers will park out back and the clients will park behind them, so it's not an inconvenience. That's the plan to not obstruct any people from parking outside from the neighborhood.

**SPEAKING IN FAVOR**

Letter from Priscilla Morin, 85 Chandler Street

**SPEAKING WITH OPPOSITION, QUESTIONS, OR CONCERN**

None

**END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:**

Mr. Lionel said he is in support. The Board granted it in 2017, and there is no opposition. There is a letter of support. It's a low impact business, this location has had businesses in the past.

Mr. Boucher said he also supports the application. He remembers the tv repair shop years ago here. He recognized that parking is a little blind, but he knows there is parking in back because he's used it. He has no concern about parking; from testimony the owner of the barbershop is going to inform his clients what to do when they come.

Mr. Minkarah said he supports this application. The variance was previously granted, and those conditions remain true. It's historically been a business. It's true that parking is difficult in this neighborhood, but there has always been a business here and at the other intersections. He imagines that they would get some foot traffic as well.

Mr. Nehiley said he is in support for the reasons stated. This has already been a business for years and was already approved. There is also a letter of support.

Mr. Currier said he was on the Board when they approved this back in 2017 and still supports it. He was surprised when this application came through, he thought it had been in business. He guesses the sign was there and wasn't open. This meets the criteria.

Ms. Booras said she is in support for the reasons stated.

Mr. Shaw agreed.

**MOTION** by Mr. Currier to approve the variance application on behalf of the owner as advertised. Mr. Currier stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the majority of the Board finds that this is a long-standing commercial space for over 80 years, and that the benefit sought cannot be achieved by some other method reasonably feasible to pursue.

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

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

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

**SECONDED** by Mr. Lionel

**MOTION CARRIED 5-0**

**4. Rise Above NH, LLC (Owner) Andy Erickson (Applicant) 49 Kinsley Street (Sheet 84 Lot 43) requesting variance from Land Use Code Section 190-46 (D)(5) to allow a single family home to convert to a halfway house within one-quarter mile of a school. RC Zone, Ward 4.**

Voting on this case:

Steve Lionel  
JP Boucher  
Jack Currier  
Rob Shaw  
Jay Minkarah



*Ms. Booras recused herself from this case.*

Richard Maynard, Civil Engineer, Maynard & Paquette Engineering Associates, 31 Quincy Street, Nashua, NH:

Mr. Maynard said the project is located at the corner of Kinsley Street and Ash Street. The building is a former community center for the Police Athletic League, and has been vacant for several years. The project is permitted by Conditional Use Permit in the RC zone. The proposal is for a halfway house that houses up to 15 residents up to 28 days. With him is Andy Erickson from Rise Above NH, the organization who runs the program. He will outline their proposal.

Andy Erickson, 28 Quincy Street, Nashua, NH

Mr. Erickson said the proposed variance will not alter the essential character of the neighborhood, nor will it threaten public safety or welfare in any way. It will be a place the community has a dire need for.

Mr. Erickson said the proposed halfway home will observe the spirit of the ordinance because it will provide a safe environment for the public to start the process of healing their mental health and allow them a fighting chance to become productive members of society.

Mr. Erickson said this variance will benefit the community immensely because it will be a fully staffed residential facility where the public can go for 28 days to start their journey to treatment. Currently in Nashua there is very little support for the community to start the recovery journey. The benefits of this application outweigh the negligible harm to individuals.

Mr. Erickson said the proposed halfway house will not diminish the values of surrounding properties because it will fit the characteristic of the neighborhood.

Mr. Erickson said the current ordinance requires a halfway home to be a minimum of a quarter mile from any correctional facility, daycare, children's home, hotel, or any school. Elm Street Middle School amongst others are within a quarter mile. We ask for this variance because without this 28 day halfway home people from the community are not being provided a service that is greatly needed in this community. Also, there will be a total of 8 staff members

throughout the whole day. The first shift will be 4, the second will be 2, and the third will be 2. There will be 24/7 surveillance, every day. We will have full sprinklers and fire safety.

Mr. Minkarah said he doesn't remember this ever being a single family home, when was the last time it was?

Mr. Paquette said that was a mistake in the ad, it's always been a community center for the Police Athletic League. It's never been a single family home.

Mr. Minkarah asked if this is a permitted use, save for its location within a quarter mile of a school.

Mr. Maynard said yes.

Ms. Poirier said it is a Conditional Use Permit. The structure has been a variety of different things throughout the years, most recently an illegal boardinghouse. We told the previous owner that permitted use, if they wanted strict residential, was a single family home. That may have been why it was in the ad. Otherwise, this is going through the process and will need to go to the Planning Board as well.

Mr. Maynard said they wouldn't be here if there wasn't a school within a quarter mile.

Mr. Lionel asked if the residents there go outside of the building to work. Do they get their meals there? What sort of foot traffic or vehicle traffic would there be?

Mr. Erickson said there would be no foot traffic. They don't leave, they stay there. They come, they stay for 28 days, and then they move off to other facilities in Nashua.

Christopher DiNicola, 2 Clark Road, Nashua, NH

Mr. DiNicola said he is the owner of The Process Recovery Center and Rise Above NH. This is going to be a transition. Nashua did a great thing a few years ago creating Doorways, people can go there and gain access to treatment. We have sober living housing as well as intensive outpatient and partial hospitalization. We own 17 Factory Street and we have full clinical staff, mental health, doctors on staff. We work with the city, with Drug Corp and Harbor Homes, we work with the state. We were a part of the creation of

Revive, the governor's task force, we have board members on NH Corp.

Mr. DiNicola said the 28 day program came out based on the implementation of Doorways. People walk in and we get an influx of people who need to get to the level of care we provide, partial hospitalization, is a 28 day. They come in, they're not asked to go to six hours of group a day, they're able to stabilize for 28 days. It's less stressed, they're in group for 3 hours a day. Meals will be provided. It's that gap between detox for 7-10 days, now they're able to come to us for 28 days and transition to the partial hospitalization program, which is a full continuum of care.

Mr. DiNicola said there won't be a lot of foot traffic, other than the staff. The clients will be in the housing for the 28 days.

Mr. Boucher said in the past he remembers discussions about where neighbors are concerned because of the residents being outside doing whatever, going out to have a smoke, and that has been disturbing to neighbors. It comes down to the way the place is managed, what the expectations are. This is a very compact neighborhood. What is their picture? Are they literally confined, or are they allowed to go outside?

Mr. Maynard said they're not confined, they're allowed to go out into the yard. But they are closely supervised. This is not the first one these folks have. They have several sites and you haven't heard any problems yet. They supervise their sites and are good with the neighbors. This is not like they're confined, but they're not allowed to leave the site.

**SPEAKING IN FAVOR**

None

**SPEAKING WITH OPPOSITION, QUESTIONS, OR CONCERN**

Marika Reid, 11 Maywood Drive, Nashua, NH

Ms. Reid said she owns the tailor shop across the street, and has for the past 37 years. She did have the Police Relief Association across the street for many of those years, which was great because you had police presence there. At the other end of Ash Street they have a lot of drug dealers going on all the time. It was nice to be safe. Then another person bought it and subdivided it into like

four rooms upstairs with one kitchen. They were supposed to be paying \$500 a month, and there was a guy who watched the site and was charging them \$650. The person who bought it wasn't even around. They were outside a lot, there was a lot of commotion, police were there all the time. That got sold to another person, and they had a lot of people loitering outside. To be honest, there wasn't a lot of parking and still isn't. Mark's Furniture Store is on one side of her, he parks his truck on one side. There's city permit parking, there's 3-4 cars on the left before anyone even moves in there. So there isn't really a lot of parking.

Ms. Reid said if this use comes in, it's a rehab. She doesn't think they would want to be on the corner, it isn't a great place to hang out. She is opposed to this and hopefully it doesn't go through. She has customers, and is concerned for their safety.

Ms. Reid said if there are going to be 4-5 people watching them, there's no room for them to park either.

Vicky Batzoyianis, 85 Ash Street, Nashua, NH

Ms. Batzoyianis said she is the oldest sister, her father left with her mother and left her in charge. The place is not to be what this people want it to be. There's not enough parking, there's going to be cars in there. She is not in support for this. She also submitted a letter. The place is not for this type of business. They're going to go outside, it doesn't have the room.

Mr. Shaw said the parking would be addressed at the Planning Board level, if it goes to that process.

Mr. Currier said when it was the Police Community Center, was that a daily thing? Were people there overnight?

Ms. Reid said what happened is the city had that property for the police so they could go to the bathroom, or if the officer had to go to court and lived far away he could sleep in the basement on one of the couches overnight, or inbetween. It worked out well because there was a police presence there. Then they started getting taxed and couldn't afford it. It was supposed to be a relief organization, so they put funds into it so if an officer got killed they got funds to pay the widow. But then it was taxed and they couldn't afford the taxes so they sold it for \$89,000.00. It was great to have them there.

Ms. Batzoyianis said they felt safe when the police were there.

Ernest Gronblom, 45 Kinsley Street, Nashua, NH

Mr. Gronblom said he lives directly next door. There is no real outside for people to go except the sidewalk. He imagines that with four people there they would want to make it parking. There's not a lot of parking, there's no place for outdoors. He has his grandchildren over, there's a lot of children in the neighborhood. He is concerned about the fact that they are not confined to the house. If they can be loitering around, there's very little to keep them. It's a small neighborhood, there's not a lot of places to go out and stretch their legs. He is concerned about safety in the neighborhood for that reason.

**APPLICANT REBUTTAL**

Richard Maynard, Maynard & Paquette Engineering Associates

Mr. Maynard said there is absolutely no parking associated with this use. The residents aren't allowed to have cars, and there is no traffic to and from this facility except for the supervisor and staff. The previous owner was making illegal renovations to the property. The last permitted use was the Police Athletic League recreation center. Any use after that was illegal and not permitted. This is a low key project, very much needed in the community, and is well supervised. This organization has more than one facility and you haven't heard anything negative about this organization. They will do a good job for this neighborhood.

**SPEAKING IN OPPOSITION, QUESTIONS, OR CONCERN - REBUTTAL**

Marika Reid, 11 Maywood Drive, Nashua, NH

Ms. Reid said when the first person bought that building he told her that she would have no problem with the parking, and she did. He also said they had other communities and they had no problems. She spoke to Dave Gottesman this week in the shop, he told her that there is problems on Temple Street and Pearl Street. People loitering outside, and she wouldn't like people on the corner here either.

*\*\*\*Multiple conversations in audience\*\*\**

**END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:**

Mr. Minkarah said he appreciates the concerns about parking, parking is tight in this neighborhood. This is not a residential building, and regardless if it were, there's no use you can put this building to that would address parking. There simply isn't room on the site. Any use that you put this building to will have a parking challenge. It sounds as though the parking with this use is low impact. He appreciates the concern around people hanging around outside, because realistically there is no place for them to gather outside. That said, this is otherwise a permitted use. The reason why it's here is because of its proximity to Elm Street School, which will be closing soon. The use is otherwise permitted and wouldn't be here otherwise. It would go to the Planning Board directly, where issues around parking would be addressed. It's a much needed use, and will be run by people who are familiar with and have been doing it for quite some time. Coming back to the property, he doesn't know what use you could put it to that wouldn't have similar challenges. For those reasons, he supports the application.

Mr. Lionel said he doesn't see the parking as an issue. He is concerned about loitering of the residents, this happens in any rooming facility. There is no yard that they can be in. He doesn't find that to be enough of a reason to argue against the variance. If it weren't for Elm Street School, which is closing, this wouldn't be here. He is in support.

Mr. Boucher said he is in support for the reasons stated. He is sensitive to the concerns, but if it wasn't for the school, regardless of parking, this is a permitted use. He agrees with the applicant that this particular organization seems to run their operation well. The applicant is here and heard the abutter's concern, and will be sensitive to that fact. Based on the proximity to the school, this is not up against the school.

Mr. Nehiley said the applicant understands that they have an uphill battle to win over the neighbors and that they have a small opportunity to do so. He is cognizant of the concerns of the neighbors. This is such a critical need in the city. The school is about at the quarter mile mark, the outer edge of the requirement. He is on favor of this application. The applicant has put forth a good application. They will probably not be loitering outside in the middle of the night, but it comes down to how the applicant runs the facility. For that reason he is in favor of this.

Mr. Currier said this application is here because of the proximity to Elm Street School. His feeling is that there is not a close connection between this property and Elm Street School. This is not going to put any kids in danger, which he feels is the intent of keeping some separation distance. If it were a one street neighborhood where kids were walking by he would have concern, but he doesn't in this situation. He feels that the parking will be a challenge whatever the use is, and that this will be less of a challenge than other uses. The loitering catches his attention, but he thinks that given the need for this facility, and most importantly, he thinks it will be a well run facility. He encourages the abutters to have the cell phone numbers of the folks that run this, he feels immediate action would be taken to rectify issues.

Mr. Shaw said he is in support. He would expect that the clientele would be under supervision even while outside, based on the structure of this program. He doubts it would be like other facilities where residents are free to come and go. He would expect and hope that is part of what will be part of this, and maybe if will be elaborated on at the Planning Board.

**MOTION** by Mr. Currier to approve the variance application on behalf of the owner as advertised. Mr. Currier stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the majority of the Board finds that this has not operated as a single family home for years, also there has been testimony that there has been a lot of illegal units there in recent years, and that the benefit sought cannot be achieved by some other method reasonably feasible to pursue.

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

Mr. Currier stated that the Board does not not have testimony the request will impact property values either way, but the Board believes this will be a well run facility and a step-up from the illegal units that have been there recently.

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

**SECONDED** by Mr. Minkarah

Mr. Shaw said this is probably close to the quarter mile mark, and in a year's time the school will be closing. It's still not part of the core part of the neighborhood, and this and the school doesn't have a lot of connection.

**MOTION CARRIED 5-0**

**MISCELLANEOUS:**

**REHEARING REQUESTS:**

None

**REGIONAL IMPACT:**

No agenda ready for review.

**MINUTES:**

May 9, 2023

**MOTION** by Mr. Currier to approve the minutes, as written

**SECONDED** by Mr. Nehiley

**MOTION CARRIED 5-0**

**DISCUSSION**

**NEW ORDINANCE O-23-051:** Mr. Durfee provided a brief summary of the changes to the signage ordinances.

**ADJOURNMENT:**

**MOTION** by Mr. Currier to adjourn the meeting at 7:45 PM

Submitted by: Mr. Boucher, Clerk.

KP - Taped Hearing