

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
May 26, 2020

A public hearing of the Zoning Board of Adjustment was held on Tuesday, May 26, 2020 at 6:30 PM, via WebEx.

Members in attendance were as follows, via verbal Roll Call from Mr. Falk. All members stated that they are alone:

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

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

Mrs. MacKay explained the Board's procedures, stating that the Board is operating under the Governor's Executive Order via WebEx. Mrs. MacKay 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. Mrs. MacKay including the points of law required for applicants to address relative to variances and special exceptions. Mrs. MacKay 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.

NOTE: *There was a low bandwidth this evening, and the audio was difficult to pick up at times.*

1. J. & P. Ferreira Family Trust (Owners) 3 Birchwood Drive (Sheet 54 Lot 20) requesting the following: 1) special exception from Land Use Code Section 190-15, Table 15-1 (#3) to allow a 24'x28' attached addition on right side of house for an accessory (in-law) dwelling unit; and the following variances: 1) from Land Use Code Section 190-32 to allow a 12 foot wide second driveway for proposed accessory dwelling unit; and, 3) from Land Use Code Section 190-192 (C) to exceed maximum driveway width, 17 feet existing, 24 feet permitted, 29 feet proposed. RA Zone, Ward 3.

Voting on this case:

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

John Ferreira, 3 Birchwood Drive, Nashua, NH. Mr. Ferreira said he is present with his wife Penny. Mr. Ferreira said that the Board has their plans, and they will maintain a 10 foot minimum distance on the side, and it will be 15 feet, and because it's a corner lot, there are two front and two side yards. He said that in the back, they are 22 feet from the property line, when it could be 10 feet. He said that they understand that if this addition is not an ADU, then it could be put in without Board approval. He said that the other request is for an asphalt driveway so that his Mother-in-law doesn't have to walk so far, and are trying to provide the best care for her.

Mr. Ferreira said that the siding will match the house, as well as the roof, windows, and roof-line, and it will not be a detriment to the neighborhood whatsoever. He said that they submitted photos of other houses in the area with two driveways.

Mr. Ferreira said that their back yard backs up to Kirkpatrick Village, and has heard that there are some drainage concerns in the back, and the addition will not impact them, it's on the side and won't go anywhere near the back. He said that the developer of Kirkpatrick Village took care of grading, drainage back there. He said that the driveway will be beneficial so that she wouldn't have to walk over 60 feet to get to the ADU. He said that he would prefer to have the entrance on the front, but understands that the law is that they cannot be facing a street.

Mrs. MacKay read over the nine special points for an ADU.

Mr. Ferreira said that they will meet all of them.

Mr. Shaw asked if any other consideration was made for the addition and the driveway to go off the rear of the house, or off of Adelaide.

Mrs. Ferreira said that they did, but would have to remove a

\$7,000 landscape job around a patio.

Mr. Ferreira said that the roof lines don't match up very well, the best location is the proposed plan, he said that they looked at several other possibilities.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Linda Rioux, 1 Birchwood Drive, Nashua, NH. Ms. Rioux said she is in the room with her husband David Rioux. She said that she submitted a letter in opposition. She said that the proposal would face her bedroom windows, and it is sure to affect the resale value. She said that a realtor provided a letter stating such. She said that the addition will disrupt their rest, it will be more people, more traffic and ambulance lights and sirens in the wee hours of the night and will change the aesthetics of the neighborhood. She said that the second driveway will lead to more exhaust and noise issues. She said that their existing driveway area has ample room for cars to park and they have gravel off to the side. She said that the garage has a lot of content in it now, but if it were cleaned out, there would be two more parking spaces in the garage. She said that they have house guests too.

Dan Kelly, 21 Cabot Drive, Nashua, NH. Mr. Kelly said he is concerned with the widening of the already existing driveway. He said oftentimes, there are more than four vehicles parked there. He asked if the house is a boardinghouse, or if they're renting out part of the home, it seems like there is a lot of cars there, and it will affect the property values. He said that the 29 foot wide driveway is unusual.

Jeff Howell, Kirkpatrick Village Homeowners Association, Nashua, NH. Mr. Howell read his statement of opposition into the record.

Mr. Howell discussed the culvert and drainage issues.

Mr. Howell said he didn't see why the resident needs to put an addition on his home, when he has a three bedroom house, a two-car garage, and said he did not receive a copy of the plans until this afternoon, yet the owners have a copy of his rebuttal

for some time. He said that the larger driveway should not be supported, and there are a lot of kids getting off the bus, and hopes the City puts in a sidewalk someday. He said that there are drainage issues on this lot.

Mrs. MacKay said that the applicant is here for a special exception for an accessory dwelling unit, which are allowed, and is here for a variance for a driveway that exceeds 24 feet in width, and he's asking for 29 feet. She said that is what the Board members will deliberate on, not engineering or drainage issues.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Ferreira said that the house does not have an apartment, the basement is not finished, and it is a two-bedroom home with one bathroom. He said that is in the deed, and there is not a renter, it is a family friend living there now, who is in transition from a move. He said that they are not widening the driveway towards Adelaide, the plan is to do what they have at 1 Birchwood, with gravel access going to the ADU. He said that they're not trying to do anything different than the neighbors have done.

Mrs. Ferreira said that Mr. Kevin Slattery had his team have his excavating hitch, because some of the drainage for our property had to be pitched to go to the drain.

Mr. Ferreira said that they did not receive the complaint from Kirkpatrick Village until 15 minutes before the meeting.

Mrs. Ferreira said that if drainage really is an issue for the community, they should look at the area that should be runoff and clear out that area, especially for proper drainage.

Mrs. MacKay said that the drainage issue is not before the Zoning Board, and it is not the Board's issue.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Kelly said that the widening of the existing driveway to 29 feet is not going to happen, that is what the owner said, it would be a second driveway on the right side of the house.

Mr. Currier said that it is unclear to him if the applicant's

property is within Kirkpatrick Village.

Mr. Ferreira said that they are not part of Kirkpatrick Village, but abut a common area.

END OF PUBLIC HEARING - BEGINNING OF PUBLIC MEETING:

Mr. Currier said that he is in favor of the special exception. He said that the State of New Hampshire encourages special exception in this manner. He said that there is not intensive use of the house with only one bathroom. He said that the door on the side meets the City's requirements, and it may be impactful to the abutter, but it is a reasonable use, and it is better on the side than on the front. He said that he has concern about the driveway, as it gives the property more of a two-family look.

Mr. Lionel said that this is his neighborhood, and the special exception for the ADU is fine, no reason to object to that. He said he is not in support of the second driveway. He said that in cases similar to this, the Board has generally not been in support of a second driveway for an ADU, and the property often has many cars parked in the driveway at all times.

Mr. Boucher said he supports the special exception for the ADU. He said that there is a handicap ramp, so there is an issue with that. He said that there is another parent that is occupying the unit down the road. He said that there is somewhat of a character of houses having two driveways, it certainly exists, and it's not a necessarily heavy travelled street. He said that at this point, he would support the variance for the driveway.

Mr. Shaw said that he is in a similar spot as Mr. Currier. He said that he has an issue with the second driveway, and having it associated with the ADU, it does lead it to looking more like a two-family. He said that he is in support of the special exception for the ADU, but not for the driveway.

Mr. Minkarah said that he is in the same place as Mr. Shaw and Mr. Lionel. He said that he has no problem with the special exception, and the additional driveway concerns him, it has a two-family appearance. He said that although the Board does not address drainage, by having a second driveway in the yard does increase imperviousness, and it does increase flow. He said that the abutter raised concerns about exhaust fumes.

Mr. Kanakis said he is in support of the special exception, but has concerns about the driveway. He said that the second driveway would violate regulation 3(b) of the accessory dwelling unit ordinance, with no new curb cut.

Mrs. MacKay said that she is fine with the special exception, it meets all the criteria. She said that the code does not allow a new curb-cut from the street, and didn't know if they keep it gravel, if it would constitute a new curb cut. She said the extra driveway does make it look like a two-family, and there really shouldn't be a new driveway with the ADU. She asked Mr. Falk if the driveway is stone, if it is considered a curb-cut.

Mr. Falk said Mr. Kanakis is correct, there isn't supposed to be any new curb cuts. He said that the Code doesn't want another driveway for an ADU, whether you call it extra width for a second driveway, or 3(b), they're not supposed to have that second driveway. He said that whether or not they're actually cutting into a physical curb or not, it is a street opening issue, as the pavement on the paved Birchwood Drive must go all the way to the property line leading to a driveway.

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

Mr. Shaw stated that there will not be any undue traffic congestion or unduly impair pedestrian safety.

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

Mr. Shaw said that all special regulations are fulfilled, the nice criteria per testimony of the owner.

Mr. Shaw said that it 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 5-0 BY ROLL CALL OF VOTING MEMBERS

MOTION by Mr. Shaw to deny the variance application on behalf of

the owner as advertised. He said that the variance is not needed to enable the applicant's proposed use of the property, and there are no special conditions of the property, and the benefit sought can still be achieved by some other method which in this case, they can use the existing driveway, and the ADU code section is intended to not have a second additional driveway associated with an ADU.

Mr. Shaw stated that it is not within the spirit and intent of the ordinance, and the intent of the special exception for ADU's is to not create an appearance of a multi-family type of structure, but to have subordinate use of the ADU and not have any significant appearance of that additional usage present.

Mr. Shaw stated that there was a little discussion of property values of surrounding parcels but it doesn't appear to be a significant factor one way or another.

Mr. Shaw said that it is contrary to the public interest, and substantial interest is served by not supporting this variance request.

SECONDED by Mr. Lionel.

MOTION CARRIED 4-1 (Mr. Boucher) PER ROLL CALL OF VOTING MEMBERS.

2. Claudir Mozzer (Owner) Luciane Ortis (Applicant) 20 Luke Street (Sheet 138 Lot 106) requesting variance from Land Use Code Section 190-192 (C) to exceed maximum driveway width, 20 feet existing on right side of house - 24 feet permitted, requesting approval to maintain an existing 8 foot wide driveway on left side of house, for a total of 28 feet. R9 Zone, Ward 1.

Voting on this case:

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

Luciane Ortis, 20 Luke Street, Nashua, NH. Ms. Ortis said that the other driveway on the left side of the house has a trailer

always parked there. She said that the request is simple, and just need another driveway, a single driveway on the other side, as the truck and trailer will always be on the right side driveway.

Ms. Ortis said that the reason for the stone driveway is because when it's muddy or raining it looks bad, at least the stones would look nicer.

Mr. Lionel said it looks as if the gravel on the left side was recently added.

Ms. Ortis said it was recent [poor connection]. She said that they used to park there anyways, so the gravel would look nicer.

Mr. Boucher asked what the reason is for the extra driveway.

Ms. Ortis said that they have two trucks and a car, and they have the trailer. She said it will just look nicer, and one truck is only for the trailer, it is for motorcycle and four-wheelers.

Mr. Boucher asked if they could expand the existing driveway so that it is 24 feet wide.

Ms. Ortis said that the way the trees are, it would cost a lot of money to remove one tree.

SPEAKING IN FAVOR:

Charles Grondine, 22 Luke Street, Nashua, NH. Mr. Grondine said that he is for it as long as they put up a fence all around the property. He said that he sent an email about this, and he just needs a little more privacy with the fence.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Mrs. Grondine, 22 Luke Street, Nashua, NH. Mrs. Grondine said that there is a lot of car traffic, and there is a privacy issue, and without the fence, it's a huge issue, even though the additional driveway would be on the other side. She said that three quarters of the yard is fenced in, but it needs to be on both driveway sides.

Mrs. MacKay said that she has Mrs. Grondine's email on the

record as well.

Mr. Currier said that the proposed driveway is for the 18 Luke Street side, and asked if the Grondine's could clarify where they would like to see a fence.

Mr. Grondine said he would look for both sides being done for privacy reasons, and so that the vehicles in the driveway would be less visible.

Mr. Falk said that there are emails in opposition from Lorraine LoRusso and Steven Martin.

Mrs. MacKay said she has them both.

Lorraine LoRusso, 18 Luke Street, Nashua, NH. Mrs. MacKay read Ms. LoRusso's letter of opposition into the record.

Steven Martin, 17 Carroll Street, Nashua, NH. Mrs. MacKay read Mr. Martin's letter of opposition into the record.

SPEAKING IN FAVOR - REBUTTAL:

Ms. Ortis said it's no problem adding a fence if they need more privacy. She said she doesn't see any issue with the driveway regarding the water, the driveway will allow water to go in the ground. She said that they've been parking there for five years already. She said that even the prior owner had a trailer and a truck and always parked it on the side, in the mud. She said that they can put in the fence and it will look nicer and will not be an issue. She said that the existing driveway doesn't fit the trailer and the trucks all year long.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

No one.

END OF PUBLIC HEARING - BEGINNING OF PUBLIC MEETING:

Mr. Shaw said that he is not sure if he can support this application. He said especially takes what the owner at 18 Luke Street said. He said that the driveway is extremely close to their house, as is the gravel one. He said he doesn't see actual criteria being met, and there is nothing special about this property that necessitates the second driveway. He said that the

only thing he sees is perhaps a desire to park a significant number of vehicles, trailers, trucks that cannot be accommodated with the existing driveway and garage, but there are other alternatives to pursue, such as a storage place.

Mr. Lionel said that the Board sees a lot of these requests for second driveways for parking trucks and trailers, and it really does harm the character of the neighborhood. He said he is not in favor.

Mr. Boucher said he's not against the idea of a second driveway on that side, especially if it met the 24 foot requirement. He said that there is not enough reason for him to be in favor of the application because he didn't hear enough that prevented them from achieving what they want by possibly re-configuring the other driveway. He said he didn't hear anything related to challenges with the existing driveway, and said that they can get what they want by some other method.

Mr. Currier said he sees the applicant's desire to have the driveway, and there is merit to the argument that it would clean the property up, as it would be less muddy, but doesn't see any special condition on the property that would warrant the excess driveway. He said he is sensitive to the abutter, as there would be more use on that left side, and that is the reason why there is a maximum driveway criteria. He said that there are other ways that the applicant could achieve other parking by working with the other driveway or removing trees. He said he's not in favor.

Mr. Minkarah said he agrees with other members statements. He said it's a relatively small lot, and a dense area. He said that the special conditions of the property wasn't an issue that was properly addressed.

Mr. Kanakis agreed, and didn't think that there were any special conditions of the property, and didn't think they met the hardship.

Mrs. MacKay said she agrees with her fellow Board members, it is a small property, and has the appearance of making the house look smaller. She said she is sensitive to the abutter's claims about exhaust fumes, noise and the privacy. She said that she is not in support of the application.

MOTION by Mr. Lionel to deny the application on behalf of the applicant as advertised. Mr. Lionel stated that the variance is not needed to enable the applicant's proposed use of the property, the Board could not identify any special conditions of the property, and the Board believes that the benefit sought by the applicant can be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance.

Mr. Lionel stated that the use is not within the spirit and intent of the ordinance.

Mr. Lionel stated that the use might adversely affect the property values of surrounding parcels, and it may be contrary to the public interest.

Mr. Lionel stated that substantial justice is served to not grant this request.

SECONDED by Mr. Shaw.

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

**** 5-Minute Break ****

3. Procyon Properties, LLC (Owner) Granite Start, LLC, d/b/a Granite Start Early Learning Center (Applicant) 100 Perimeter Road (Sheet E Lot 1454) requesting special exception from Land Use Code Section 190-15, Table 15-1 (# 240) to use property as a children's daycare facility. AI Zone, Ward 1.

Voting on this case:

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

Attorney Morgan Hollis, Gottesman & Hollis, 39 East Pearl Street, Nashua, NH. Atty. Hollis said that the land is owned by the Nashua Airport Authority but is subject to a long term lease. He pointed out the site plan, and the corner of the property in the upper parking lot where there would be a playground. He said it is a two-story building, that has been there almost twenty years, it was built as an office building

for the engineers.

Atty. Hollis said in 2017, the Zoning Board granted a variance for social services and counseling for autistic children for the Gateways Community Center. He said that it was a day-care type of arrangement, but they provided social services. He said that Gateways will be moving out and the proposed client will move into the same location, they will need to do some safety and accessibility fitups internally, and there will be no change to the exterior of the building, and on the outside, they would put in the playground approximately where it is now for Gateways, only slightly larger. He said that there are 36 parking spaces on site, with a staff of twenty, so there is more than enough parking. He said that there is good traffic flow on site.

Atty. Hollis said that there is very good two-way vehicular circulation on site, and the site is ideal for the proposed day care. He said it would be for children aged 2 months to 12, and up to 130 people under their license, and the use is allowed as a special exception. He said that there is little traffic on Perimeter Road, there are a series of office buildings that complement the airport operations.

Atty. Hollis said that the proposed use is listed in the Table of Uses, #240.

Atty. Hollis said that there will be no impact on traffic on Perimeter Road, they stagger their arrivals and departures so that they do not have backups, and they average eight cars every 15 minutes. He said that Perimeter Road is quite a ways from any major traffic center. He said that they will open at 6:00 am., and it will close at 6:00 pm.

Atty. Hollis said that the use will not unduly impair pedestrian safety, as there are no reasons for persons to be walking on Perimeter Road to be impacted by any traffic coming or going.

Atty. Hollis said that the use will not impact any of the municipal services, all utilities are existing and there will be no impact. He said that they would be using the entire building.

Atty. Hollis said that the proposed use will not be out of character or impact the integrity of the neighborhood, the lot is a leased lot and looking out towards the proposed play area, there is a large 65-foot wooded buffer to the boundary line, and

there is a 300-foot distance to the nearest private property line, and it is at least 1,200 feet to the nearest house.

Atty. Hollis said that there are letters of support from the Airport Authority and from an immediate abutter.

Atty. Hollis indicated where the drop-off zone would be from the plan. He indicated the upper level area for parking with several parking spaces, as well as the playground area, and with no changes to the building, will not impair the integrity or be out of character with the neighborhood. He said that there were some pictures submitted with the package, showing the lower level and entrance to the building.

SPEAKING IN FAVOR:

Mr. Falk read the letter in favor from Chris Lynch, Airport Manager, into the record.

Scott Toothaker, Melanson Heath, 102 Perimeter Road, Nashua, NH. Mrs. MacKay read the letter into the record, stating that they are in support of the request and would be an admirable use of the property.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR COMMENTS:

Dave & Erin Almeda, 10 Blackfoot Drive, Nashua, NH. Mrs. MacKay read their opposition statement into the record.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Hollis said that he addressed all the issues raised, and believes the application, testimony and discussion covered their request in detail. He said that there is a significant wooded buffer in this area.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

No one.

END OF PUBLIC HEARING - BEGINNING OF PUBLIC MEETING

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

Mr. Currier said that the application is complete and is in

support, and won't be much different than the previous request the Board granted here a few years ago. He said it is not an aggressive use.

Mr. Falk said that the abutters in opposition from 10 Blackfoot Drive live about 1,800 feet away, and in between it is heavily wooded.

Mr. Boucher said that he is in support.

Mr. Kanakis said that he is in support.

Mrs. MacKay said that she is in support.

Mr. Minkarah said that he is in support.

MOTION by Mr. Boucher to approve the special exception application on behalf of the owner as advertised. He said that it is listed in the Table of Uses, Section 190-15, Table 15-1 (#240).

Mr. Boucher stated that there will not be any undue traffic congestion or unduly impair pedestrian safety, in fact, the testimony stated that the proposed use will not be any more intense than the previous use.

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

Mr. Boucher said that all special regulations are fulfilled.

Mr. Boucher said that it 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. Shaw.

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

4. Scott Hamilton & Lisa St. George (Owners) 9 Pinehurst Avenue (Sheet B Lot 649) requesting variance from Land Use Code Section 190-192 (C) to exceed maximum 24 foot wide driveway width, 12 feet wide on left side of house, 30 feet wide on right side of house, for a total width of 42 feet. R9 Zone, Ward 8.

Voting on this case:

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

Lisa St. George and Scott Hamilton, 9 Pinehurst Avenue, Nashua, NH. Ms. St. George said that they wish to have an extension of the driveway to the right of the home. She said that they purchased the home in 1995, with the sole purpose of having the in-law apartment, as they already had parents moving in with them.

Ms. St. George said that the existing driveway had been there, plus another 12 feet to the right of the home, which was the original driveway.

Ms. St. George said that her husband operates a small business out of their home, and has over time obtained a box truck, and a trailer. She said that they went into partnership with their neighbor to the right, Scott Hudson at 7 Pinehurst, to improve the property separation, where the right where it shows a box truck there, that was a crumbling rock wall that needed repair almost every year. She said that they repaired the rock wall and replaced it with a retaining wall, which is safer and looks nicer. She said it will be a benefit to the neighborhood and there is a lot of traffic on the street, including school buses. She said that sometimes when her husband backs in his box truck or trailer, it takes some time and it would be safer to just pull in.

Ms. St. George said that the house recently burned down, and it was all re-constructed and is higher value than it was a few years ago.

Mr. Shaw asked how long the driveway has been there on the left side of the house.

Ms. St. George said that driveway has been there since they purchased the house, also, the in-law apartment was also there since they bought the home in 1995.

SPEAKING IN FAVOR:

Mr. Falk said that Scott Cusson, 7 Pinehurst Avenue, was on WebEx earlier in the meeting, he sent a message that he had to leave, but wanted the Board to know he is in support.

Gabe Enright, 10 Pinehurst Avenue, Nashua, NH. Mr. Enright said he lives right across the street, and is in favor.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, AND BEGINNING OF PUBLIC MEETING.

Board members all expressed support for the application.

MOTION by Mr. Shaw to approve the variance on behalf of the owner as advertised. 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 sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance, and the Board discussed that it is an existing driveway that has been there for at least 25 years, as well as the accessory dwelling unit.

Mr. Shaw stated that the request is within the spirit and intent of the ordinance.

Mr. Shaw said that the Board believes it will not adversely affect the property values of surrounding parcels.

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

SECONDED by Mr. Boucher.

MOTION APPROVED UNANIMOUSLY 5-0 PER ROLL CALL OF VOTING MEMBERS

5. Joshua McAnistan (Owner) 119 Lake Street (Sheet 93 Lot 4) requesting the following: 1) special exception from Land Use Code Section 190-15, Table 15-1 (#3) to maintain an existing accessory (in-law) dwelling unit; and, 2) variance from Land Use Code Section 190-32 to exceed maximum accessory dwelling

unit size, 750 sq.ft permitted - 775 sq.ft existing. RB Zone, Ward 6.

Voting on this case:

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

Joshua McAnistan, 119 Lake Street, Nashua, NH. Mr. McAnistan said that the accessory dwelling unit is not supposed to exceed 750 square feet, but there is 940 square feet of livable space, but the total for the in-law apartment is 777.

Mr. Falk said that the applicant just bought the property, and is applying to maintain an existing in-law apartment that was already there. He said that in looking at the Assessing Department's screen, it looks as if the kitchen was put in about 5 years ago.

Ms. Poirier said that she's been talking with the applicant, and apparently the prior owner refused to go through the process to legitimize the unit, and it is only now that the current owner is able to do this.

Mr. Boucher said that the Board wants to make sure it was advertised correctly, and it looks like if the stairway area is removed, it would bring the square footage to 775.

Mr. Falk said that the staircase is about 160 square feet, so if you subtract that from the 940 square feet, that would give the total to the advertised number. He said that staff does not include mechanical rooms, staircases, elevators, furnace rooms in the total.

Mrs. MacKay said the applicant seems to be attesting to the fact that the 775 square foot number is correct.

Mr. McAnistan agreed, and indicated that he just wants to legitimize this after he bought the home. He said he planned to go to the closing on the property on March 31st, and found out that the in-law apartment was not legal, and then he and his agent offered to make it legal, and the closing was delayed and

he decided to go forward and buying the property with it being illegal, and would apply after the new closing date, which was April 30th. He said that he initially assumed that he was buying the home with a legal in-law apartment. He said that the variance is to only exceed the 750 square feet.

Mrs. MacKay went over all the accessory dwelling unit points of law, and Mr. McAnistan agreed with all of them, with the understanding that the variance is before the Board to exceed the 750 square foot maximum size.

SPEAKING IN FAVOR:

No one.

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 Mr. Boucher to approve the special exception application on behalf of the owner as advertised. He said that it is listed in the Table of Uses, Section 190-15, Table 15-1 (#3).

Mr. Boucher stated that there will not be any undue traffic congestion or unduly impair pedestrian safety.

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

Mr. Boucher said that all special regulations for an accessory dwelling unit are fulfilled.

Mr. Boucher said that it 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. Shaw. Mr. Shaw said that for the special conditions, Mr. Boucher should add that the applicant applied for a variance for the extra square footage of the unit.

Mr. Boucher said that the Board is favorable to the special conditions, and noted that the owner has applied for a variance to exceed the 750 sq.ft.

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

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised. Mr. Boucher stated that the use 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, the Board heard testimony from the applicant that the home was recently purchased, and he thought he was buying it with a legal in-law apartment, and found out it wasn't legal, and the Board finds that the small overage in square footage is inconsequential to the total area of the house.

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

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 is served.

SECONDED by Mr. Shaw.

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

6. Donald E. & Deanne M. White (Owners) 50 Langholm Drive (Sheet C Lot 826) requesting variance from Land Use Code Section 190-192 (C) to exceed maximum 24 foot wide driveway width, two entrances existing, one at 22 feet, the other at 17 feet for a total width of 39 feet - requesting to repave into one driveway at 36 feet wide. R9 Zone, Ward 9.

Voting on this case:

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

Donnie White, 50 Langholm Drive, Nashua, NH. Mr. White said that his wife Deanne is in the room with him. He said he wants to take out the middle section, and to take out the pavement on the right side of the black line on the picture and put in river rocks. He said that he wasn't sure that the maximum driveway was 24 feet, and actually started this process last year.

Mr. White said that he wants to take the two driveways, make it into one, so the cars can go straight in, it would be 36 feet wide.

Mr. Currier asked what river rock is.

Mr. White said that it is 1½ inch rock. He said that Mark Jennings from DPW said that he couldn't have pavement.

Mr. Currier asked about the intent of the rock driveway area on the right, as it is sloped and wants to capture the runoff.

Mr. White said absolutely, a lot of the water comes down from the opposite direction of the front door of the house runs down and all puddles up right by the big white rock, so even with the river rock bed, it will catch a lot of the water instead of all collecting in this part of the yard.

Mr. Currier asked if the river rock bed is an overflow area for parking.

Mr. White said it isn't, and there are only three people living in the house, with three cars.

SPEAKING IN FAVOR:

Dale Sarno, 51 Langholm Drive, Nashua, NH. Mr. Sarno said it will look better without that small area out by the street, and is in favor.

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 Mr. Lionel to approve the application on behalf of the applicant as advertised. Mr. Lionel stated that the use 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 which would be the applicant being able to drive directly into the garage, not be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance

Mr. Lionel said that the request is within the spirit and intent of the law, they are actually narrowing the width of the driveway.

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

Mr. Lionel said that it is not contrary to the public interest, and substantial justice is served.

SECONDED by Mr. Shaw.

MOTION CARRIED 5-0 PER ROLL CALL OF VOTING MEMBERS

7. Jacky Mathieu (Owner) 139 Almont Street (Sheet 445 Lot 52) requesting variance from Land Use Code Section 190-192 (C) to exceed maximum driveway width, 24 feet permitted - 35 feet requested. R9 Zone, Ward 6.

Voting on this case:

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

Jacky Mathieu, 139 Almont Street, Nashua, NH. Mr. Mathieu said that he would like to have his driveway wider, up to 35 feet, so it will be a nice clean parking area. He said that he has four cars, plus an RV.

SPEAKING IN FAVOR:

Christopher Dery, 135 Almont Street, Nashua, NH. Mrs. MacKay read Mr. Dery's letter, stating that he is in full support, and it is imperative that Mr. Mathieu be allowed to modify his land and to allow parking on his lot instead of on the street. He said it will be a benefit to the street.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING - BEGINNING OF PUBLIC MEETING:

Mr. Shaw said that the lack of street parking is a significant factor, and there is support from a neighbor, and it is a reasonable request.

Mr. Currier said that the special condition is the school right across the street, and there is a lot of parking going on there, and is in favor as presented.

Mr. Boucher said that he goes by this area a lot, and said that the property does have some challenges, and it is a busy intersection, and there is no on-street parking here. He said that he understands the challenges that the owner has to move things around. He said that it is a reasonable use.

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

Mr. Minkarah said he is in support.

Mr. Kanakis said that he is in support.

Ms. Booras indicated that she is in support.

Mrs. MacKay said that she is also in support.

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised. Mr. Boucher stated that the use 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, the Board heard testimony of the applicant's use of the property, with the RV, and there is a lot of traffic in the area especially during the school year, and it would be a

benefit to get cars off the street.

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

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 is served.

SECONDED by Mr. Shaw.

MOTION CARRIED 5-0 PER ROLL CALL OF VOTING MEMBERS

MINUTES:

5-12-2020:

Mr. Falk said that the package had a version of the Minutes that were not complete, and an updated, final version was emailed to the Board earlier today. He said that there were some cut/paste issues, but the version sent out today should be fine.

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

SECONDED by Mr. Shaw.

MOTION CARRIED 5-0 PER ROLL CALL OF VOTING MEMBERS

REGIONAL IMPACT:

Ms. Poirier put the next Agenda up on the screen.

Mr. Currier asked about 32 Groton Road.

Mr. Falk said that the southern boundary of the lot borders Massachusetts, but it's not what we would call a Regional Impact, as the proposed use is a small cabinetry shop which will not draw any traffic. He said that they will notify the Town of Dunstable MA.

The Board did not see any cases of Regional Impact, per unanimous verbal roll call.

ADJOURNMENT:

MOTION by Mr. Shaw to adjourn the meeting at 9:58 p.m.

SECONDED by Mr. Lionel.

MOTION CARRIED 5-0 PER ROLL CALL OF VOTING MEMBERS

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing

NOTE: *Minutes revised 7-6-2020 to remove earlier notes of a poor connection. A clearer version of the audio has been made available, and missing testimony has been included.*