

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
July 14, 2020

A public hearing of the Zoning Board of Adjustment was held on Tuesday, July 14, 2020 at 6:30 PM, via WebEx.

Members in attendance were as follows, via verbal Roll Call from Mr. Falk.

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

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.

Mr. Falk asked for a Roll Call. All members present, along with alternates Mr. Minkarah and Mr. Kanakis. Mr. Minkarah said that his son is in the room with him.

- 1. Merrissa Galliano (Owner) 22 Vespa Lane (Sheet G Lot 312) requesting variance from Land Use Code Section 190-264 to exceed maximum accessory use area, 40% permitted, 50% existing - 75% requested - to erect an 18 foot round above ground swimming pool. R18 Zone, Ward 3.**

Voting on this case:

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

Merrissa Galliano, 22 Vespa Lane, Nashua, NH. Ms. Galliano said that because their garage takes up all of their accessory use space, the variance is necessary. She said that a professional firm will be installing the pool.

Ms. Galliano said that they recently purchased the house, and has saved for two years to buy this pool. She said that her father will use the pool for physical therapy, and it will be a family place for enjoyment. She said that the pool is semi-in-ground, and can go up to 36 inches in the ground. She said that the pool would be right off the deck and stairs, and meets all the setbacks.

Mr. Currier said that there is one neighbor with a pool, and the rear yard neighbor has a pool too.

Ms. Galliano agreed.

Mr. Falk said that the reason why they're here is that the house is 1,040 sq.ft in size, and the garage is 440 sq.ft, so with the additional 254 sq.ft pool, it would put them at 75% of the accessory use area. He said that if the garage were connected to the house, they would not need the variance.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Jameson Minecraft, 20 Vespa Lane, Nashua, NH. Mr. Falk read the email into the record. He said that the letter mentions a fence, and Mr. Falk iterated that it was not erected by the current owner, and that it is a separate issue from the variance, and is more likely a private matter between the owners, as this request for a variance is solely for the accessory use area, not fencing.

SPEAKING IN FAVOR - REBUTTAL:

Ms. Galliano said that they bought the house three years ago, and the fence has actually been there since 1991, and is the original fence. She said that they have repaired some of the slats on the fence.

Mr. Lionel stated that they may look into getting a survey to see exactly what lot the fence is on.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Minkarah said that the pool, at the requested size, is a normal and customary use, and is common in the neighborhood, and is not a large use in the yard. He said he is in support of the application.

All ZBA members expressed support for the application.

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the Board discussed the fact that the garage is detached, and if it was attached, they would not need the variance for the area of the accessory use, 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.

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

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

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

SECONDED by Mr. Shaw.

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

Mr. Falk said that they still need to obtain a building permit for the pool.

2. Energy North Natural Gas, Inc., c/o Liberty Utilities (Owner) 25 Van Buren Street & 38 Bridge Street (Sheet 41 & 39 Lots 11 & 26) requesting special exception from Land Use Code Section 190-112 to work within the 75-ft prime wetland buffer of the Nashua River to install an impermeable cap as required by the NHDES remedial action plan, including regrading, repaving and expanding the site's existing parking lot, and improve the stormwater management system. GI Zone, Ward 7.

CASE IS POSTPONED TO THE AUGUST 11, 2020 MEETING

3. Carol A. Muldoon (Owner) 79 Allds Street (Sheet 20 Lot 73) requesting special exception from Land Use Code Section 190-47 (B) to allow a major home occupation for a hair salon. RB Zone, Ward 7.

Voting on this case:

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

Carol Muldoon, 79 Allds Street, Nashua, NH. Mrs. Muldoon introduced Susan Thomas and Margarita Ochoa-Maya who are in the room with her. She said that she has been a hairdresser for over forty years, and lately working in a salon has been unpredictable. She said that the salon she was in was shut down due to Covid. She said that her clients prefer the environment she can offer in a small room in her home.

Mrs. Muldoon said that she can only take one client at a time, and her neighborhood has many home businesses. She said there will no impact to her neighbors, as she will only be changing one window into a door, and adding a set of stairs, and the house will still be in conformance with the neighborhood, and the clientele will park in the driveway, so there will be no impact to the street. She said that the impact to utilities will be minimal, as there will not be more than twenty clients in the 100 sq.ft area. She said that the clients are by appointment only and there will be no walk-ins. She said that she also follows the State of NH regulations.

Mr. Currier asked how many vehicles will typically be parked in

the driveway.

Mrs. Muldoon said she is the only one living there permanently, but her son is living there temporarily. She said likely there will be two cars, but there is room for three vehicles.

Mr. Shaw said that there are special regulations for a major home occupation. Mr. Shaw read them to the applicant.

Mrs. Muldoon said that she will meet all the criteria.

SPEAKING IN FAVOR:

Dr. Margarita Ochoa-Maya, 28 Decatur Drive, Nashua, NH. Dr. Ochoa-Maya said that she is a regular client and is in support of the application.

Susan Thomas, 67 Fieldstone Street, Londonderry, NH. Ms. Thomas said that she is a client as well, and is in support.

Wendy Glick-Hurley, 16 Green Heron Lane, Nashua, NH. Ms. Glick-Hurley is a long-time client and is in support, it is a small space in the house.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Email from Catherine Ritchotte - Mrs. MacKay read the email with concerns. She said it is an email with concerns, not necessarily with the salon, but more with parking.

Gerald Jourdain, 75 Allds Street, Nashua, NH. Mr. Jourdain said he also has no problem with the salon, he said it is a challenge to park on Allds Street, and makes it difficult for his tenants.

SPEAKING IN FAVOR - REBUTTAL:

Mrs. Muldoon said that her clients will only park in her driveway, as she can only take one client at a time. She said it's her understanding that parking on Allds Street is illegal, and she can't control who parks on Allds Street, but it is no one who visits her. She said a lot of the traffic is from cars that go to Danelli's Subs. She said that her address is clearly marked over her door and garage.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Jourdain said he has nothing else to add.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Board members all expressed support for the application, stating that she meets the criteria and it is a limited use and a reasonable request.

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised. Mr. Boucher stated that the use is listed in the Table of Uses, Section 190-47 B.

Mr. Boucher said that the use will not create undue traffic congestion or unduly impair pedestrian safety, as the applicant has testified that there will be one customer at a time.

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

Mr. Boucher said that the 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 residents.

SECONDED by Mr. Shaw.

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

4. Pennichuck Water Works & Pennichuck Water Works, Inc. (Owners) GSSG New Hampshire, LLC (Applicant) "L" Ferry Road, "L" Westland Avenue, "L" Stanwood Drive, "L" Appledore Street, "L" Marlboro Street, "L" Independence Avenue, "L" Claredon Street, and 206 Concord Street (Sheet 52 Lots 1, 7, 14, 23, 24, 28, 39, 49, 61, 65, 81, 82, 85, 96, 97, 104 and 118) requesting special exception from Land Use Code Section 190-24 (F)(3) to allow underground electric utility construction, relocate existing fencing, improve surface of existing gravel drive along Old Harris Road, and tree clearing within a portion of the Conservation Zone to allow for a proposed solar array project (allowed use). R18 Zone, Ward 3.

Voting on this case:

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

Tom Zajac, Hayner Swanson, Inc., 3 Congress Street, Nashua NH.

Mr. Zajac said he is joined with Michael Redding from NE Solar Garden and Don Ware from Pennichuck Water Works. He said that they are seeking a special exception for minor road and utility improvements and selective tree clearing within the Conservation Zone, under Section 190-24 F 3, associated with a proposed solar array project off of Old Harris Road.

Michael Redding, GSSC, 36 Maplewood Avenue, Portsmouth, NH. Mr.

Redding said that they have focused their solar arrays in smaller commercial areas in NH, and others in New England, projects that range from 1 Megawatt to 5 Megawatts, and it services the net metering program. He said a 1 Megawatt project takes about 5 acres of land. He said that they strongly believe in support for local renewable energy, with projects in Goffstown, Franklin, Pittsfield. He said that Pennichuck approached them to provide a solution to bring renewable energy to them to power their water works.

Mr. Zajac described the site location, it's a 12-acre site that exists as a number of assorted lots, along with various paper streets, that a majority are owned or controlled by Pennichuck. He pointed out Lot 18 on the map, it is 125 acres in size for Pennichuck. He said that the project site consists of 16 other lots and associated paper streets, related to a subdivision plan that was created in the late 1800's.

Mr. Zajac pointed out on the aerial photo that the site is wooded, and the existing conditions sheet, with the paper streets and lots superimposed on it. He said that the topography is mild to moderate, and gently slopes in a westerly direction towards the wetlands, there are well-drained sandy soils on site, with numerous buffers and setbacks associated with Supply Pond, the Watershed land, and wetlands.

Mr. Zajac said that they are before the Board tonight related to the Conservation Zone, specifically the 300-foot Conservation Zone associated with Supply Pond, and the 150-foot Conservation

Zone associated with the wetlands.

Mr. Zajac said that there will be two solar array fields proposed, totaling about 5 acres each. He said that the lots and paper streets will be consolidated by Pennichuck via the voluntary lot merger process. He pointed out the final condition of how the property will look, there will be one lot to the easterly side of the parcel, and the remaining land will be absorbed into Lot 118. He said that the location and siting of the solar arrays were made after careful consideration of the site constraints, to minimize environmental impacts, including avoiding wetland and wetland buffers, and minimizing land disturbance, utilizing existing topography and soils and drainage patterns.

Mr. Zajac said that the solar array would be accessed off of Old Harris Road, there is an existing gravel drive about 12 feet wide, and the Fire Department has stated that the access as it exists today is sufficient. He said that there will be fencing on all sides of the solar array, with two on-site transformer pads with new underground electric service that will run from the proposed site out to Manchester Street along the Old Harris Road right-of-way, about 1,200 feet long. He said that there will be new electric poles and electric connections that will tie the proposed solar array back into the existing grid.

Mr. Zajac said that Conservation Zone impact area A is the smaller of the two, it's about 0.4 acres of impact, located along the existing gravel drive on Old Harris Road, and it's really for associated utilities and minor road improvements, and it is fully out of the 75-foot prime wetland buffer. He said that impact area B is about 2.4 acres, and consists of land north and west of the proposed solar array, outside of the proposed fence line. He said that they propose to clear trees, but not stump them, and there will be no wetland buffer impacts in this area either. He said that the purpose of this is to maximize the sun exposure for the arrays, and this area will be able to re-grow after the initial clearing.

Mr. Zajac said that much care was considered to avoid the wetland and wetland buffer related to the watershed, and to minimize and mitigate any environmental impacts that the solar project would have, including a wildlife-friendly fence, and a certain grass seed mix to help restore the natural condition. He said another key element is stormwater management design, the

goal is to utilize existing topography and well-drained sandy soils and existing drainage patterns that exist on site. He said that all the runoff on the site runs in a westerly direction, which will improve existing conditions. He said that the final grading and stormwater design will be subject to rigorous review by the Planning Board and DPW, and Pennichuck Water Works, and from the NHDES Alteration of Terrain Bureau has very solar specific regulations with sites like this.

Mr. Zajac said that they appeared before the Conservation Commission last week, as a courtesy. He said that there are no wetland or wetland buffer impacts, and feel that the Conservation Commission does not have any formal jurisdiction here, but appeared before them to obtain their feedback as it is near watershed land. He said that he did receive some feedback from them this weekend, and still believe that there is no change, and that the regulations are straightforward that since there is no wetland or buffer impacts, that the Conservation Commission has no jurisdiction. He said that they would be happy to receive their feedback into their final design as part of the Planning Board process.

Mr. Zajac said that they've submitted their Special Exception application, in which the responses are pretty straightforward, and meet the standards.

Mr. Redding said that they recognize the importance of their impacts on the watershed. He said that they go through rigorous strides to make sure that all their designs take into account the buffers, plantings, wildlife friendly fencing.

Mr. Lionel said that he has concerns that a heavily forested area will be cleared for this, and wants to know how it will be mitigated.

Mr. Redding said it is a challenge to minimize the impacts, and solar has a good track record in minimizing impacts, and there will be a removal of carbon inputs from coal and natural gas. He said that solar is a net positive state, and provides a good solution, and provides a good restorative nature to the watershed by converting the forested area to a grassed meadow, the grass will grow quite tall before it's mowed, and provides a great habitat for animals to run through it, and the fencing allows them great protection.

Mr. Zajac said that these are lots of record, and they could be developed into single-family lots, and these trees could be cleared for another use.

Mr. Currier said that the site currently has 100% infiltration of stormwater, and if this were to go in, it would still be 100%.

Mr. Zajac said that they haven't completed the final stormwater design, but said that he agreed, as there are well-drained soils with little to no runoff from the site. He said that with the AOT study, they have to identify the soil types and a full soil map, and they look at grades, the orientation of the panels, and that puts the project in a thorough review. He said it is an ideal site for stormwater infiltration right back into the ground.

Mr. Shaw asked about the rationale behind the two proposed lots.

Mr. Redding said that the regulations allow them to do a 1 Megawatt project site for solar development, so to do that, the arrays are each under 1 Megawatt total size, so they need two separate lots. He said that it is a PUC requirement.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Sherry Dutzy, 18 Swart Terrace, Nashua, NH. Mrs. Dutzy said this is neither for nor against, her question is more of an issue of jurisdiction, and Chairs the Conservation Commission. She said that the Commission was blindsided on this project. She said it was not listed on their Agenda under New Business, it was put on as a discussion, and they received no information about the project prior to the meeting, however, they were not asking for our input, but as an advisory Board, it is hard to advise on a project if you don't know what the project is. She said that they have a process, in which applications are sent to the Commission before the meeting for review, the applicant then speaks at the meeting, then they set up a site visit to see it, and then the applicant comes back and discusses it for a vote. She said that that process was not followed, and the impression was left that the Commission was in favor of it. She said that

they are neither in favor nor against, they just don't know, and that trees will be cut down, without knowing about them. She said that they are for solar, and support passive environmental projects like this. She said that she read an article in which it said that several acres have been used for solar arrays, and if rules are not changed, perhaps 150,000 acres of forest land would be cut down for solar. She said that they just want to do a site visit and discuss it with the applicant.

Carol Sarno, 15 Rocky Hill Drive, Nashua, NH. Ms. Sarno said that she sent an email. She said that she is an alternate on the Conservation Commission. She said that Section 190-24 D-2 indicates that tree cutting is strictly limited in the Conservation Zone and that there are only certain instances in which tree cutting is allowed, and it must be approved by the Conservation Commission.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Zajac asked if Mr. Falk could address the jurisdiction issue.

Mr. Zajac said that their office met with City Staff multiple times to review the regulations. He said that his office and City Staff came to the same conclusion that the Conservation Commission did not have formal jurisdiction over this project, there were a couple sections from the Code that were referenced in the email, and said that his interpretation is that they do not apply, and do not result in the applicant needing to appear before the Conservation Commission in any capacity, there is a certain section that references the expansion or redevelopment of currently developed sites, which requires a trip before the Conservation Commission. He said that they did have a project like that on Amherst Street recently, but this is not a currently developed site.

Mr. Zajac said that he reviewed the Conservation Commission's last email with Mr. Falk, but it didn't change his interpretation of the regulations. He said that, Staff suggested that they meet with the Conservation Commission as a courtesy, and appeared as a discussion item. He said that as soon as they submitted their ZBA application on June 16th, he emailed a copy of the materials to the Conservation Commission email as well Staff. He said he was certain to make all their intentions known to every Board, and was not trying to

circumvent or blindsides anyone, they were supplied electronically three weeks in advance. He said that they have spoken to the concerns about tree clearing and stormwater management, and wildlife habitat impacts with their presentation and responses to the Board members.

Mr. Falk stated that as Mr. Zajac indicated, City Staff and Hayner Swanson and the Solar Company did meet on this a few times in the past months. He said that he agrees with what Mr. Zajac said, it is not a currently developed site at all, or slated for expansion or redevelopment. He said that Section 190-24 B 3 and 4 really just state the location and boundaries of the Conservation Zone, which this is in. He said that Sections D 1 and 2 really talk more about a Forest Management Plan, which is not something our Staff would look at all, as it refers to the DES for that. He said that it talks about piping, headwalls and riprap are prohibited in the Conservation Zone, and only vegetated swales are allowed. He said that they are not doing any of that along the gravel road. He said that they are not working in either the wetland or wetland buffer, they are out of the 75-foot buffer. He said that it was Staff's opinion that by them going to the Conservation Commission as a discussion, or an FYI was the proper thing to do.

Mr. Lionel asked where the lots are planned, if the solar array will be in the Conservation Area. He asked if they would be ordinary house lots if this land was developed.

Mr. Falk said that is correct. He pointed out on the map where new Lot 65 is and new Lot 118, and it shows the location of the arrays, which is all outside of the 150-foot Conservation Zone.

Mr. Zajac indicated that is correct.

Mrs. Dutzy said that they do not have an issue with the solar array, but do have an issue with the trees that will be cut down to enhance the solar arrays, as it is not known what is there, and all they are asking for is for the project to be delayed so that the Conservation Commission can do a site visit to at least assess the habitat. She said that the Conservation Commission exists to be an advisory Board to advise on Conservation and wildlife issues. She said that by cutting down a large area of trees that are in the Conservation Zone, they may not be in a wetland buffer, all they are asking is for them to go out and look at it because they may be able to add some perspective to

it so that fewer trees are cut down, and what kind of trees there are, and there is no wildlife plan. She said it's mentioned that they will enhance the wildlife habitat, but they haven't seen a plan for it. She said that they're concerned about the trees and the cutting that would happen. She said that by them coming to the Conservation Commission without a plan, it would be difficult to comment on it.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Boucher said that he is generally in favor of the proposal, he said that he really doesn't have an issue with the tree clearing, but said it is a good plan and well-thought of. He said that what has to be done through the regulatory process, he said he is confident that it will be adhered to. He said that the work that has to be done, he doesn't have an issue with, and would like to know a bit more about the tree clearing.

Mr. Shaw said that this could be a residential development here, and having solar arrays is a favorable use. He said he doesn't like all the tree cutting that does need to be done, but appreciates the trade-off about the net benefit of carbon footprint perspective, but in terms of our local issue, it is harder to accept. He said he is a little confused with the tree cutting, as there would be a solar array area, and that is no real concern, but said he is not sure of the conservation area in the green shaded area, that would have some clearing. He said in the special exception application, it mentions no significant adverse impact to the water supply.

Mr. Currier said that in regards to the informational meeting that went before the Con Comm, versus a formal application, he said that he is relying on Mr. Falk's interpretation. He said that he is going with Mr. Falk's interpretation, and no disrespect to the Con Comm, if the application process is such that it is not a formal application to the Con Comm, that kind of precludes a site walk and all those other good things that the Con Comm would do. He said that he is going with Mr. Falk's interpretation that there is not a formal application need for the Con Comm. He said that for the tree clearing, he said he feels favorable, because as Mr. Zajac testified to, there is likely a 100% infiltration now, and likely 100% infiltration if this project goes forward. He said that the trees are there and they certainly absorb water in the roots, and slow any runoff, that's a good thing, but the field that is going to be there

also has excellent water absorption and it is sandy soils, so the impact to the water supply is not a negative impact. He said that for the wildlife, it would go from a forested area to a field area, but birds love field areas. He said that there will not be a setback to the water supply with the clearing and the proposed conservation area. He said he is ok with the application and that it meets the criteria, and it is not a setback to the Conservation Zone. He said it is a worthy tradeoff.

Mr. Lionel said that he is disregarding the lots for the solar array. He said that he is concerned about cutting trees in the conservation zone. He said that City staff has determined that the Conservation Commission doesn't have a say in this, and will take their word for it, but it bothers him nonetheless. He said that perhaps it would be good to table this to give time for the Conservation Commission to formally weigh in on this. He said that he is concerned about the tree cutting in the conservation zone.

Mr. Minkarah said that he shares Mr. Lionel's concerns. He said that the solar array is not before us, it is a minor impact, along with the roadway for the utility impacts. He said that his concern with the tree clearing is wildlife impacts and endangered species. He said he would prefer some expert testimony, whether from a wetland scientist or a wildlife scientist on potential impacts of the tree clearing. He said that putting aside the jurisdictional issue, the Conservation Commission is the body that we rely on to provide our Board with inputted advice on matters with conservation, and would feel more comfortable having heard their input.

Mr. Kanakis said that he was leaning in favor of the application, and believes that it meets the criteria, as it could be developed into residential, and a lot of care seems to be put into the project, and minimizing the impacts. He said that if we have to have some time to allow the Conservation Commission a chance to weigh in on some things, he would be ok with that.

Mrs. MacKay said that she is in favor of the application, as solar use is permitted. She said most of the concerns are about the trees, and the jurisdictional issue. She said that going with Mr. Falk's determination means that the jurisdiction does not lie with the Conservation Commission, it lies with the

Zoning Board. She said at this point, she would like to entertain a motion.

Mr. Shaw said at this point, he is more aligned with Mr. Lionel and Mr. Minkarah's points, with giving the Conservation Commission the opportunity to offer an observation and feedback on the application. He said he's not disputing the inclusion that Mr. Falk and staff came to. He said that jurisdictionally, it is not clear that we need or require the Conservation Commission's activity or feedback on this. He said that there were strong concerns raised by their Chair, and there is some support from the Board to allow the opportunity for their review.

MOTION by Mr. Lionel to table the application to a future meeting, perhaps one month for the investigation, giving time for the Conservation Commission to do their site walk and look at the clearing that is going on in the Conservation area, and to give feedback to the Zoning Board as to their opinion whether there should be any special requirements they would like to see on the project.

SECONDED by Mr. Shaw.

Mr. Falk said that the Board should table it to a date certain, otherwise, it would have to be re-advertised. He said that the Conservation Commission meets on August 4th, so perhaps the table should be to the August 11th meeting.

Mr. Currier said that he is not in objection to table the request, but we don't know the applicant's situation as far as their time line, but won't object to the tabling.

Mrs. MacKay said that since the City has determined that the jurisdiction does not lie with the Conservation Commission, but with the Zoning Board, why would we table.

Mr. Falk said that if some members of the Board feel uncomfortable with some of the issues such as the tree clearing or wildlife, the Board certainly has the right to table it, if some members wish to have a little more information.

Mrs. MacKay said that is correct, even if the information is not necessary, or needed.

Mr. Falk said that in staff's opinion, and the applicant as

well, we both feel that way, but the decision really rests with the Board.

MOTION CARRIED 4-1 VIA VERBAL ROLL CALL OF THE VOTING MEMBERS
(Mrs. MacKay).

*** 10-Minute Break ***

5. Nashua Housing & Redevelopment Authority (Owner) Boston Capital Corporation/Richard Mazzocchi and Nashua Housing & Redevelopment Authority (Applicant) 41 Central Street (Sheet 80 Lot 89) requesting the following variances from Land Use Code Section 190-16, Table 16-3: 1) to encroach 8 feet into the 10 foot required front yard setback (at one location on Pine Street), and to encroach 3 feet into the 10 foot front yard setback (along Central Street) in two locations; 2) to exceed maximum side yard setback, 20 foot maximum allowed, 70 feet proposed along easterly property line; 3) minimum open space, 35% required - 28% proposed, 4) to exceed maximum residential density, 48 dwelling units exist, 52 dwelling units permitted - 216 dwelling units proposed, 5) to exceed maximum floor area ratio, 1.0% allowed - 1.4% proposed, and; 6) from Land Use Code Section 190-16 (F)(4) to allow parking in front yard setback, 10 feet allowed, 0 feet proposed (along Myrtle Street) - all requests to redevelop the property from 48 dwelling units to 216 dwelling units, located in four 4-story buildings. RC Zone, Ward 4.

Voting on this case:

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

Attorney Thomas J. Leonard, Welts, White & Fontaine, P.A., 29 Factory Street, Nashua, NH. Atty. Leonard said that he has Jim Petropulos from Hayner Swanson, Adam Wagner from Market Square, and Rich Mazzocchi and Lynn Lombardi, along with Scott Costa and Tom Monahan.

Atty. Leonard identified the location of the property, which consists of 4.82 acres, it's known as Bronstein Properties, it is six buildings with residences. He said that the proposal

will be a full redevelopment of the site, so everything will be demolished, with the construction of four new buildings. He said 48 units exist, and the plan is for 216 units. He said that the lot is in the RC zone, and is fronted by three streets as shown on the overlay plan. He identified the surrounding zoning districts and land uses. He said it has all infrastructure, and public transportation available.

Atty. Leonard said that the neighborhood is made up of larger buildings, the Millyard is to the north, One Chestnut Street, Clocktower Place Apartments, and the Cotton Mill complex, the Crossway Church, Gate City Fence, and to the south is a more typical RC zoned area, with older multi-family urban buildings. He said to the east is the PLUS Company and the new location for Pennichuck Water Works, so, the overall neighborhood has some substantial scale in the buildings to the north and west and east, and a more typical development to the south.

Atty. Leonard said that 4 buildings totaling 216 units are proposed. He said it will be a city-scape development, with all buildings being four stories high, with recreational facilities and associated parking, and the co-applicants have worked hard with city staff and the Mayor's office regarding this plan, to satisfy all concerns that residents may have. He said that all current residents are assured of replacement housing at a similar place, and all will be assisted in relocating, whether temporarily or permanently, and all residents will be offered an opportunity to return to the new project should they wish, or they can stay at any relocation location.

Atty. Leonard said that they are aware that they need to appear before the Planning Board with a site plan. He said that five letters of support were submitted from neighboring businesses. He said that the application is very thorough and straightforward. He said that there is a waiting list of 3,000 families who are looking for housing under the Nashua Housing and Redevelopment Authority, there just isn't enough affordable housing available, and this will certainly help.

Atty. Leonard pointed out the intersection of Central and Palm Street, there is a small jog in the right of way, which was caused by the improvements and taking associated with the Broad Street Parkway, and that is the reason for the setback incursion into the front yard, and similarly, at the corner of Pine Street, there is an oddity in the right-of-way, and that is

another setback incursion. He said that Myrtle Street is a public street, but is only 40-feet wide, and is not a through street, so in an effort to provide the most parking available, the request is a setback variance associated with Myrtle Street, and the request is for a zero setback, as the cars would go directly from Myrtle Street to the parking spaces. He said that to the east, there is a maximum setback, it's intended to have infill development fully develops the site, but it wouldn't be developed to that property line. He said that there is a variance for open space, density and the floor area ratio. He said that a multi-family project needs density to be affordable. He said that it was the City's point of view that density was important and it was mentioned that over 200 units would be desirable. He said that the request is consistent with other densities, such as Cotton Mill, the Lofts, and Clocktower, and the Batesville Casket multi-family site. He said that the scale of the buildings are similar to those immediately around it, and not as big as some of the larger mill buildings nearby. He said that the size and scale of the project is appropriate for this particular site. He said that they've done the best they can with the open space on this site, and Mines Falls is to the west for open space, and there is other urban space within the immediate area, as well as public parking.

Atty. Leonard pointed out the architectural renderings, they are very proud of them, Market Square Architects from Portsmouth did them, they are exciting and consistent with the area and a good transition from the old mill area to the downtown and to the RC zone to the south. He said it will have an urban feel to it, and urban amenities.

Mr. Minkarah said that the parking is less than one per unit, and asked if they are relying on public parking. He asked what the unit mix would be, and secondly, given the setbacks and scale of the buildings, how would the buildings interface with Central and Pine Street.

Atty. Leonard said that they are proposing 231 parking spaces, which is 1.07 per unit. He said that there will be an additional 24 spaces on Myrtle Street, so there would be 1.18 spaces per unit. He said that there are two parking garages that are available, and the benefits of being right downtown, and the "walk score" is 82. He said that they believe that the available parking is consistent with other projects, based upon Boston Development's experience.

Atty. Leonard said that for the unit mix, there are 63 one bedroom units, 93 will be two bedroom, 37 would be three bedroom, 19 would be four bedroom, and there would be 4 five bedroom units. He said for the handicap parking spaces, they are not included in the total number, but it will be fully ADA compliant.

Jim Petropulos, Hayner Swanson, 3 Congress Street, Nashua, NH. Mr. Petropulos said that they are fully compliant with the front yard setbacks along Central and Pine, with the exception of those two areas, with the Broad Street Parkway taking to support a transformer pad, and the other to support a mast-arm signal. He said access to the parking is from a curbcut on Central Street, and it is an efficient site for parking, it is an urban site.

Mr. Minkarah asked if there will be entrances or blank walls facing the street.

Adam Wagner, Principal, Market Square Architects, 20 Lexington Street, Dover, NH. Mr. Wagner said that they've been working on the entry locations that go from the public sidewalk along Pine and Central Street into the building. He said that in-between buildings A and B, there is a connected sidewalk there, which leads into where the primary building entrances will be. He said that security would be a concern from the public sidewalk directly into units, so it is controlled.

Mr. Currier said that if Myrtle Street is heavily trafficked, with parking spaces right on it, it might be challenging, with those 24 pull-in spaces.

Atty. Leonard said that Myrtle Street isn't used by anyone except this site and One Chestnut Street, so it really has no traffic, and doesn't lead to any other place, and the parking will be public parking but Chestnut Street is only open during the business hours and the residential demands are not then.

SPEAKING IN FAVOR:

Mrs. MacKay read five letters of support into the record. They are from:

W.H. Bagshaw Company, 1 Pine Street Extension, Nashua, NH.

Bottom Line Realty, Chuck Spiro, 18-24 Ash Street, Nashua NH.
The Landing, 1 Chestnut Street, Nashua, NH.
Crossway Church, 33 Pine Street, Nashua, NH.
Gate City Fence Company, 11 Ledge Street/3 Pine St, Nashua, NH.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Mr. Falk read a letter of concern into the record from Kim Schotts, the PLUS Company, Nashua, NH.

SPEAKING IN FAVOR - REBUTTAL:

Atty. Leonard said that the parking requirements in the Mixed Use Overlay, which is all around us, is 1 space per unit, and this project will meet the requirements. He said that they believe that they have a good plan for parking. He said that Nashua Housing have spoken with Ms. Schotts and will work with them, and expect that they will have sufficient parking spaces.

END OF PUBLIC HEARING AND BEGINNING OF PUBLIC MEETING:

Mr. Minkarah said that the parcel is a unique parcel, due to its size and location, and it really juts out into the Millyard District, and there are two cut-out areas that impact the setbacks, and it is surrounded on most all sides by public streets, which impacts the ability to use the parcel. He said that the proposed buildings are compatible in density and size with nearby Millyard areas.

Mr. Kanakis said it is a tricky area, where everything comes together on the zoning map, he said it will be compatible with the surrounding uses and will be good for the downtown as a whole to get more housing in.

Mr. Boucher said that he reiterates what Mr. Minkarah said, and his questions on parking were answered, and is in support.

Mr. Lionel said that he is in support for all the reasons previously stated.

Mr. Shaw said he is in support.

Mr. Currier said that he is in support, and the letters in support were strong.

Mrs. MacKay said that she is also in support, it will be ADA compliant, and the wait list for affordable housing will be reduced, and this is going to be a big benefit for the City.

MOTION by Mr. Lionel to approve the application on behalf of the applicant as advertised, with all requests considered collectively. Mr. Lionel stated that the variances are needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance, the Board heard testimony about the unusual size and location of the property, the various setback issues caused by the creation of the Broad Street Parkway, and the Board believes that the proposal is a fine use of the property.

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

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 to the owner will be served.

SECONDED by Mr. Currier.

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

Mr. Minkarah left the meeting at this point, 10:00 p.m.

6. Rivier University (Owner) John Parker (Applicant) 436 South Main Street (Sheet 1 Lot 1) requesting variance from Land Use Code Section 190-102 to exceed maximum wall identification sign area, 12-sqft permitted - 58-sqft proposed for the Science and Innovation Center building. R9 Zone, Ward 7.

Voting on this case:

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

Applicant not present when the case was called, it will be called later in the Agenda.

7. Freestone Holdings, LLC (Owner) Mallia Hair Studio (Applicant) 28 Charron Avenue (Sheet E Lot 1350) requesting use variance from Land Use Code Section 190-15, Table 15-1, (#35), to allow a hair salon in which less than 75% of the building is used for industrial and manufacturing uses. AI Zone, Ward 1.

Voting on this case:

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

Kathleen Camberlain, 11 Walkerridge Drive, Nashua, NH. Ms. Camberlain said that she wants to occupy Unit 10, she said that there is another hair salon a few doors down in Unit 16. She said that the uses that were in her unit before her was a Botox specialist and a massage therapist. She said that she has a large clientele in the area, and does a lot of volunteer work in the City, and cuts veterans hair for free, and also for Bridges to help women get back on their feet for work interviews. She said it is just herself right now, and will not be taking walk-ins, it will be by appointment only. She said that she's been in the industry for 30 years, and is also an educator for Empire Beauty.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Board members all expressed support for the application.

MOTION by Mr. Boucher to approve the application on behalf of the applicant as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the

Board spoke about the fact that there were similar types of businesses in the Unit previously, and that there is another hair salon in the complex, 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.

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

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

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

SECONDED by Mr. Lionel.

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

8. Douglas J. Dichard (Owner) 6 White Avenue (Sheet 35 Lot 75) requesting variance from Land Use Code Section 190-16, Table 16-3 for minimum land area, 5,834 sq.ft existing - 6,970 sq.ft required - to remove existing garage and construct a two-family residential building. RC Zone, Ward 4.

Voting on this case:

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

Doug Dichard, 42 Parrish Hill Drive, Nashua, NH. Mr. Dichard said that he is looking to remove a 66-foot garage, it is 24'x66', and wants to construct a two-unit two-story, 20'x57' building. He said it would meet all setbacks, and all is required is a variance for land area, for 1,130 square feet.

Mr. Currier asked about other similar buildings in the neighborhood.

Mr. Dichard said that there are multi-family buildings along the whole street, there is one single-family house across the

street, other than that, they are all multi-family buildings. He said that he's owned this property for forty years. He said it will not impact any traffic, and it will not decrease property values, the building footprint will be less and it will be new construction.

Mr. Currier mentioned the parking areas on either side of the building.

Mr. Dichard said that he talked to Staff, who indicated that two parking spaces will be required per unit.

Mr. Currier asked about the parking space configuration.

Mr. Falk said that each unit would require two parking spaces, and he is showing two per side.

Mr. Boucher said it looks as if there are two 20-foot driveways, and asked if that is ok.

Mr. Falk said that he would have a maximum of one 24-foot wide driveway. He said that he has enough space on either side of the building, and could do a 10 or 12 foot driveway that widens out in the back, and perhaps he could do tandem units. He said that he's talked to the applicant about this.

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 application on behalf of the applicant as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the Board spoke about the fact that the neighborhood is an existing neighborhood and it has several multi-family uses on the street, on various sized lots, and the garage would be replaced with a

smaller footprinted structure, 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.

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

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

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

SECONDED by Mr. Shaw.

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

9. The Trabucchi Family Trust (Owner) Robert Trabucchi (Applicant) 7 Berkeley Street (Sheet 47 Lot 79) requesting the following variances from Land Use Code Section 190-31: 1) to encroach 2 feet into the 6 foot required right side yard setback, and; 2) to encroach 2 feet into the 6 foot required rear yard setback - both requests to construct a 12'x18' shed. RA Zone, Ward 3.

Voting on this case:

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

Robert Trabucchi, 7 Berkeley Street, Nashua, NH. Mr. Trabucchi said he is requesting approval for a 12'x18' prefabricated shed in the rear corner, and the request is to encroach two feet into the side and rear setback. He said that the pad would be done by Parker Garden Design. He said that there is a giant tree in the back that he'd like to preserve. He said that he's spoken to all his abutters and they are all supportive.

SPEAKING IN FAVOR:

Mrs. MacKay read to letters in support into the record, from Jim and Lila Monahan, 9 Berkeley Street, Nashua, NH.

Scott and Sandy Silva 10½ Chester Street, Nashua, NH

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, AND BEGINNING OF PUBLIC MEETING:

Board members all expressed support of the application.

MOTION by Mr. Lionel to approve the application on behalf of the applicant as advertised. Mr. Lionel 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, the Board stated that there really isn't any other place for the shed to go.

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

Mr. Lionel stated that the request will not adversely affect the property values of surrounding parcels, abutters have expressed no objections.

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

SECONDED by Mr. Shaw.

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

Mrs. MacKay said that the Board still has to do something with Case #6.

Mr. Shaw suggested tabling the case to two meetings from now.

Mr. Boucher stated that he'd like to make a Motion.

Ms. Poirier said that abutter notifications for the 7-28-2020 meeting have already gone out.

Mr. Falk said that the best thing is to table it to the 8-11-

2020 meeting, as then there will be no issue with the notifications or publications, or abutter notices.

MOTION by Mr. Boucher to Table the application for Rivier University, Case #6, as advertised, to a date certain of August 11, 2020.

SECONDED by Mr. Shaw.

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

MISCELLANEOUS:

MINUTES:

6-9-2020 AND 6-23-2020:

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

SECONDED by Mr. Lionel.

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

5-26-2020:

Ms. Poirier said that the Board received a copy of the revised minutes electronically.

Mr. Falk said he filled in the gaps where he wrote "poor connection".

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

SECONDED by Mr. Lionel.

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

REGIONAL IMPACT:

Board members stated that they did not see any cases of Regional

impact

ADJOURNMENT:

MOTION by Mr. Shaw to adjourn the meeting at 10:50 p.m.

SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing