

**ZONING BOARD OF ADJUSTMENT  
MAY 1, 2019 MEETING  
DRAFT MINUTES**

Attendees: Chair Christopher Carley, Nicholas Wallner, Andrew Winters, Jim Monahan, Robert Harrison Jr. (Conflict with Case #17-19) and Laura Scott (for Case #17-19)

Absent: none

Staff: Craig Walker, Zoning Administrator  
Rose Fife, Clerk of the Board

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Meeting commenced at 7:01 pm.

**15-19 Heidi Brown:** Applicant wishes to remove an existing 10' x 52' manufacture home (circa 1963) and replace with a new 13'4" x 68' manufactured home and requests the following:

- 1) A Variance to Article 28-4-1(h), Removal and replacement of Existing Manufactured Homes, to allow replacement of an existing unit with a setback of 5 feet +/- from the front street line and 5 feet +/- from the property line to the south where a 15 foot setback is required,
- 2) A Variance to Article 28-4-1(h), Removal and replacement of Existing Manufactured Homes, to allow replacement of an existing unit with a 25 foot separation from the unit to the west where a 30 foot separation is required and,
- 3) A Variance to Article 28-4-1(h), Removal and replacement of Existing Manufactured Homes, to allow replacement of an existing unit with a 29'10" separation from the unit to the east where a 30 foot setback is required,

for property located at 82 Fisherville Road/Unit #6, in an RH Residential High Density District.

Testified: Heidi Brown. She lives on lot 6 at 82 Fisherville Road. This was a previously approved variance that had expired. This is the same requested. The variance was granted in 2010. She's in a smaller mobile home and needs to upgrade and make improvements. This is now feasible for her. It is an older mobile home park so the lot sizes are smaller. Harrison asked if the new mobile homes were bigger. Wallner asked if they manufactured the same size home anymore. Ms. Brown said the new homes were bigger and they no longer manufacture her home size. Her home is one of the older mobile homes. Winters asked if her home were past its useable life. Ms. Brown thought it was. Monahan asked if it were a resident owned park. Mr. Brown replied it was. Monahan asked if the variance was granted in 2010? Ms. Brown said it was. Monahan asked how many units were in the park. Ms. Brown replied that there were 22 units in the park. Winters asked if her neighbors were informed. Ms. Brown did inform her neighbors.

In favor: none.

In opposition: none.

Code: Walker noted that the City did a revision to the manufactured housing ordinance to allow replacement of older mobile homes. The separation between MH's has changed from 30 feet between mobile homes to 40 feet and then back to a 30 foot separation under past Zoning Code revisions. Removal and replacement is allowed but the minimum separation cannot be less than 30'. Winters asked if it were governed by the same residential setbacks. Walker explained why it was not. Article 28-4-6 is the correct Article number which was not reflected in the write up, but the description is correct.

DECISION: A motion to approve the request was made by Wallner. You cannot replace this home with the same size and it meets the hardship requirements. The motion was seconded by Monahan and passed by a unanimous vote.

**16-19 Jeffery & Alana Kimball:** Applicant wishes to construct a 40 foot by 50 foot detached storage building (garage) and requests a Variance to Article 28-4-1(h), Table of Dimensional Regulations, to allow a 6 foot building setback from the northerly side lot line where a 15 foot setback is required, for property located at 414 Mountain Road in an RM Residential Medium Density District.

Testified: Jeffery Kimball. He lives at 414 Mountain Road. He wants to build a 40x50 detached garage. The garage will be at least 45 feet from his house. He spoke with his neighbor that the garage would be closest to. This positioning of the garage would create a much better access to it.

Winters asked what he would think of putting it on the other side of his home. Mr. Kimball said that is where his leach field and septic area is. Harrison asked why such a large size garage. Mr. Kimball said it was to store cars and his 'toys'. He likes to work on cars for a hobby. Walker asked if it were to be used for commercial purposes. He said it would not be used that way. Harrison asked if he could conform to the ordinance if he built a smaller garage. Mr. Kimball thought he could, but he'd like to keep it at 40 feet and add a lean to onto the side.

In favor: none.

In opposition: Nellie Doughty. She lives at 419 Mountain Road which is across the street. She is concerned with the size of the building. She is concerned that in the future someone that might purchase the home would use it for commercial use. Carley said it wouldn't be allowed to be used for commercial use. She is concerned with the presedent it may set.

Kathy Clark. She lives at 9 Sanborn Road. Her house is behind and diagonal to this home. Her neighbor George Messenger submitted a letter. She sees a tarp like structure on his property now. The new structure will be larger than her garage.

Letter submitted to the file from George Messenger of 15 Sanborn Road. He was unable to attend but is in opposition. This building being that close will compromise the landscaping that he has done.

Code: Walker advised the Board that this subdivision was created under the current Ordinance.

Rebuttal. Mr. Kimball. He has seen Mr. Messenger's landscaping. Where his garage would be placed wouldn't be anywhere near his grass. It's all dense woods where he planned to build.

DECISION: Carley gave an overview of the testimony heard.

Wallner: If it were a standard sized garage he could see the hardship argument. He's limited to where he can locate it. But the size is of concern. He believes he could meet the setback requirements if it were a smaller size. Monahan doesn't see the hardship. It's a garage of an unusual size. Harrison: There is room for a standard size garage. Winters agrees. He already has one garage. He doesn't see the hardship.

A motion to deny the request was made by Winters, seconded by Harrison and passed by a unanimous vote.

**17-19 David Nickerson for Carol Royce and Michele Nickerson:** Applicant wishes to create a duplex/two-family dwelling and requests the following:

- 1) A variance to Article 28-5-2, Duplex or Two-Family Dwelling, to permit a duplex/two-family dwelling to be established on a lot with an area of 51,836 square feet where a lot area of 60,000 SF is required (1.5 x minimum lot area),
- 2) A variance to Article 28-5-2, Duplex or Two-Family Dwelling, to permit a duplex/two-family dwelling to be established on a lot with 201.7' +/- of lot frontage where 300' is required (1.5 x the minimum lot frontage) for property located at 56 Oak Hill Road in an RM Residential Medium Density District.

The Board for this case consisted of Carley, Wallner, Monahan, Winters and Scott. (Rob Harrison recused himself.)

Testified: David Nickerson. Carol Royce who is the principal owner of the property and his wife Penny Nickerson were also there to testify. Mr. Nickerson explained that the reason they are before the Board is because he approached Code Administration with the intention of following the ADU requirements. He went through expense to redesign the septic and the property and then he found out that the ADU has a smaller square footage allowance. This now put him into a situation where he had to apply for a variance for a duplex. The current home is a 3 bedroom single family with a 1.5 car garage built in 1977 and modified in 1990 to allow for handicapped accessibility for his sister. He approached his mother to build on for a principal home (2<sup>nd</sup> dwelling) for him and his wife. When the duplex use came into play it changed the lot size requirements. Code Administration adopted the ADU ordinance which has a 750 s.f. size requirement. A 750 s.f.

two bedroom unit is very small. RSA 674 was written to consider the affordability and space requirements for an attached living unit to an existing home to have adequate living space for care takers and family members. The proposed addition exceeds the City requirements. Carley asked him to speak to the 5 criteria were for granting these variances. Mr. Nickerson noted that denial will result in unnecessary hardship. The requirement of 1.5 times the minimum lot size and frontage requirement interfere with affordable and reasonable use of property. Carol Royce is 77 years old and Michele Nickerson has cerebral palsy (Mr. Nickerson noted that Michele Nickerson is co-owner but lives out of state). This would allow him and his wife to be there for caretakers. No fair and substantial relationships exist. Specifically there are 21 duplex condo units in Turtle Town Pond Estates. They are condexes, but still 2 units. They have less than the 300 feet of frontage requirements. An in-law apartment exists at 75 Oak Hill Road which has a dual driveway and 159.59 feet of road frontage. The Spirit is observed. Allowing them to convert the single family to a duplex would preserve as it allows adult children to care for their parents and allows for affordable housing. It doesn't require any other infrastructure. There is no demand on fire or police. There is no negative impact. Not contrary to public interest. There are similar uses in the surrounding neighborhood. They would improve the sewage disposal system. Substantial justice is done by granting the request. It meets spirit of the ADU regulations. No gain to public if variance requests are denied. No surrounding property values would diminish. He submitted 10 signatures from abutters that were in favor. Winters asked what the square footage is. Mr. Nickerson said it would be a 34' x 34, one floor (1,156SF). It would be constructed above the garage. It would be 1,070 s.f. Monahan asked about his sister with cerebral palsy. Does she live there? Mr. Nickerson said that his sister is half owner of the house and 44 years old. His mom lives in the ADA modified ranch. This will allow his sister to move back to the property if and when his mom passes away. Monahan wanted clarification if the new duplex unit is not designed for his sister's handicapped but she may want to move back home. Mr. Nickerson stated that was correct. Wallner asked Walker if it were approved and later on it was sold, would they be able to rent the unit out. Walker said that was correct. It's a duplex. Wallner asked what the lot sizes were for the 22 units he referenced. Mr. Nickerson explained.

In favor: none.

In opposition: Lisa Brodeur. She is a direct abutter behind the property. Her property is 13/15 Jennifer Drive. If Mr. Nickerson's sister is not living there now there is no current hardship. The property is visible from her property. A 34x34 addition on a small existing ranch is a lot of mass. That's a significant impact. She has over 2 acres and most of the lots on Jennifer Drive are oversized like hers. When she bought that property she understood it would stay that way. She can see when a light is on in his property. She doesn't see a hardship. The house is in disrepair and it would be nice to have some repairs done to it.

A letter from Susan Erickson of 51 Oak Hill Road was read into the record by Carley. She is not in favor. (Ms. Erikson noted in her letter she has just sold her property.)

Code: Walker explained that the City's ADU regulation are in full compliance with the State RSA and is adopted by the City Council. The larger duplex requirement requires 1.5 times the lot size and frontage. Walker explained that the Special Exception for an ADU was not applicable because the proposed unit was greater than 750SF as required for a special exception and the Board may not grant variances from Special Exception criteria.

Rebuttal: David Nickerson stated that Mrs. Erickson, who wrote the letter in opposition, no longer owns the property that is abutting. He has directly reached out and spoke with the neighbors. Winters stated he'd have to make a separate appeal if he wanted to claim any fault on the part of the City. Walker said it would have to be a full separate appeal. Nickerson's full intent was to meet the in law apartment requirement. There is a 70+ year old single woman trying to take care of this property.

DECISION: Carley reviewed the request and the testimony that was heard.

Wallner stated that it is a reasonable use as suggested by duplexes in the neighborhood being common place. Monahan noted that the duplexes in turtle town pond are different as it was planned community. The intent to comply with ADU is good, but they could do it with 750 s.f. Laura Scott noted that she doesn't see this as being different from turtle pond. She feels it's reasonable to expand the garage and make it a duplex. Winters felt it was a great case for ADU. But the Statute specifically says that the city has chosen it to be 750 s.f. and that is legal. There is nothing about the lot that stands out. It's a square shape lot. Nothing unique about the lot. Carley agrees with Winters. Even though there are other duplexes in the area, the Ordinance is clear what is allowed. He heard no hardship to the property.

A motion to deny both requests was made by Winters, seconded by Monahan and passed by a 3-2 with Scott and Wallner in the minority.

**18-19 Norman Lee for Snaphuance Real Estate Trust, Arthur W. Aznive Trustee:** Applicant wishes to remove an existing mixed use office and multi-family residential building and redevelop as a Multi-family Dwelling (Use A-4) and requests the following:

- 1) Variance to Articles 28-4-5(e)(4), Multi-family Locational Restrictions, and 28-5-48(a), Multi-Family Dwellings (in the CBP) to allow first floor residential dwellings in a district where dwellings must be on or above the second story and the first story is required to be used for a permitted non-residential use,
- 2) Variances to Article 28-7, Access, Circulation, Parking and Loading Requirements, to waive the application of the parking standards including, but not limited to:
  - (a) Variance to Article 28-7-7(e), Minimum Aisle Width, to waive the minimum 24 foot aisle width requirement,
  - (b) Variance to Article 28-7-7(f), Driveway Widths, to waive the minimum requirements for a 24 foot wide driveway for two-way traffic and a minimum 12 foot width for one-way traffic,
  - (c) Variance to Article 28-7-7(g)(2), to allow parking within 5 feet of a lot line,for property located at 13-15 South State Street in a CBP Central Business Performance District.

The Board for this case and all cases after consisted of Carley, Wallner, Monahan, Winters and Harrison.

Testified: Attorney Phil Hastings of Cleveland Waters and Bass. Norman Lee also testified. The properties in question are 35-6-17 and 35-6-16. Lot 35-6-17 is 13-15 S. State Street and Lot 35-6-16 is 17-19 S. State Street.

Attorney Hastings testified that Mr. Lee planned to buy the property and tear the building down and replace it with a new building. Those plans have changed. He will renovate the interior and leave the parking as is. They are withdrawing the parking requests. The only variance request on the table is to allow residential uses on the first floor. Item #2 a, b, and c is withdrawn. Carley mentioned that in the agenda they do not mention tearing down or leaving the building. Walker explained that there is nothing noted as it's not relevant. Attorney Hastings noted the property is in a CBP district. The property is old. It has been there since the early 1800's. He imagines this building was originally a residence. The first floor was converted to a commercial use and is still used that way. It is not high quality commercial space. Much better use as a residential property. In the CBP District the dwelling units must be above the first floor and the first floor must be nonresidential use. The application addresses the 5 standards. Carley asked about the hardship argument. Attorney Hastings noted that it is a very old building which is not very well suited for commercial use on the ground floor. The area is a mixed use area. The corner property, 3/5 S. State Street is being rehabbed by Elm Grove Property and their bottom floor residential uses were granted by the ZBA. There is other like uses in the area. Parking is limited here so it not suited for high traffic commercial uses. There is a large demand for housing in Concord. The use requested is consistent with the neighborhood. Monahan asked how many units. Mr. Lee stated there were 6 residential units and 2 commercial uses that exist. Attorney Hastings noted that the unit in the back on the first floor is residential. Mr. Lee concurred. Winters asked if the hair studio is operational. Mr. Lee noted that was the use that just gave his notice to leave. Monahan asked where the parking for the 8 units would be. Attorney Hastings noted that there is a lot in the rear of the building for off street parking. Craig Walker explained that parking is not required in this district. Winters asked if they could rent it commercially but there is a greater demand for residential? Mr. Lee believes that. And once the units are vacated and they clean them up it would be the best viable use of the property. He is a commercial construction contractor.

In favor: none.

In opposition: none.

Code: none.

DECISION: Carley reviewed the request and the testimony heard.

Winters felt there was no contradictory evidence that this particular structure is built in a way that it is much more suited to residential use than commercial use. He supports the variance due to unique nature of the physical structure. Harrison noted that the zoning requires commercial on the first floor and it exists as is. Monahan agrees with Winters.

It's more likely to get cleaned up and treated as higher quality if there is residential on the first floor. Wallner agrees. It's a mixed use neighborhood now.

Walker stated his research clarifies it was built as residential originally. Carley asked Walker if variance was granted and the owner tears it down, would they still be allowed to put residentially on the first floor. Walker said no as a rebuild would be a significant change of circumstances. Carley asked if you could build a new building and put residential in then the existing building doesn't hold the hardship factor. They make an argument that they would be better off being residential.

A motion to approve the request was made by Winters, seconded by Monahan and passed by a 4-1 vote with Harrison in the minority.

**19-19 Norman Lee for State Street Realty Trust, Arthur W. Aznive and Charles Aznive Trustees:** Applicant wishes to renovate existing mixed use office and multi-family residential buildings and redevelop as only Multi-family Dwellings (Use A-4) and requests the following:

- 1) Variance to Articles 28-4-5(e)(4), Multi-family Locational Restrictions, and 28-5-48(a), Multi-Family Dwellings (in the CBP) to allow residential dwellings on all floors in a district where dwellings must be on or above the second story and the first story is required to be used for a permitted non-residential use,
- 2) Variances to Article 28-7, Access, Circulation, Parking and Loading Requirements, to waive the application of the parking standards including, but not limited to:
  - (a) Variance to Article 28-7-7(e), Minimum Aisle Width, to waive the minimum 24 foot aisle width requirement,
  - (b) Variance to Article 28-7-7(f), Driveway Widths, to waive the minimum requirements for a 24 foot wide driveway for two-way traffic and a minimum 12' width for one-way traffic,
  - (c) Variance to Article 28-7-7(g)(2), to allow parking within 5 feet of a lot line,for property located at 17-19 South State Street in a CBP Central Business Performance District.

Attorney Phil Hastings testified. Norman Lee also testified. The arguments for this case are identical to the arguments from Case #18-19. He has 2 separate entry ways and walk up steps. This tells him this was a residential use originally. It is not well situated for retail use or a hair salon, etc. The condition of the property is better than the previous case. This was built in 1820 or so. The unique feature of the property is that there is a separate building in the rear of the property. It is completely independent from the front building. That building has been used for residential on both the first and second floors. It's geared more historically to a residential use. Mr. Lee testified that it is in better condition than the previous building, but it is dated. The first floor units were clearly residential in the past. They are looking to bring in the best and highest use. It's a beautiful location on the back of Main Street and would help create the living space that the City needs. Attorney Hastings noted that where the building is situated is directly in back of Concord Co-op and near the Concord Theatre. Revitalization of this area is under way. Mr. Lee has been a commercial construction contractor for 15 years. He also owns residential units. He sells to the demographics. That's what they are looking to do here. Winters asked what the current use is on the first floor. Mr. Lee said Aznive's office on one side and an Architects firm on the other side. Attorney Hastings testified that the Aznives are the sellers of this property. Carley asked Attorney Hastings to discuss the parking request. Attorney Hastings noted that on the left hand side there is an existing parking spot with a little pavement running to the rear of the building. Parking is limited to the front of the building. There is a 1 car parking spot to the southerly end of the building. Parking is not required at all in this district. The aisle width requirement is more for commercial parking lots. The requirements for driveways to have 1 way traffic flow being 12 feet wide, there is no way for them to meet that requirement. Off street parking must be more than 5 feet off the property line, this is on the property line. Monahan asked how many units it will total. Mr. Lee explained it will be 8 units in each building. The rear building has 2 units now. Attorney Hastings stated that if the Board approved the parking variance they will need site plan approval.

In favor: none.

In opposition: none.

Code: Walker noted that the first floor was residential. Although parking is not required if they provide it, it will need to comply.

DECISION: Carley reviewed the request and testimony heard.

Wallner noted that this was the same as the previous case. It has residential character and it is a mixed neighborhood. Monahan agrees. Harrison was okay with the parking. He thinks it should stay commercial on the first floor. Winters agreed that variance 1 was the same view point as the prior case. Carley's point of view regarding the parking is that parking is a side bar. There is no physical way to comply. The peculiar nature of the property creates the hardship. Winters thought that the safety concern is less in this area than a busy road.

Variance #1: A motion to approve the request was made by Wallner, seconded by Monahan and passed by a 4-1 vote with Harrison in the minority.

Variance #2: A motion to approve the request was made by Wallner, seconded by Harrison and passed by a unanimous vote.

**20-19 Swim NH, LLC.:** Applicant wishes to establish a privately owned indoor pool health and fitness center for swimming and water safety instruction (use C-4) and requests the following:

- 1) Variance to Article 28-4-1(h), Table of dimensional Regulations, to permit the following
  - a. To allow a minimum 9'5" +/- setback from the northerly (side) property line where a 25 foot setback is required,
  - b. To allow a minimum 17'4" +/- setback from the southerly (side) property line where a 25 foot setback is required,
  - c. To allow a minimum 22' +/- setback from the easterly (rear) property line where a 25 foot setback is required,
  - d. To allow a minimum 9'10" +/- setback from the north easterly (I-93) property line where a 25 foot setback is required,
- 2) A variance to Article 28-7-2(e), Table of Off-street Parking, to allow the provision of 15 parking spaces where 35 spaces are required,
- 3) A Variance to Article 28-8-3(c)(2), Conditions for Development of a Non-conforming Lot, to allow development of a non-conforming lot when setback and parking requirements are not met, for property located at 41 Hall Street in a GWP Gateway Performance District.

Testified: Jonathan Halle and Karen Jenevese, owner of Swim NH. Karen bought this property in 2014 and approached Mr. Halle in 2015. It was a little expensive. She has owned Swim NH for more than 20 years. She wants to establish her presence here in Concord. She does basic water safety, swim team, etc. They have scaled the project back. Mark Sargent surveyed the property. It is a nonconforming lot. It has been a single family home for quite some time. She has a tenant in the building. They laid the pool out to be 2 lanes and that allows for swimming laps. It is a modest floor plan. Swimming lessons are every 30 minutes. There are no more than 10 in a class at any one time. She believes 15 cars on the site would be adequate for the business that she's talking about. Mr. Halle's office used to be at 48 Hall Street which is next door. The size of this building is under 30 feet high. It is a modest single story building. They do not encroach any closer to Hall Street than the home that is there today. There are others within that 15 foot setback in that area. The northern setback matches the existing house setback. Patsy's GMC owns the property to the north and south. They are supportive of her requests. The rear of the property backs up to an on ramp of I93. Variance #2 is for off street parking. They will have no more than 10 in a class so when the total s.f. is taken into account (3,500 s.f.) the parking number doesn't equate to how it is proposed to be used. It is not contrary to the intent of the ordinance. It's similar to the build out on Hall Street of other commercial properties. It will not be contrary to the public interest as it will provide a public service and be high standard. There is a standing waiting list. Substantial justice will be done because it is consistent with the other uses on Hall Street. It will not diminish property values.

Winters asked questions about the plan. Harrison asked where her business is currently being run. Ms. Jenevese explained that she rents the Racquet Club and each year the rent doubles and currently they are teaching 300 to 400 kids in Concord. She trains about 600 life guards per year. This isn't membership based. They are scheduled to come at a specific time. Monahan asked how deep the pool was. The pool is 4 feet deep until the very end of the pool which will be 7 feet deep. Winters asked if there were going to be competitions here. Ms. Jenevese said no.

In favor: none.

In opposition: none.

Code: Walker explained that if the parking requirement calculations come to less than 35 spaces they are okay to go forward.

DECISION: Carley reviewed the request and testimony heard.

Monahan asked about the handicapped parking space and why only 1 would be required with 35 spaces. Walker said 2 would be required.

Variance #1 – Wallner felt there was substantial justice being done by granting the variance for these setback requests. Monahan noted that given the nature of the abutters he is in favor. Harrison agrees with Wallner. Winters agrees. It is a reasonable use. A Motion to approve the request was made by Wallner, seconded by Monahan and passed by a unanimous vote.

Variance #2 & #3 – During testimony it was stated that the parking requirements had previously be calculated at 15 spaces. The Zoning Administrator suggest a chort recess to allow opportunity to verify the required number of parking spaces. A motion to open and recess this request was made by Wallner, seconded by Harrison and passed by a unanimous vote.

**21-19 Jonathan Chorlian for the Roman Catholic Bishop of Manchester:** Applicant wishes to subdivide an existing lot and develop lot #1 (southerly lot as shown on plans) for a development of attached dwellings and requests the following:

- 1) Variances to Article 28-4-5(d)(5), Perimeter Buffer Required, and allow buildings, parking, and internal roadways & drive aisles to be constructed within the 50 foot perimeter buffer (as shown on plans),
  - 2) Variances to Article 28-4-5(d)(3), to allow building separations ranging from 8 feet +/- to 17 feet +/- where building separations of 40 feet are required,
  - 3) Variances to Article 28-7-7(e), Minimum Aisle Widths, and Section (f), Driveway Widths, to allow driveways and drive aisles used for 2-way traffic to be no less than 15 feet in width (as shown on plans) where 24 feet is width is required for 2-way traffic,
- for property located at 135 North State Street in an RN Residential Neighborhood District.

**23-19 Jonathan Chorlian for the Roman Catholic Bishop of Manchester:** Applicant wishes to subdivide an existing lot and develop lot #2 (northerly lot as shown on plans) for a residential conversion of an existing building and detached accessory structure into 4 dwelling units and requests the following:

- 1) Variances to Article 28-4-1(h), Table of Dimensional Regulations, to allow a maximum lot coverage of 63% where a maximum lot coverage of 50% is allowed,
  - 2) Variance to Article 28-5-3, to allow a detached accessory structure (carriage house) to be converted to residential units in conjunction with the principal structure (aka Rollins Mansion),
- for property located at 135 North State Street in an RN Residential Neighborhood District.

Testified: Jonathan Chorlian. He'd like to present case #21-19 and case #23-19 at once. 135 North State Street is the entire site. The proposal is to subdivide it into 2 lots, one for the mansion lot and one for the pocket neighborhood lot. He likes to do residential conversions and has done many in the area. He was here twice last year for a similar concept. A lot of the variances are the same as last year. He gave an overview of the property. It is a 1.73 acre lot in the RN District. Historic Governor Rollins Mansion and the Carriage house are circa 1880. The church and parish hall and the surrounding parking areas. There are smaller attractive homes in the area. He gave an overview of the mansion and the carriage house. The campus also includes an 8,000 s.f. church and parish hall. He showed pictures of the surrounding buildings and the different sizes of the homes in the area. Pocket Neighborhoods are intentionally compact communities with small to medium sized homes attractively arranged around a central green with a lot of shared spaces. Porches front on the central green. This encourages a strong sense of community. He showed the 2018 plan for his pocket neighborhood. He will subdivide off the mansion house and carriage house and the remainder will be used to develop a pocket neighborhood. Last year's request was that 1.2 acres was going to hold 10 units with attached 2 car garages as well as proposed office use for the Mansion and Carriage House. Today's request is similar. He will subdivide off the mansion and carriage house and the remainder be used for the Pocket Neighborhood. The lot is about the same size. He will have 8 units not 10. They will have attached 2 car garages. It will have common area for them to share. The concept for the Mansion and Carriage house will be residential units. There will be 2 units in the mansion and 2 units in

the carriage house. There are less parking requirements. Whatever the use of the mansion lot is, it will have to compliment the pocket neighborhood lot. He has converted other historic buildings. He gave an overview of what the cottages would look like. They will be Bungalow/cottage style. He gave an overview of what variances were requested and granted in 2018. ADR suggested to him to keep the mansion and carriage house on the same lot. They are large buildings with a driveway that runs between them. The Ordinance does not have a 'pocket neighborhood' classification but has attached dwelling development. This request meets the building heights, front yard setbacks, and lot coverage.

Mansion lot #1 variance for lot coverage. He's asked for 63% but on the plan it's under 60%. Overall he's reduced the lot coverage. The variance to allow the carriage house to be used for residential units. That is a permitted use in the RN zone, but the lot size isn't compliant.

Carley asked if the cottage/pocket neighborhood lot is smaller in this version than in 2018. Mr. Chorlian said slightly smaller and a different shape. Winters asked if he was reducing lot coverage because he demolished the church. Mr. Chorlian explained.

Mr. Chorlian: Pocket Neighborhood variances. Building Separation variances. This layout was the best layout that he could come up with. The buildings are less than 100 feet long. There is a perimeter buffer requirement. He has no concern with not having 24 foot aisle widths.

Generally all the variances have benefits to the neighborhood, City and Spirit of the Ordinance. This will replace a nonconforming institutional use. It will substantially reduce the lot coverage and impervious surface. It also reduces parking on the site.

Monahan asked who owns what now. Mr. Chorlian explained that the Bishop of Manchester owns this property now. They tore down their own church. Monahan asked if the Bishop would rent the property out. Mr. Chorlian explained that he will be buying the property within a month's time. The Diocese doesn't want the sale to happen until the Demolition. Monahan asked if the pocket neighborhood would be a condo neighborhood. Mr. Chorlian explained it would.

In favor: none.

In opposition: none.

Comments from Code: 21-19 - none. 23-19 - none.

DECISION: Carley reviewed the requests and testimony heard.

Winters – Case 21-19 – pocket neighborhood. There is no provision in the Ordinance for this type of use. This is a unique lot. It is a large size and was a church use in a residential neighborhood. He's persuaded that it's a reasonable use for a unique lot. Harrison felt it was a reasonable use for the property. A motion to approve all 3 requests for Case 21-19 was made by Harrison, seconded by Wallner and passed by a unanimous vote.

Case 23-19 – Winters felt it was a complex concept but the variances aren't extensive. In total, the lot coverage is less. They are also unique buildings. Harrison agrees. Monahan agrees. Wallner felt that he's more in favor as this is strictly residential. A motion to approve both requests was made by Wallner, seconded by Monahan and passed by a unanimous vote.

**20-19 Swim NH, LLC.:** Applicant wishes to establish a privately owned indoor pool health and fitness center for swimming and water safety instruction (use C-4) and requests the following:

- 1) Variance to Article 28-4-1(h), Table of dimensional Regulations, to permit the following
  - a. To allow a minimum 9'5" +/- setback from the northerly (side) property line were a 25 foot setback is required,
  - b. To allow a minimum 17'4" +/- setback from the southerly (side) property line were a 25 foot setback is required,
  - c. To allow a minimum 22' +/- setback from the easterly (rear) property line where a 25 foot setback is required,

- d. To allow a minimum 9'10" +/- setback from the north easterly (I-93) property line where a 25 foot setback is required,
- 2) A variance to Article 28-7-2(e), Table of Off-street Parking, to allow the provision of 15 parking spaces where 35 spaces are required,
- 3) A Variance to Article 28-8-3(c)(2), Conditions for Development of a Non-conforming Lot, to allow development of a non-conforming lot when setback and parking requirements are not met, for property located at 41 Hall Street in a GWP Gateway Performance District.

A motion to re-open this case was made by Winters, seconded by Harrison and passed by a unanimous vote.

Walker explained that they reviewed the plan. The applicant had applied the wrong standard for calculating the required parking. The parking was reviewed by the applicant and Walker. Walker said 15 or 16 parking spaces would actually be needed. Halle said they are providing 15 parking spaces with one handicapped. The request for requiring 35 parking spaces was an error, request #2 and #3 of this case.

Request #2: 15 parking spaces allowed where 16 are required. A motion to approve the request was made by Wallner, seconded by Harrison and passed by a unanimous vote.

Request #3: A motion to approve was made by Winters, seconded by Monahan, passed by a unanimous vote.

**24-19 Capital Hotel Company VI, LLC:** Applicant wishes to modify Variances granted under cases 60-18, 65-18 and 03-19 and requests an additional Variance to Article 28-7-11(a), Off Site Parking, to allow an alternative parking arrangement in which the off-site parking is related to the principal uses by recordable, binding lease agreements, where off-site parking is to be related to the principal use by an easement, condominium declaration, or other recordable binding legal instrument that may terminate only upon termination of the principal use for property located at 406 South Main Street in a CG General Commercial District.

Testified: Attorney Laura Hartz of Orr and Reno. She went over the site plan and the past requests and approvals.

They want to enter into parking leases. There are 3 leases at issue. They are all the way through the Planning Board process. They have a Conditional Use permit if the Zoning Board grants the 3 leases. One is 37 spaces at the northern end and it would be leased from NHDOT for 5 years with one option to renew. 410 South Main Street LLC would be for sixteen 5 year leases and renews 5 times. Irving Oil lease for 23 spaces with an initial term of 10 years with three 5 year options to renew.

Allowing leases is not against the spirit of the ordinance because both hotel and restaurant owner have an interest to provide adequate parking. The City wants to make sure the principal uses have enough parking. The purpose of the 28-7-11a conditional use permit is to provide for flexible parking alternative. It was a Day's Inn built in 1965. She gave a history of why they had to have a hotel and restaurant on the same site. This is a reasonable use. The City has submitted a memo in support of this request. Winters asked how many spaces she has now. Attorney Hartz explained they had 123 on site spaces. The Planning Board considered this question and asked what happens if one of the leases go away. They have some solutions.

In favor: none.

In opposition: none.

Code: none.

DECISION: Carley reviewed request and testimony given.

Winters noted that there are no neighbors being imposed upon. A motion to approve the request was made by Winters, seconded by Harrison, and passed by unanimous vote.

**Minutes:** A motion to grant the April 3, 2019 Minutes was made by Wallner, seconded by Winters and passed by a unanimous vote.

*Respectfully submitted by  
Rose M. Fife, Clerk*

DRAFT