

**CITY OF CONCORD, NH
ZONING BOARD OF ADJUSTMENT
MARCH 2, 2022 MEETING
MINUTES**

Attendees: Chair Christopher Carley, Nicholas Wallner, James Monahan, Andrew Winters and Laura Spector-Morgan.

Absent: Laura Scott

Staff: Ernest Cartier-Creveling, Zoning Administrator
Rose Fife, Clerk of the Board

Meeting commenced at 7:00 pm.

10-20: Christopher Aslin and Rachel Goldwasser - A REQUEST FOR A ONE-YEAR EXTENSION – has been requested for an extension of one year to complete a project at 17 Rockland Road, in accordance with Article 28-9-3, Decisions by the Zoning Board of Adjustment (ZBA), Section (c) Variances, Subsection (6), Expiration of a variance. The property was granted a variance on March 4, 2020 to Article 28-4-1(h), Table of Dimensional Regulations, to allow the removal of an existing garage to be replaced with a new garage and to allow a 3’8” setback from the easterly property line where a 15 foot setback was required at 15 Rockland Road in an RS Residential Single Family District.

Testified: Christopher Aslin. Spector-Morgan and Monahan both know the applicant, but don’t believe they have a conflict and are able to hear the case. Mr. Aslin testified that they were to start construction in May of 2020, but due to Covid, they weren’t able to get the project started. They are on schedule for this fall to start the construction and need the extension. Wallner asked if the plans had been adjusted at all. Mr. Aslin said they had not been.

In favor: none.

In opposition: none.

Code: none.

Decision: Wallner felt it was a reasonable request. A motion to approve the request was made by Wallner, seconded by Spector-Morgan and passed by a unanimous vote.

PUBLIC HEARINGS

11-22 32–34 South Main Street and 33 South State Street; CBP-Central Business Performance District; Property Owner-City of Concord; Applicant-John Flatley Company:

Applicant proposes to demolish the existing building and build a multi-story residential complex with parking on the first level and is seeking variances (Items 1 through 8 below) and a special exception (see Case 12-22) to:

1. Article 28-4-5(e)(5), Development of Attached and Multifamily Dwellings – to allow the first story of the building to be utilized for parking, which is an accessory use to the residential use and not an allowed principal non-residential use as required in the Central Business Performance District.
2. Article 28-5-48(a), CBP District Standards, Multi-family Dwellings – to allow a variance from the requirement for a non-residential use on the first story of a building and to allow parking on the first story, an accessory use which is otherwise permitted in the Central Business Performance District on or above the second floor.
3. Article 28-5-48(c), Parking Lots and Structures-In accordance with Article 28-7-12(a)(2) to allow a Variance from the requirement for a non-residential use on the first story of a building; to allow

- parking on the first story as an accessory use to a residential use on the second floor and above, which is an otherwise permitted use in the CBP District; to locate a parking structure on the first story within 100' of South Main Street and South State Street.
4. Article 28-5-48(g), Building to Lines – to allow a variance from the requirement that the front wall of the building be located at the front lot line or street right-of-way line and relief from the requirement that for any portion of the building height greater than 65' above street level from South Main Street be set back 10' from the property line; to allow a variance from paragraph (1) of this Article To allow a Variance from the provision that a public plaza occupy no more than 20% of the street frontage of a property and further that the Building be required to occupy 80% of the front property line. This building will occupy less than the 80%.
 5. Article 28-5-48(i) Ground Floor Occupancy and Transparency along South Main Street to allow a variance from the requirement that there be 60% transparent glazing of the occupancy of a building at ground level and the requirement that there be a provision of at least 60% of the uses at street level be comprised of uses which include the sales of goods and provision of services and entertainment.
 6. Article 28-7-8(c)(2), Access and Driveway Standards, Circulation, Separation of Driveways in Nonresidential Districts - to allow the location of a driveway on South State Street located 120' from the intersection of South State Street and Fayette Street (in the general location of an existing driveway), where a distance of 200' is required and further to allow the location of the same driveway closer than 200' from the other driveways on the same lot or an adjacent lot (South State Street is a collector street) and to allow the driveway entrance on Fayette Street to be located closer than 200' from the intersections of Fayette Street and South Main Street (arterial street) and Fayette Street and South State Street (collector street); and to
 7. Article 28-7-10(a), Parking Lot Perimeter Landscaping Required – to allow paving to the property line, where a landscaped area of 10' is required along a collector road (South State Street).
 8. Article 28-7-7(f) Driveway Widths – to allow a driveway of 44.3' in width to provide entry to a parking lot (parking garage) on Fayette Street, where a maximum width of 28' is allowed.

Item #4, the first half is mute. The request starts at “to allow a variance from paragraph (1) of this Article To allow a Variance from the provision that a public plaza occupy no more than 20% of the street frontage of a property and further that the Building be required to occupy 80% of the front property line. This building will occupy less than the 80%.”

Case 12-22 was also read into the record at the request of Attorney D'Amante.

Testified: Attorney Raymond D'Amante. Also testifying: Matthew Walsh, City of Concord Director of Redevelopment of Downtown services; Doug Richardson, Acquisitions and Planning VP of John Flatley Co.; Lono Hunter, Architect; Dennis Myers Architecture, John Noonan, Fieldstone Land Consultants Project Manager.

Doug Richardson testified. The building will have 64 units of 1 and 2 bedroom configurations and 60 parking spaces. This project will go before ADR and the Planning Board if successful this evening. They would like to start the project in 2022.

Attorney D'Amante testified that the topography is the hardship of the property. The elevation changes from S. Main Street to S. State Street. The Connector Road, Fayette Street, also has grade changes. They are bringing residences to the downtown, which will support downtown area businesses.

Lono Hunter testified. They have had a preliminary review with ADR and will be going back next month. The building will be five stories of wood frame construction over a podium of parking. To the south of the building they will be creating a park like atmosphere for useable patio spaces and a pool and surface parking. He showed preliminary plans, which show the grade changes.

Attorney D'Amante explained that the topography is the hardship. To enter at the Main Street, level the first floor is in the ground floor. On the S. State Street side there are no exits directly onto the street. The Zoning Ordinance requires commercial use on the first floor, but that will create no access to the rest of the floor. The City of Concord has been trying to do something with this property, in compliance with the Ordinance, for some time without any luck.

Matt Walsh gave a history of the property. It had been owned by the State of NH. In 2011 the State of NH approached the City. The City had first right of refusal. They entered into a contract in 2011. The City could not find a developer. The City acquired the property October 31, 2014. They formally listed it with a broker. They have had 8 different developers come before the City with 17 different proposals. All wanted the City to put funds towards the development. The City wants to enforce the vitality of the downtown. May 2021, by unanimous vote, the City Council approved the plan before the ZBA this evening. There is a letter from Matt Walsh in the file responding to each variance request and special exception.

Atty D'Amante testified that the City has tried to come up with a developer with no luck. It's been a hard sell with that topography. All developers wanted the City of Concord to put money towards development. The John Flatley Company is not asking for any funding as they have a successful program of developing this type of property. The first story of building has to be utilized for retail use per the Ordinance. That's not feasible for this site. Parking is necessary for this use. It's not required. They could build and not provide parking. But they are providing a parking garage underground for most of the parking and more of it on the surface. To have all that housing with no parking means people will use on street parking that is vital to downtown retail, theatre, etc. uses. They are asking for parking to not support a commercial use, but to support the residential use. Multi-family uses are not permitted on the first story. S. Main Street is the first floor. S. State St. is the second floor due to the topography. Request #3 is similar to request #2. Request #4 They are not proposing a public plaza. This building occupies less than 80% of the front property line. This gives the ambiance of a continuous entity along South Main Street. There is a retaining wall along S. Main as well. Mr. Richardson explained that they are extending the sidewalk in that area to create a more public space.

Atty D'Amante explained that part of the site will be conveyed to the City and be public, which gets the building closer to the Main Street right of way. Request #4 references a portion of the building height greater than 65 feet which no longer applies and is withdrawn. Request #5 is for Occupancy – 60% of the uses need to be at street level for the sales of goods and entertainment. The Ordinance repeats itself. Transparency: They will have 60% transparent glazing which they will display art in and it will rotate. It will be seen. Request #6 is permitted. They have an existing driveway on S. State Street. Along Fayette there are 3 separate existing driveways. They will enter and exit the parking garage from Fayette Street. This design constitutes 1 curb cut which will be 44' where 28' is permitted. The variance relief is the area between the entry and exit south of Fayette Street. Doug met with the Eagles last evening. There is a driveway below into the Eagles and then below there is another driveway. It is an existing condition. #7 – parking lot landscaping requirement.

Mr. Richardson explained that the property is paved right to the edges of the sidewalk on Fayette and S. State Street. It is also paved up to the Eagles. The Eagles contacted them with concerns about access. They have about 8 parking spaces and trucks coming and going. It's 10 feet from property line to property line for them. They met last night and they will do a 3 foot easement to allow them to have wider access to the driveway for functionality. They would like a waiver of the 10 foot landscape to allow for better access and flow. Existing conditions are there, but with the schedule negotiated with the City of Concord to get this project permitted and underway, they wanted to bring it to the Board to be sure they didn't miss anything.

Atty D'Amante explained that they are asking for a Special Exception to build a parking structure for residential parking. This is the third or fourth time the Ordinance has brought this up. Mr. Richardson explained that they understand parking is not a requirement but in light of commercial business downtown, they thought it would be better to add this in. It will be 60 spaces for 64 units. They didn't want it to be a blank wall so they created

the storefront windows for the art display and it will be finished off with drywall and wall partitions. It will look like a normal storefront.

Atty Spector-Morgan asked if you can put in a store front why can't they put in a store. Mr. Richardson explained that it was due to the elevation of the project. Also, there are many vacant storefronts in Concord. The parking is an important part of housing. There are operational issues i.e. trash and deliveries. This makes it difficult to get something in there to function. The overall program of this project in relation to downtown is that they didn't want to pack public parking.

Mr. Hunter explained that they are building a fire separation as it may be garage today but could be converted if needed later.

Winters: Asked with regard to request #4 what percentage of the front property line will the building occupy. Mr. Richardson said it would occupy 65%. Winters asked what percentage would the transparent glazing be? Mr. Richardson explained that it is a 3 foot deep shadow box design. They will be creating ADA accessibility for residents. Winters asked if 60% of the frontage is supposed to be transparent glazing? Mr. Richardson explained that they are more than 50%, just shy of 60%. Carley asked about the door swinging out front at the front entrance that is setback from S Main Street. Was the building pulled back so the doors don't open onto the public right of way. Mr. Richardson said that was correct. The doors swing is a Code requirement. Mr. Hunter explained that they are 4.7' off the property line.

SPECIAL EXCEPTION (Case 12-22) Attorney D'Amante testified. By right, they could build a parking structure a floor down for commercial use. They are building it on the first floor and are building it to support residential use, not commercial use.

In favor: Keith Dane, Board of Trustees of Concord Eagles Club. They met with Matt Walsh and Mr. Richardson last evening as they had concerns with only having a 10 foot driveway once this parking area was created. They bought the building in 1937 and when the State occupied the property in question, the Eagles were able to get their deliveries and have parking. They have always enjoyed utilizing some of the State's property to get their deliveries. The Flatley Company agreed to get rid of the 10 foot buffer and that would give them 13 feet which would allow trucks to come in and out.

Don Rapp, 20 S. State Street. His home is directly across South State Street from the property. He thinks its positive in general. He objects to the wording. Request #7, if approved as written, basically states that they can pave to the property line all the way down the collector road (South State Street). He is in favor of allowing the extra width for the Eagles Club. The architects rendering regarding the 3 foot depth of landscaping could be incorporated. Carley explained that if design were to change, the relief would not go forward. Mr. Rapp disagrees. Winters explained that the applicant is limited by their plan. Mr. Richardson will meet with him before ADR regarding landscaping. Winters asked if his home were a single family home. He said yes.

Ronald Raynor, Rumford Street resident. If he was an abutter he'd be concerned with some of this. It is his strong opinion/view that the number of parking spaces are deficient. The applicants obtained the property for little money. These are 64 units of market rate apartments. That would be middle class and above. That would be 2 vehicles per unit. That would be 128 parking spaces and they are providing 54. Carley explained that the Board had no authority over the number of parking spaces they use. Mr. Raynor asked about the applicant's statement that there are no requirement for parking spaces downtown. Atty D'Amante confirmed that was a correct statement under the ordinance. Mr. Raynor was concerned that the applicant indirectly stated that they should be appreciative of the 54 spaces they are offering and he feels it is a deficiency and should require more spaces. He suggests people be given a sticker to place on their window that would force them to park in the 54 spaces or Storrs Street garage, but not on the street. Carley reiterated that there was nothing this board could do. Mr. Raynor noted that this will haunt the City for years to come. He supports the concept of residential units downtown, but not the grossly inadequate spaces.

Elani Zervoudis who is an abutter at 37 S. State Street. She asked if this had been approved for a 64 unit building? Carley answered that it had not yet. It will go before the Planning, Engineering and Code departments. Her concern is that she has 3 units at 37 S. State Street and she has to have 2 parking spaces per each unit. She had concerns about the retail not being placed on the first floor. She thinks this project would be best on property at Old Loudon Road. As a neighbor she would like to see some retail even if it is one or two stores.

In opposition: none.

Code: none.

Rebuttal: Atty D'Amante had nothing to add. They are complying with Ordinance.

DECISION:

Spector-Morgan: Great project. Thinks they need apartments downtown. She has concerns with the variance for no commercial uses on the first floor. Hardship doesn't arise from the land but from their program and their perceived lack of need. They could build a store and lose 4 or 5 parking spaces and it would not defeat the economics of the proposal. She could, however, be convinced to vote in favor.

Winters: All variances relate to the question of do we accept that they can have parking instead of retail on the first floor. They have had cases in the past where applicants wanted to avoid retail on the ground level as there was not enough demand for retail. Is that a true hardship that it is economically viable? Is that a hardship or a preference? They stated that they couldn't find a developer to develop it economically for the last 11 years. It's unrealistic they would have a block of retail stores when most of downtown is having a hard time. They need to have the parking. They could have no parking.

Monahan: Most of the variances are because of the first floor parking. It's a challenging site to make it work. It would compound the parking problem if they put retail there. He's comfortable with the variances given the reality of the site.

Wallner: Great plan. They are providing parking that isn't required. He's not persuaded they need retail in that part of town.

Carley: He feels they made the case for hardship. One is the contours of the land creating unique difficulties. Two; the store front; the Board has found, in the past, that repeated failure of the market to support a zoning approve use constitutes a hardship. He would support a motion to approve both special exception and variances.

A motion to approve variance requests #1, 2, and 3 was made by Wallner, seconded by Monahan and passed by a unanimous vote.

A motion to approve variance request #4, was made by Monahan. They heard testimony that the height restriction piece is not necessary. Motion seconded by Spector-Morgan and passed by a unanimous vote.

A motion to approve variance request #5, was made by Spector Morgan, seconded by Winters and passed by a unanimous vote.

A motion to approve variance request #6, was made by Wallner, seconded by Monahan and passed by a unanimous vote.

A motion to approve variance request #7, was made by Spector-Morgan and seconded by Wallner, subject to the plan that was submitted. Carley felt that per Matt Walsh's letter this is an improvement. Motion was passed by a unanimous vote.

A motion to approve variance request #8, was made by Spector-Morgan, seconded by Monahan and passed by a unanimous vote.

12-22 [32-34 South Main Street and 33 South State Street; CBP-Central Business Performance District; Property Owner-City of Concord; Applicant-John Flatley Company:](#)

Special Exception from [Article 28-5-21, Parking Structures](#) in accordance with paragraph (b), the Applicant requests a special exception to not build a commercial parking structure for nonresidential

uses at the street level of a parking structure, but rather to construct a parking structure for residential parking.

Case was heard with case #11-22.

A motion to approve the special exception was made by Wallner (criteria a-I were met), seconded by Spector-Morgan and passed by a unanimous vote.

14-22 [120-122 Pleasant Street; IS-Institutional District; Property Owner-Concord Coalition to End Homelessness](#); Applicant proposes to convert two existing residential buildings from a total of 4 units to 8 units, and is seeking variances to

1. [Article 28-2-4, Table of Principal Uses, A11](#), Conversion of a Residential Building to accommodate not more than five (5) units;
2. [Article 28-5-3\(b\)\(1\)](#), Minimum Lot Size, to allow a residential conversion on a lot containing 23,087 sf, where 25,000 sf are required;
3. [Article 28-5-3\(b\)\(1\)](#), Minimum Lot Size, to allow a total of 8 dwellings in 2 buildings (2 dwellings in one building and 6 dwellings in the other building) on a lot containing 23,087 sf of land, where 4.6 dwellings would otherwise be allowed;
4. [Article 28-5-3\(b\)\(4\)](#), Minimum Size of Dwellings, to allow dwellings of various sizes, with no new dwelling being less than 320 sf in gross floor area where a minimum dwelling size of 600 sf for a one-bedroom conversion is required; and to
5. [Article 28-7, Access, Circulation, Parking and Loading, Section 1\(a\)](#), Applicability to allow the continuation of the current non-conforming parking lot layout with 8 parking spaces, where a fully designed engineered, paved parking lot providing 16 parking spaces would be required.

Testified: Attorney Phil Hastings of Cleveland Waters and Bass. Ellen Groh, Executive Director of CCEH and who also lives at 86 School Street.

Ms. Groh explained that they are proposing to convert the multi-family property that has 4 apartments into 8 studio/one bedroom apartments. She handed out copies of floor plans. The property has 2 buildings. The main house and a carriage house. There is a 4 bedroom apartment in the main house. The Kitchen and living room is downstairs. It has an attached 2 bedroom apartment. They would turn it into 6 studios and 2 one bedroom units. There would be 2 apartments down stairs and upstairs and a studio down and upstairs in the 'L'. The carriage house would be studio upstairs and downstairs. The units will be small but functional. The smallest would be 343 s.f. and the largest unit would be 547 s.f. Apartments would be prioritized and financed through CDD block grants as well as NH Housing Finance Authority. They would be affordable. CCEH was formed in 2008 and operates 2 programs addressing crisis needs for homeless people. They can serve 40 people a night. At least 150 people use the shelter in the winter and 600 use the service center over the year. They currently operate a scattered site program and they also own 2 buildings themselves. They purchased a triplex on West Street and have one at 10 Green Street. In total they currently provide housing for 22 people. They have a property management agency that they work with. They provide case management services. NH Housing Finance authority is helping to fund the project. These apartments are like any other apartments. It's not transitional housing. The number of bedrooms are not increasing even though they are increasing units. This use fits in with character of neighborhood. The location is in IN zone. It looks out on the State Office grounds. It is close to downtown and is on a bus route.

Wallner asked how many bedrooms exist. Ms. Groh said there were 8 bedrooms. Winters noted that the neighbors have concerns. When you scope out a project like this, are there any other neighborhoods in the City that may be more suitable? Ms. Groh responded that they have not been able to find any locations. In this market, properties are being scooped up.

Attorney Hastings: The public interest is clear. The need is to increase housing opportunities. These variances

are consistent with public policy goals. Density issues: By having 8 units, it reduces the per unit cost of the development. Spirit of the Ordinance: The site is in the IS district. Not in a residential district. The neighborhood is a transitional neighborhood between the more traditional neighborhood to the north and the more institutional uses to the south. The smaller units discourage families. Parking: They want to keep the same number of spaces that exists now; one space per unit. They are only having single occupancy units and the likely tenants tend not to have vehicles. If they had to comply and have 8 additional spaces it would detract from the area. Granting the variances for the parking would be within the spirit of the ordinance. Substantial justice: No harm to the public. No diminution of value to surrounding properties. The exterior of building will remain largely the same. There will be a connecting stairway to both buildings. The total number of occupants will largely stay the same. Hardship: The location and existing building is suited to support the 8 units and size. Having 8 units will reduce the per unit cost. Literal enforcement of the ordinance will not undermine the ordinance. There will be no effect on the population density of the site. It is a very minor nonconformance in terms of lot size. Retaining the existing parking will be in character with the neighborhood. The use is reasonable and will not alter the character of the neighborhood.

Carley asked Ms. Groh what the duration of the finance package would be. How long does it last? Mr. Groh explained that they agreed to a 40 year affordability term. It is zero percent interest deferred payment. At the end of the 40 years they usually forgive it. Rental assistance will stay that long as well.

Monahan asked who currently owns the property. Ms. Groh explained that they bought it as they had to. Monahan asked who owned it before? Ms. Groh answered Renee Robertee who lives out of state. They bought the West Street property from her as well. Monahan asked what happened to the current occupants? Ms. Groh answered that when the property went up for sale, there was only 1 occupant there and he will move out.

In favor: RoseAnn Haggerty, 103 School Street Unit 1, a neighbor of the property. She also works professionally building housing for the homeless. She lives 3 blocks away. She's lived in Concord for 18 months. She appreciates the plans the Coalition has developed. For 30 years she has lead non-profits, and has built supportive housing in 9 different communities around the country.

Greg Lessard, Director of Housing Initiatives for CCEH. The most difficult parts of his job is that people need an income, a way to pay the rent. This property has 8 bedrooms, so you could have 8 adults living there today or tomorrow. If they take the time, money, and energy to turn it into 8 individual units, they can get funding. They can't simply buy the property and get housing vouchers for it.

In opposition: Chris Makris. 7 Liberty St. He submitted a packet to each of the Board members. He is representing 11 abutters. All have signed letters in the packet he submitted. They have read the proposed variances. They acknowledge that Pleasant Street corridor is Intuitional. They are writing to oppose the variances. They oppose access circulation, parking and loading, and the 12 foot driveway width vs. 24 foot required width. Article 28-7-11g clearly says in no case shall the planning board permit a driveway with 2 way traffic flow less than 18 feet. There is no written agreement between the development and co-owner of the easement of the existing driveway. Only a portion of the 12 foot width would be able to be paved. The parking setback of 15' separation between buildings and parking lots are not met. The proposal says the density for 8 dwelling units will not impact the area. They disagree. Tenants can have significant others move in and/or have visitors. This changes density. They firmly believe they want to fit too many units into the current space. Financial hardship should have no bearings on granting variances. This property has functioned well over decades as it exists. This property will become more nonconforming. They strongly urge the board to deny the variances proposed. He referred the Board to a site map included in packet. The boundary lines have been identified in red and proposed paving area has been shaded in. Two days ago, Code Administration stated that should an abutter have concerns with public safety they should bring it to the Board's attention. The construction standards of engineering are well thought out. A driveway width of 24 feet is standard for safe 2 way traffic. They want to go on record that what is proposed is an unsafe and

irresponsible design change request. They also included the driveway easement. It was created in 1875. It established an 8 foot shared passageway between 2 single family homes. This doesn't give permission to the appellant to change the abutter's section of the driveway. His concern would be in granting these variances for the driveway and parking and then if the property were vacated, someone else has other problems.

Wallner cannot read half of the signatures on the petition, so he doesn't know who the abutters are. Wallner asked for a printed copy for the record. Mr. Makris will get it to them tomorrow.

Fred Hagedorn, 4 Liberty Street, which is across the street from the subject property. He sent a letter to the Board. Concerns about precedent. Permitting the change of 600 sf. minimum for single bedroom dwelling will permit, over time, the other properties beside them, which is also rental, to do the same thing. 118 Pleasant Street, owned by Randy Blossom, could possibly want to do the same thing. Density: they say 8 bedrooms and 8 people. Nothing says it must be only 8 people. It says it is single bedroom dwellings. But this could easily go to 16 or 32 without a whole lot of difficulty. When they moved there in 2020, the first floor of that building had a family of 4 with 2 children. To use that as an argument for safety is disingenuous. Parking: currently they say there are 8 parking spaces. He lives across the street and he doesn't see 8 parking spaces on their side of the driveway, he sees 4. If there are more than 8 people there that need to park, they will park on Liberty Street. There are a lot of people that park on Liberty Street at night. He has a single family home. A comment was made that there is a lot of multi family homes. There are 3 multi family homes and then it becomes single family homes. On his side of the street there is only 1 multi family home. Once you have rental assistance, and then another rent supported home, you being to wonder when there will be a cluster instead of it being scattered. He's concerned with property values being negatively impacted. He'd respectfully request ZBA deny the request.

Tom Farrelly, 113 Warren Street. He's spent the last 36 years in the commercial real estate business. He's not sure what economic hardship is tied to the land. This property had to be scooped up, so it is that valuable and performing fine the way it is. He is concerned that it says that 2 people, the applicant and the partner. You could have 16 people living in that house. He thought that help for the homeless was a hand up – i.e. some form of a job or occupation. Even if half of the people living there have cars, where would they park? It's like putting 15 lbs in a 5 lb bag. They are opening the door up for a challenging environment for the Board to function in as it sets a dangerous precedent. Parking and the ability to add cars into the lives of people trying to make a better way for them selves is critical. They purchased the property without having the approvals to use the property as they would like. That says something. That property has functioned great as it is and has been used. He is a landlord providing affordable housing in Concord.

Greg Marceau, 3.5 Liberty Street. He agrees with the people that spoke before him. He sent a letter. He has a concern about the variance transferring with the property. There is a lot of people in the world that buy homes with 30 year mortgages and if this doesn't go the way this is planned you have a building with 8 units. They say that they need to have 8 units in order for the building to be viable, but they own two other properties with less units and those are working great. An 8 bedroom home could have 8 to 16 adults. The applicant testified they would try to keep children out, but they can't guarantee that. His biggest concern is parking. There is no parking in that area. There is very limited off-site parking. He doesn't see the hardship as they could get parking on that site. The City has just spent the last year or so doing a parking study.

Letter submitted from David and Melissa Greenwood 6 Liberty Street in opposition. Similar concerns as others. See letter in file.

Code: none.

Rebuttal: Attorney Hastings. The driveway will not be designed for 2 way traffic. This Board has granted those types of variances before. The shared driveway is overburdened. The use they are proposing is materially the same as what is there now. That is a private matter and not within the jurisdiction of the ZBA.

Testimony that this property functions fine as is, that's all is true, but it is not the legal standard anymore that because there are other reasonable uses the proposed use is unreasonable. Density: Yes, you could have multiple people living in a single bedroom unit, but you could as it exists now. Based on the Coalition's actual experience with this type of housing, it is unlikely to have multiple occupants in single bedroom units. Ms. Groh explained that this isn't a 30 year mortgage. It is quite a process to get this funding. It can't just be sold or change your mind. Carley asked if that were recorded in the deed. Ms. Groh said yes.

DECISION:

Wallner: He heard some concern about the width of driveway. There is no request for driveway width relief. Cartier-Creveling explained that they covered the request by keeping what they have. Wallner looked at the floor plan. They are really small studio apartments. By right, they could have 5. He doesn't see 16 people there.

Monahan: Agrees with Wallner regarding the density issue. The hardship he heard was that without undertaking this construction it would fall outside of the parameters of long term housing support.

Winters: It's an important issue. He is having an issue with the hardship. Particularly with #4. His personal opinion is that on a city wide level there should be some zones that have some allowance for smaller dwelling units. He has a hard time with that being decided on a ZBA level. There isn't anything very unique about the lot or structure.

Spector-Morgan: The property is uniquely situated or laid out to accommodate this use which is not the hardship standard. This is an existing structure, not a vacant piece of land, that could currently house 8 or 16 adults. They are just building internal walls and providing kitchens. The conditions exist now. It is a reasonable use, a permitted use. This will not alter the character of the neighborhood. There is no loss to the public. This will not diminish property values. She is not concerned with precedent. The easement is not their issue.

Carley: Winters points occurred to him as well. There is an extraordinary situation here as they are committing to a 40 year tenure. Although the variances would go with the land, but it would also have the same conditions of occupancy. He's on the fence about it. It is unlikely that the building will be anymore heavily occupied than it could be now. The location of the lot is not an inappropriate spot for a multi-family apartment. He'd be inclined to support.

Winters is inclined to approve #2 and #5. Inclined to deny others.

A motion to approve requests #2 and #5 was made by Spector-Morgan, all criteria are met, and seconded by Wallner. Carley noted that the easement and the paving of half the driveway is not the ZBA's concern. Motion passed by a unanimous vote.

A motion to approve requests #1, #3, and #4 was made by Spector-Morgan, all criteria are met, seconded by Wallner and passed by a 4-1 vote with Winters in the minority.

04-22 10 Ferry Street; OCP-Opportunity Corridor Performance District; Property Owner-Flatley Concord Center, LLC: Applicant proposes to install a 220 square foot freestanding sign and is seeking variances to:

1. Article 28-6-9(a), Table of Maximum Sign Dimensions, to allow a freestanding sign with an area of 220 sf, where a maximum area of 100 sf is allowed; and
2. Article 28-6-9(c)(3), Permitted Freestanding Signs, to allow a freestanding sign to have a horizontal dimension of 22 feet, when a maximum horizontal dimension of 16 feet is allowed.

A motion to recess this case to the April 6, 2022 meeting was made by Wallner, seconded by Spector-Morgan and passed by a unanimous vote.

MINUTES: A motion to approve the Minutes of February 2, 2022 was made by Wallner, seconded by Monahan and passed by a 4-0 vote with Winters abstaining.

*Respectfully submitted,
Rose Fife, Clerk*