

**CITY OF CONCORD, NH
ZONING BOARD OF ADJUSTMENT
SEPTEMBER 13, 2023
MEETING MINUTES**

Attendees: Chairman Christopher Carley, Nicholas Wallner, Andrew Winters, James Monahan, Laura Spector Morgan and Brenda Perkins (a non-voting member).

Absent: Tedd Evans

Staff: David Hall, Code Administrator
Tracey Hutton, Zoning Administrator
Rose Fife, Clerk of the Board

Meeting commenced at 6:00 pm.

- 1) Call meeting to order at 6:06 pm.
- 2) Chairperson's comments
- 3) Public Hearings
- 4) Review and acceptance of 2024 Meeting Calendar
- 5) Review and acceptance of Findings of Fact
- 6) Review and acceptance of Minutes
- 7) Any other business that may legally come before the Board

PUBLIC HEARINGS

0080-2023 **7 Break O' Day Drive; GWP – Gateway Performance District; Big Step LLC, Owner:**
Applicant wishes to reverse the Planning Board's decision that the City issue Site Plan approval for a Charitable Gaming Hall, Restaurant, and Microbrewery as a permitted use in the Gateway Performance District.

Chair Carley explained that unfortunately they received a large package/memo from one of the parties involved in the case this afternoon. One board member has not had an opportunity to review the material and is uncomfortable proceeding with the case.

A **motion** to recess the case to the October 4, 2023 meeting was made by Mr. Wallner, seconded by Ms. Spector-Morgan with the condition that no additional materials be submitted between now and October 4, 2023. Mr. Wallner found that condition to be consistent with his motion. **Motion** passed by a unanimous vote.

0049-2023 **151 Elm Street; RO – Open Space Residential District; Jamie & Jacob Farwell, Owners:**
The owners wish to operate an Automotive repair, service, and towing business and seeks a variance to Article 28-2-4, *Allowable Principal and Accessory Uses in Zoning Districts*, to allow use J4 - Automotive repair, service, and towing, excluding body work.

Mr. Winters wanted to disclose to the Board that one of his clients submitted a letter. He wasn't sure if the Board would find that to be a conflict. The Board members deemed there was no conflict and the case proceeded.

Testified: Jamie Farwell, Jacob Farwell and Attorney Daniel Muller, Cronin, Bisson & Zalinsky PC.

Attorney Muller testified that they are looking for a far more limited use than what was requested. The Farwell's do not do towing. They do repair and maintaining motorcycles. Mr. Farwell is the principal owner of the business and his wife does his books. Their lease at their other location in Penacook expired. They purchased this property and built a new house, but the barn where the shop is was already there. That structure is perfect for their use. They have some agricultural operations on the property as it is in current use. It is not likely to ever be expanded.

His client is willing to limit the use. They are agreeable to conditions of limiting the use to the inside of the building, no outside storage, limit the number of employees to 2 employees (Jacob and Jamie Farwell), and they are also amenable to conditions that would hinder the expansion of the building. Essentially what is there today will continue to exist. This is not before the Board due to a complaint. The Farwell's filed the application to do the right thing. There is no signage and they are willing to keep it that way. In terms of scale, it is much more like a home occupation, which is allowed in this zone. They will not change the character of the neighborhood. The hardship is the large parcel. When they bought the property there was an existing building there, which allows for this limited operation. It looks residential/agricultural as opposed to commercial. The hardship is also that the one building is not next to any other residential property, but is near land owned by the City of Concord. They believe that this property's condition make this limited use reasonable going forward.

Mr. Winters asked how long they have been operating there. Mr. Farwell explained that they have been at this location 6 years, but his business started in 2009 at 2 Village Street, Penacook. Mr. Winters asked if coming forward was not due to a complaint. Attorney Muller explained that the Farwell's want to do state inspections and he wanted to be sure he had all the local approvals in place.

In favor: Al Brack who lives on Elm Street. He has known Mr. Farwell since 2015 when he was still operating Farwell Motorcycle on Village Street. They have always been good neighbors and are very courteous. He was excited to have Mr. Farwell as a neighbor and was excited he was operating his business there. The home and shop are setback from the road. They show pride and ownership in their property. You'd never know the business is there. The yard is clean and kept up. The shop is clean and well organized. No motorcycles are kept outside. His operation is well managed. He's impressed with Mr. Farwell and how he presents himself. He'd be the first to have an issue if it was a large business going in next to his home, but you would not know there is a business there. There are no homes close to this property except the neighbor across the street from him. There is no impact to the land; no contaminates. No noise issues. He drives by 3 or 4 times a day and hears nothing. This business is no different than other home occupations in the area. Mr. Farwell has built this business and will keep it to a one person operation. There is no impact to the character of the neighborhood. He is in support of small businesses. He would like the board to approve the request.

James Bidwell who lives at 184 Elm Street. He agrees with what Mr. Brack said. The Farwell's keeps a clean yard, and business. He fully stands behind his business use. He did submit a letter.

Arthur Rivet who lives at 123 Elm Street. Mr. Farwell is a 'stand up' guy. He believes they are here because Mr. Farwell wants to do things right. They take care of their property. The use they are doing is not the use listed in the ordinance. They aren't doing towing and auto repair. Elm Street is a cut through for people; they drive fast and a bulk of them are on motorcycles. Those bikes have nothing to do with what Mr. Farwell is doing. He agrees with Mr. Brack and Mr. Bidwell. He submitted a letter.

Christopher Casco on 3 Wedgewood Drive in Concord. He is a long time motorcyclist. He submitted written comment. Not allowing this variance would be an undue hardship to Mr. Farwell. The Barn at Bull Run on Bog Road, which is a wedding venue, was granted a variance and is far noisier than this. This has minimal impact compared to that.

In opposition: none.

Comments from Code: none.

Letters in file. 27 people submitted letters. Most live on Elm Street; one on Peaceful Lane; Sweatt Street; Chandler Street and Eel Street. Emails were submitted from: Jeff and Christie Tobine of Bog Road in favor; Chris Casco in favor; Dennis Soucy, 166 Elm Street who is NOT in favor; Jeremy and Jane Lauren NOT in favor and concerned with traffic and speed; James Murphy, 166 Elm Street NOT in favor and concerned a variance will go with the land and a new owner might not observe conditions; Andrew Stout NOT in favor; Angel Gonzalez, Bog Road in favor; Laurence Boucher, 126 Elm Street in favor; Bill Fitzgerald, Penacook in favor; and Dennis Goodman in favor. All correspondence is in the case file available for viewing.

DECISION:

Mr. Winters: He did not sit on the initial case. He agrees it is not a majority vote dictated by the neighbors who support the request. The neighbors that spoke shows the good faith of the applicant, cleanliness of the operation, and minimal traffic, etc. The representation of the applicants will be binding. He is inclined to approve.

Ms. Spector-Morgan: She has no doubt they run a good business. It isn't about the Farwell's, but about the land. Because the old barn on the property isn't special circumstances she would be inclined to vote to deny.

Mr. Monahan was also not here for the original request. It was looked at in the context of auto repair vs. home business. With that in mind he is inclined to find a way to get to 'yes'.

Mr. Wallner: He heard testimony that there is no other repair facility available in the area for motorcycles. It is a hardship on the community. He is inclined to support the request. They are making every effort to blend in.

Chair Carley: He has to agree with Ms. Spector-Morgan that he doesn't see the hardship on the property. He wouldn't be upset to see the vote go against him.

A **motion** to grant the request was made by Mr. Winters, seconded by Mr. Wallner. Mr. Winters placed conditions on the approval that were mentioned by applicant; no outside storage; all work to be done in the barn; no expansion of the building; no signage; and a maximum of 2 employees who are Mr. Farwell and Mrs. Farwell, no one outside of the family. The **motion** was granted by a 3-2 vote with Ms. Spector Morgan and Chair in the minority.

0070-2023 **7 Federal Street; CVP – Civic Performance District; Nonna's Parking Realty LLC, Owner:**
The owner wishes to establish an off-street parking space and requests a variance to Article 28-7-7(g), *Setback and Restrictions*, to permit a space with a 0-foot setback where 5-feet is required.

0090-2023 **1 Federal Street; CVP – Civic Performance District; Nonna's Parking Realty LLC, Owner:**
The owner wishes to establish an off-street parking space and requests variances to:
1. Article 28-7-7(g), *Setback and Restrictions*, to permit a space with an approximately 2-foot setback where 5-feet is required.
2. Article 28-7-7(a), *Standard Parking Spaces*, to permit the previously approved (0009-2022) parking space to be substandard at 15-feet by 8-feet where 9-feet by 19-feet is required.

Case 0070-2023 and Case 0090-2023 were heard together.

Testified: Attorney Phil Hastings of Cleveland Waters and Bass. The owner is Remi Xinxhia who bought property at 7 Federal Street. He gave the Board handouts and photographs of area. There was a bump out on the porch that was removed. Nonna's Parking Realty is at the corner of Federal Street and Pleasant Street. Both properties are 2 family residences. In 2022 the ZBA granted variances to permit 1 Federal Street to convert from a law office to residential uses and one of those variances was to allow the single off street parking space that you see in the middle of the plan shown. It is paved. It is historically the only parking spot used when it was a law office. There have been no changes to that parking space since the conversion. 7 Federal Street has never had any off street parking. His understanding is that it is a grandfathered non-conforming use. This property has been residential all along as far as he knows. They will remove the curbing in front of 71 Federal Street to create space for 2 cars.

Mr. Winters asked which property was Paul Maggioto's old building. Attorney Hastings answered 1 Federal Street.

Attorney Hastings noted that the existing parking space is 15 feet by 8 feet and the new one would be 16 feet by 8 feet and straddle the property line. They will require backing into the street. They need variances from a handful of provisions under the Parking regulations. There is some question about whether a variance was needed for the existing space at 1 Federal Street due to the size. He's not sure they need a variance for that. They did apply for both parcels. They understand that any variance would be conditioned on the easement as they straddle the property line.

Chair Carley asked about the photographs. Attorney Hastings cited many properties in the area that had similar situations. The street is very narrow and the buildings are dense. They are trying to create a space that is not a space for the tenant at 7 Federal Street to have a parking spot. The request is consistent with spirit and spirit of ordinance which encourages off street parking. It will not diminish the value of the surrounding properties.

Mr. Winters questioned the requirement of a variance to park at 1 Federal Street. Attorney Hastings explained. The office use that was there would require 8 off street parking spaces but was grandfathered for 1 space. They changed it to a residential use and needed a variance for parking and it was granted. They are adding the parking for 7 Federal Street. Mr. Winters asked where the tenants park now. Attorney Hastings answered that they park on the street now.

In favor: none

In opposition: none

Comments from Code: Zoning Administrator Hutton explained that the property line between the two properties, which allows a conforming space on 1 Federal Street is giving some of its width to 7 Federal Street. They had applied to remove the curbing with a driveway permit and could not issue the permit as it does not comply with the ordinance. They are adding one non-compliance space which backs into the roadway.

Ms. Spector-Morgan asked if there was on-street parking on Federal Street. Zoning Administrator Hutton did not think so as the street is too narrow.

DECISION: Chair Carley reviewed the testimony as given.

Mr. Wallner: Assuming the hardship is that Federal Street is narrow, it creates unique situation for parking. He is in support.

Mr. Monahan agrees.

Ms. Spector-Morgan will add to the discussion at Motion time.

Mr. Winters noted that the parking is terrible there. It is not safe to have people backing out onto the street. He agrees with Mr. Wallner regarding hardship.

Chair Carley also agrees.

A **motion** to approve both requested variances was made by Spector-Morgan. It is not contrary to the public interest; it is in keeping with the spirit of the ordinance. Substantial justice is done. There is no harm to the public or diminution of property values. There are special circumstances as it is a small lot and no where else to put parking. The **motion** was seconded by Mr. Monahan and passed by a unanimous vote.

0075-2023 27 Merrimack Street, Penacook; RN – Neighborhood Residential District; Tyler Stratton, Owner:

The owner wishes to establish the home as a two-family structure and requests a variance to Article 28-4-5-2, *Duplex or Two-Family Dwellings*, for a lot having 60-feet of frontage where 120-feet is required and 10,000 sq. ft. of lot area, where 15,000 sq. ft. is required.

Testified: Mr. Tyler Stratton and Krista Bouchard. Mr. Stratton wants to convert his single family home to a 2 unit apartment. The second unit will be for a family to move into. The property has 4-7 parking spaces. The neighborhood has abundance of multi-family homes. The house is suited for 2 families as it has 2 kitchens; 2 bedroom; 1 bath and 3 bedroom, 1.5 bath for second unit.

Chair Carley asked Zoning Administrator Hutton if they could do this as an ADU. Zoning Administrator Hutton

answered that the size of the units make it a two-family. Ms. Bouchard noted that one unit was around 1000 s.f. Mr. Stratton added that there is one entrance in the front that goes to a stair case to access the second unit.

Mr. Monahan asked if it was 2 family prior. Mr. Stratton answered that the property was listed as a 2 family. When they did their research, there was no record for it. Ms. Bouchard added that inside the home shows it being suited for a 2 family. Mr. Winters asked if they were adding space or just reconfiguring the house. He asked if they will live there. Mr. Stratton and Ms. Bouchard both answered that they will be living there.

Ms. Spector-Morgan asked if they would agree to a condition that the owner of the property always occupy one of the units? Mr. Stratton and Ms. Bouchard were agreeable to that. Mr. Monahan asked if there were other 2 family homes in the area. Mr. Stratton answered there were an abundance of them. Ms. Bouchard also believes there are a lot of others in the area. It was built in 1908. Zoning Administrator added that the lot is too small for a 2 family.

In favor: Mr. Joe Williams. Tyler Stratton and Krista Bouchard are just starting out. There are a lot of multi-family homes in that neighborhood. This will increase property values.

Phil Scordato, who lives at 24 Walnut Street, behind this property. He would be in favor of this as a matter of precedent.

In opposition: none.

Comments from Code: none.

DECISION:

Mr. Monahan: This request is consistent with the neighborhood. There is evidence it historically was a 2-family home. It is similar to the rest of the neighborhood so it is not a burden. Assuming other 2-family homes do not have restriction of being owner occupied, therefore he will not make that a condition.

Ms. Spector-Morgan agrees. The second kitchen is evidence of special circumstances. It is consistent with the rest of the neighborhood. It is a narrow lot.

Mr. Winters agrees.

Mr. Monahan agrees. It seems to be the smallest lot in area.

Chair Carley agrees.

A **motion** to grant the request for a two-family was made by Mr. Monahan, seconded by Ms. Spector-Morgan and passed by a unanimous vote.

0079-2023 **10 Drew Street; RS – Single Family Residential District; Georgia Karathanasis, Owner:**
The owner seeks a Special Exception as permitted by Article 28-2-4, *Table of Principal Uses*, to create an Accessory Dwelling Unit (ADU) within the confines of the existing Single-Family Dwelling.

Testified: Georgia Karathanasis. She has lived in Concord her entire life. Her parents are immigrants. Her father has about 53 years of experience with rental properties. She operated her own hair salon for about 25 years. She was granted a variance to have her business in her home, but due to Covid she closed her business. She is hoping to put a studio apartment in where the salon was. She needs to add a kitchenette, a shower, a bath and a parking space. The last couple of years she has been working in a nursing home, which although very satisfying, was a significant pay cut. She is proud of all the improvements she has done to her home since 2016. All the apartments in this area are overpriced. There is not much to choose from. Wants to have the unit up to code.

Chair Carley asked where Drew Street was located. Ms. Karathanasis answered it was behind Pizza Hut off of Loudon Road.

Ms. Spector-Morgan ran down the special exception criteria and the ADU criteria. How large is the ADU unit. Ms. Karathanasis gave measurements. Zoning Administrator Hutton is satisfied that the square footage is correct. Ms. Spector-Morgan asked if it was 2 bedrooms? Ms. Karathanasis answered that and a large room and bathroom. Ms. Spector-Morgan asked if it had a common wall and a door? Ms. Karathanasis answered it has 2 doors but will close those off. It has a front entrance. Ms. Spector-Morgan explained that it has to have 1 interior door. Ms. Spector-Morgan asked Zoning Administrator Hutton if it met the lot size requirements. Zoning Administrator Hutton answered it does. Ms. Spector-Morgan noted that the owner must occupy one unit. She asked how many parking spaces? Ms. Karathanasis answered one additional parking space. There are 2 there now.

In favor: Sarah Pratt. She's known Georgia for over 20 years. Georgia is the daughter of an immigrant. She didn't speak any English when she started school here. Her parents have experience as land lords. She wants to follow suit. She is a responsible person. Due to Covid, all hair dressers had to stop working. She spent that time building the salon in her home. She's worked on her home. She's a rule follower. She has a huge heart. She really needs this source of income.

Mr. Mike Karathanasis testified. He's been in this country for 55 years and a landlord for 53 years. Georgia is his daughter.

In opposition: none.

Comments from Code: Zoning Administrator Hutton noted that Ms. Karathanasis has worked with the Engineering department regarding the parking space.

DECISION:

Mr. Winters: He believes she has met the criteria. The impact on City services will be small. Ms. Spector-Morgan went through ADU requirements and she meets them.

Ms. Spector-Morgan approved.

Mr. Monahan agrees.

Mr. Wallner agrees.

Chair Carley is in favor. He believes she has met the special exception criteria.

A **motion** to approve the request was made by Ms. Spector-Morgan who found that all the criteria were met for one ADU. The ADU is not greater than 750 s.f. or less than 600 s.f.; has 2 bedrooms; has 1 interior door; the minimum lot size met; there is no exterior modifications; the owner will occupy one of the units and it has sufficient parking. The **motion** was seconded by Mr. Monahan and passed by a unanimous.

0081-2023 20 Foundry Street; OFP – Office Park Performance District; Fox Brook Holdings LLC, Owner:

Owners wish to operate a Secondary Charter School and seeks a variance to Article 28-2-4, *Table of Principal Uses*, to allow use B-1, Elementary and Secondary Schools, in an OFP District.

Testified: John Higgins, Executive Director of Synergy Academy and co-founder of the charter public high school. He was last here before the Board before for property at 25 Chenell Drive which was approved. Upon further review of that property, they found that building, which was built in 1991, had a lot of life safety/fire code issues. This new location at 20 Foundry Street will be for 120 high school students. Ultra-Holdings LLC now owns Fox Brook Holdings LLC who is listed as the owner. He has had the Fire Department there to do an evaluation. The building was renovated in 2013. They are doing a service based learning. This location would fit that mission. The building meets a lot of the code requirements and standards. He is asking the Board to support this use at this location for a grade 9-12 Charter School.

Ms. Spector-Morgan asked why the property cannot be used for what it is zoned for. Mr. Higgins is not sure. He is asking for it to be used for the purpose of the school. There is a lot of office space vacant in the City.

Ms. Spector-Morgan explained that he needs to demonstrate that there is something unique about the property that makes it not suitable for uses that are allowed. Mr. Higgins explained that in this market it is difficult to rent. Ms. Spector-Morgan asked if there was any office space in town zoned that would allow for the charter school. Mr. Higgins explained that they do not have a set building and they need a suitable location that meets all state and federal regulations. This location does that for them.

Chair Carley asked Zoning Administrator Hutton if there was a zone they would be allowed in. Zoning Administrator Hutton answered they would be allowed in any zone that a school is allowed in.

Mr. Winters asked if they were chartered for a certain number of students. Mr. Higgins had a target of 65 students in the first year and would like to advance to a cap of 120 students. Mr. Higgins explained it is a condominium complex and it is the back building. The top floor will be professional office space/tent, which is not their area. They are using the bottom floor. Ms. Spector-Morgan asked if they are leasing the second floor? Mr. Higgins answered they are not, just the first floor. Mr. Monahan asked how long it had been vacant. Mr. Higgins answered that it had been vacant over a year. He also went on to say that this building is 2.5 miles from NHTI. They would like to also work with NHTI and the Merrimack Valley School District as well. Mr. Monahan asked if they were a public charter school? Mr. Higgins answered that they were. It was authorized by the State School Board on 3.9.23.

Mr. Winters asked about availability to other schools? Zoning Administrator Hutton answered that the institutional district allows schools. There is space in those districts. Mr. Monahan noted that the board has had other charter schools before them.

In favor: William Norton of 11 Fellows Street, Concord. This building used to house Sanborn Head Associates. The building has been vacant since January 2023, but they have been marketing it for almost all of 2022. It is a two story building built for office use. It is uniquely designed for a large scale use. Al Traffic of Hutter Construction built it. Leif Traffic bought it. Sanborn Head had a lease and is now moving to Boston. It's been a challenge to have anyone respond to that office space. He gave a rundown of tenants in all buildings.

In opposition: none.

Comments from Code: none.

DECISION: Chair Carley reviewed the testimony as given.

Mr. Wallner: In the past they have granted variances for this type of use and in areas other than the Institutional District. He is in support.

Mr. Monahan: He agrees with the first part of what Mr. Wallner said. But Mr. Norton did say that the original building design was for Sanborn Head Associates with big open spaces, which makes it difficult to be available for other uses, which is a hint of a hardship.

Mr. Winters: He believes that charter schools are up and coming due to educational laws. We will be seeing more and more charter schools. They are different in scope than what the zone considers when it discusses secondary school. You are talking about 120 students max. It could be a challenge to find a reasonable spot in Concord. It has good access, a lot of parking, and can be easily modified for classroom use.

Ms. Spector-Morgan does not see the hardship. Maybe they need to revisit charter school zoning. There is a lot of vacant office space in Concord. The variance criteria met except the hardship prong. She would vote to deny.

Chair Carley: Ms. Spector-Morgan's logic is impeccable. He is willing to stretch a definition of a hardship in the interest of the other goals of the zoning ordinance. It is not an unreasonable use. It is difficult to fit a charter school into the overall notion of a school. He is not immune to the argument that they are having a difficult time

finding another place and this is a reasonable and appropriate place. He is in favor.

A **motion** to approve the request was made by Mr. Monahan. It is not an inappropriate place as it is away from neighborhoods; there is parking; it can accommodate the number of students; and the building design would make it challenging to make it available to a potential group of tenants. The **motion** was seconded by Mr. Wallner and passed by a 4-1 vote with Ms. Spector-Morgan in the minority.

0088-2023 45 S Main Street; CBP – Central Business Performance District; Bindery Redevelopment LLC, Owners:

The applicant wishes to install hanging signage exceeding the size allowances of the ordinance. The applicant is seeking a variance to Article 26-9(a) *Table of Maximum Sign Dimensions for Nonresidential Districts* to permit 166.5 sq. ft. of total building signage where 150 sq. ft. is allowed.

Zoning Administrator would like this case continued and they have asked to be heard in October. The applicant needs to redesign their sign package.

A **motion** to recess the case until October 4, 2023 was made by Ms. Spector-Morgan, seconded by Mr. Winters and passed by a unanimous vote.

0086-2023 13 Lawrence Street U-1; RM – Medium Density Residential District; Andrew and Christopher Knight, Owners:

The owners wish to construct two additional two-family dwellings on a single lot currently containing a two-family dwelling and seeks variances to:

1. Article 28-2-4(h), *Multiple Principal Uses on a Single Lot*, to allow three two-family dwellings on a single lot that is not a PUD; and
2. Article 28-5-2, *Duplex or Two-Family Dwelling*, to allow three two-family dwellings on a lot having 165.44 feet of road frontage where 450 feet is required (150 feet per building).

Testified: Christopher Knight and Attorney Brett Allard. Attorney Allard also had Andrew Knight available to testify. It is a 1.8 acres, 77,000+ s.f. parcel in the RM zone. It is located on the corner of Lawrence Street and Lawrence St. Ext., which is a private road that is maintained by the City. There is 160 feet of frontage of Lawrence Street and 360 feet of frontage of Lawrence Street Extension. His client built the home that is there now and they extended the sewer line towards where they are proposing the new 2-family dwellings. Have access over the Lawrence Street Extension right of way. It is one lot, but not a PUD. In order to be a PUD, in the zoning ordinance, you need to have a mix of different types of dwellings. They need a frontage variance as well. There will be 3 two families and needs 450 feet of frontage. They have over 450 feet total if you include the private road.

It is not contrary to public interest; there are no alterations to the neighborhood. They are modestly sized 2-family dwellings which are permitted in this zone.

There is no threat to public health or safety. They will be extending the sewer line down further. It is currently a gravel road. They will extend the pavement. Currently there is a 20 foot right of way over this land that other lots in the area have rights to enjoy. His client would be willing to expand their access rights to 33 feet. The existing gravel that is there is outside the 20 foot right of way and they are expanding it to 33 feet which will give everyone the right to pass over the width of the right of way where the sewer line is situated. This will benefit the public.

It is consistent with the spirit of ordinance. In an RM Zone, they are allowed to have a 2-family dwelling and a Planned Unit Development (PUD). They have 1.8 acres, which would yield more than the 6 total that will be the result of these two additional two-family dwellings. The lot is large enough to support the 4 new dwelling units. They will have safe and sufficient access as well as dedicated driveways.

Substantial justice is done. There is no injury to the public or no gain to the public if denied. The rest of the property is under-utilized. Adding 4 new dwelling units would add much needed housing stock and would do substantial justice.

The surrounding property values will not be diminished. They submitted 2 letters from realtors to support this. One is from Joseph Palmisano who is a realtor. Mr. Palmisano looked at the plans and the area and the entire situation. He concluded that it will not cause any adverse or negative affect to the surrounding property values. Rob and Nicole Leite of 11 Lawrence Street are in support. The extended pavement and sewer line will be a benefit to surrounding properties.

The unnecessary hardship is the special conditions. It is a corner lot with public and private street frontage. The private street is an emergency lane that the City maintains. The lot is much larger than others lots in the area. Other lots in the area are 10,000 to 38,000 s.f. +/- . This lot looks like a double or triple size lot vs. what is in the surrounding area. The lot is well suited for this use. There will not be any overcrowding. It will have safe and sufficient access with dedicated driveways. It will add to the housing stock. It is a reasonable use.

Ms. Spector-Morgan asked if it were a condo and if the Knights will continue to rent out the units in all 3 buildings. Attorney Allard confirmed they would be keeping them and renting them. Ms. Spector-Morgan asked why they could not subdivide? Attorney Allard answered that they could not as it was a private road. Ms. Spector-Morgan asked if they would be upgrading the emergency lane. Chris Knight answered that the pavement will widen the current travel lane and they are extending the sewer line. Ms. Spector-Morgan asked if they had a written agreement for maintenance of private road? Attorney Allard answered that they did not, but the City has maintained it for many years and they had no reason to think that would not continue.

Mr. Monahan asked when the existing two-family home had been built? Attorney Allard answered in 2021.

Mr. Winters asked if the lot will remain one lot. Attorney Allard answered that it would.

Zoning Administrator Hutton interjected that most of those homes on these streets were built in the 1950's and 1960's.

In favor: none.

In opposition: William Edward Parker, 18 Lawrence Street. He lives two houses beyond Lawrence Street Extension. Mrs. Grove owned the property years ago. They subdivided out her house. The rear was a paddock with horses. His daughter wanted to put in 6 duplexes. The right of way has no utilities other than one water line. The roadway was originally owned by Mrs. Groves and became a right of way for folks to use. Mr. Knight owns that, but it is listed as a right of way. There is no turn around at the dead end dirt road. The corner house they just construction had had 1 family move in and there was 6 vehicles hanging out onto the street. There should be some requirement from the City to put utilities all the way up through. That makes sense to him. The ordinances were put there so that people would adhere to it. It is a congested area already. He doesn't believe granting this is a good idea. It is a quiet area; a dead end dirt road with no turn around. The neighborhood is use to seeing wild life there. There won't be any green space. He's been at his home for 20 years.

Gary Andy, 6 Lawrence Street Extension. He is wondered about the single, 2 inch water line that runs from City water and goes down Lawrence Street. They get their water tapped off that. The plowing is not adequate but gets done. What will the additional homes due to his water pressure? With the adding of homes in the area change the complexion of his community? They have a great area of individuals who know each other. He doesn't believe the way the road is being done will adapt to that kind of change. The applicant will be receiving the benefit of an approved road for their project without having to do anything for it. They don't have enough frontage on Lawrence Street, so by adding the extension they add analogous frontage footage. He is wondering about safety with more cars. Water is a concern. The City has a 3 inch pipe and they have a 2 inch pipe bringing the water in. What about trash removal? Mr. Winters asked if the extension had single family homes or duplexes? Mr. Andy answer that they are all single-family. There is a duplex down by Airport Road.

Kevin Connelly, Lawrence Street Extension. He purchased his home in 2017. He understood that utilities would be run down the street and the street would be paved if it was built on. He sees they will be paving half way down the street. He agrees with his neighbors. He wonders if they will be back to put 2 or 3 more houses in a couple of years. It will change the neighborhood. There was stipulations on 2 other cases before the board this evening

that the units need to be owner occupied. Why not here? Mr. Carley answered that the applicant did not ask for that.

Comments from Code: Zoning Administrator noted that the 2 inch water line drops to a 1.5 inch water line after #2. Ms. Spector-Morgan asked if this would be going to the Planning Board. Zoning Administrator Hutton deferred to Attorney Allard as to whether they has spoken to the City Planner regarding if they need site plan review or not. Ms. Spector-Morgan was not concerned with this issue if it is going to planning, but if it isn't, she's concerned about the water pressure, etc.

Rebuttal Attorney Allard spoke. When these buildings are built and connected to the water line; the water line will be addressed when they pull their permits. It may be determined that an increase capacity would be necessary and be hashed out before Engineering for that answer.

Ms. Spector-Morgan doesn't believe it goes to Planning. Zoning Administrator Hutton doesn't believe so either. Ms. Spector-Morgan asked if green space is required? Zoning Administrator Hutton answered that would be addressed in subdivision approvals.

Mr. Winters asked why it was not a PUD? Attorney Allard answered that a PUD requires a mix of uses. And they are not doing that. PUD's also go to site plan review. Attorney Allard noted that traffic will be discussed in site plan review and traffic will be safer once the pavement is laid down. There are a number of duplexes on Lawrence Street; at least 4 of them. If they want to add more they will be back before the board. They are extending the sewer line 90 more feet. The water line will be addressed during site plan review. PUD's requires 40 feet of separation between buildings and he believes they are pretty close to that. They are offering less dense than a PUD would allow.

DECISION: Chair Carley reviewed testimony as given.

Attorney Allard noted it is a private road; the land is owned by his client; and everyone else has an easement.

Mr. Winters sees that the parcel is unique in shape and size. A case could be made for a variance. This will impact the character of this neighborhood by putting 2 more duplexes on this road. There are a number of unanswered questions about utilities, services and roads. He would feel more comfortable if it were going before the Planning Board.

Ms. Spector-Morgan agrees. She sees special circumstances but doesn't know if 3 principal two-family dwellings on 1 property is reasonable. It is a real concern with how this will affect the existing character of the neighborhood. There are valid concerns about water pressure and traffic by neighbors. She is inclined to deny the request.

Mr. Monahan has similar concerns. It strikes him as more of a subdivision.

Mr. Wallner agrees with Mr. Monahan.

Chair Carley finds his colleagues persuasive. It is a unique lot, but there are a lot of unresolved issues here. They are not sure of the water pressure issue. It is not a subdivision, so there is no notion of density. He is inclined to deny.

Attorney Allard asked to make a point of order. Could they be continued so they could bring it back for more clarification. Ms. Spector-Morgan has no objection.

Attorney Allard said he would do the November meeting.

A **motion** to continue this case to the November 2023 meeting was made Ms. Spector-Morgan, seconded by Mr. Wallner and passed by a unanimous vote.

A **motion** to approve the most recent Minutes (8.2.23) was made by Mr. Wallner, seconded by Ms. Spector-Morgan and passed by a unanimous vote.

A **motion** to approve the Findings of Facts was made by Ms. Spector-Morgan, seconded by Mr. Monahan and passed by a unanimous vote.

The 2024 Calendar was presented to the Board. They would like to use July 10th instead of July 3rd for a meeting date.

Mr. Winters will not be available for the second meeting in October on the 11th.

A **motion** to adjourn at 8:20 pm was made by Ms. Spector-Morgan, seconded by Mr. Wallner and passed by a unanimous vote.

*Respectfully submitted,
Rose M. Fife
Zoning Board of Adjustment*