



Tracey E. Hutton  
Zoning Administrator

# CITY OF CONCORD

New Hampshire's Main Street™

## Zoning Board of Adjustment

### January 3, 2024 MEETING MINUTES

Attendees: Chairman Christopher Carley, Nicholas Wallner, James Monahan, Laura Spector-Morgan, Andrew Winters, Brenda Perkins, and Mark Davie

Absent: Tedd Evans

Staff: Tracey Hutton, Zoning Administrator  
Deborah Tuite, Board Secretary

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Meeting commenced at 6:00 pm.

- 1) Election of the Chair
- 2) Call meeting to order
- 3) Chairperson's comments
- 4) Public Meeting
- 5) Public Hearings
- 6) Review and acceptance of Findings of Fact
- 7) Review and acceptance of Minutes
- 8) Any other business that may legally come before the Board

#### Election of Chair:

A motion to nominate Chris Carley to continue as the Chair of the Board was made by Mr. Wallner, seconded by Ms. Perkins, passing with a unanimous vote.

#### *PUBLIC HEARINGS*

0135-2023      315 S Main Street; *UT – Urban Transitional District, Jonathan and Jacqueline Ruggles Rev Tr, Owners:*

Applicant seeks a variance to Article 28-6-9(a), Signs Permitted in Non-Residential Districts, to allow replacement of an existing sign with a new sign of 33.25 s.f. vs. 12 s.f. allowed.

Code: Dr. Hutton explained that due to an administrative mistake with the section of the ordinance, this case is back before the Board.

Josh Messinger testified, explaining that he was before the Board the previous month.

Chair Carley asked if there was anything different in the current application from last month.

Mr. Messenger said no, that the sign has been in existence for 30-40 years. Replacing a like for like sign with the same square footage.

Mr. Winters asked what was specific about the lot or piece of property that justifies having the larger sign.

Mr. Messinger stated that the sign has been in the existing frame which accommodates that size sign. The owners thought it was grandfathered in

In Favor: None

Opposed: None

Code: None

DECISION:

Chair Carley stated that this is essentially the same appeal as last month and that the case was taken up to correct an error.

Mr. Wallner would move to approve.

Ms. Spector-Morgan would second and incorporated her comments made last month.

Mr. Winters stated that he is inclined to approve and that the uniqueness of the property has to do with heavy traffic and visibility and it is consistent with other signs in the area.

A **motion** to approve the variance was made by Mr. Wallner, seconded by Ms. Spector-Morgan; passing with a unanimous vote.

### *TABLED ITEMS*

0122-2023      89 N State Street; *CVP – Civic Performance District, EWT 54 LLC, Owner:*

The applicant is seeking a variance to Articles 28-7-1(a) and 28-7-2, 28-7-7(a), 28-7-7(c), 28-7-7(e), 28-7-7(f), 28-7-7(g)(2), 28-7-7(i), 28-7-7(j), 28-7-8(c), 28-7-9(a)-(b), 28-7-10(a) and (c), 28-7-10(d) and (e) to permit the following:

The applicant seeks variances from access, circulation and parking provisions of Article 28-7, to maintain an existing nonconforming parking lot as it is, while changing from one use that is allowed by-right, to another use that is allowed by-right that would require three additional parking spaces.

Chair Carley mentioned that this case was tabled previously.

Mr. Winters and Mr. Monahan recused themselves from the case and stepped down. Brenda Perkins and Mark Davie stepped in as voting members.

A **motion** to reopen the case was made by Ms. Spector-Morgan, seconded by Mr. Wallner; passing with a unanimous vote.

Attorney Gareth Orsmond, and Adrienne Sass, Acadia Health Care, testified. Attorney Orsmond requested that the presentation they submitted be projected. He stated that they are requesting multiple variances. CTC is proposing a substance abuse treatment center, which is allowed by right, and explained the background of the project and the reasons for it. The lot is a very long, thin parcel of property, which is widest in the back. In the back it is 65 feet and at the front it is 61.25 feet, by 275 feet long. Mentioned the various public parking spots in the area as well as public transportation.

The building on this property dates back to 1900 and occupies a lot of the property, which reduces the available width for an access way. There is 61.25 feet of frontage. CTC proposes to renovate the interior of the building. The use is allowed by right, and the ordinance specifically points out substance abuse treatment centers. It does however, change the parking requirements from general office; one spot for 300 sq. ft. of gross floor area, to one spot for 225 sq. ft. The result is the need for 23 spaces and there are currently only 20 spaces, which is the reason for the variance request. There are a lot of other uses that would have required a variance as well. They did a lot of research and found that the Board has approved other requests to reduce parking spaces in the past year such as; 89 Fort Eddy for a decrease of 57 spaces, 150 Main St. for a decrease of 13 spaces, and 300 Sheep Davis Road for a decrease of 12 spaces. Attorney Orsmond mentioned as far as the variance criteria that this is in an area with a lot of public parking, and a decrease of three spaces, is not a lot to ask. A detailed survey was completed.

Ms. Spector-Morgan asked about the space at the end, past the current parking spaces.

Attorney Orsmond explained that it is green space. They could put parking there, but they feel it is not necessary. The parking requirements are for generic use, and they do not believe they will need additional spaces. The nature of the request is three less parking spaces. Parking lot stall width varies; it is short in some areas. The isle width is slightly substandard as well. Some requirements cannot be resolved due to the neighborhood location, where no properties could meet today's standard. It is a long narrow property, and they tried to abide by the code, but it would require more width than they have on the property. There is sufficient parking in the area with the School Street and State Street garages. Attorney Orsmond emphasized that the use is allowed by right. There is public transportation. It is keeping with the intention of the ordinance to allow the existing parking lot and the change of use to a much-needed treatment center.

Chair Carley asked Code about the space behind the building, and if they could designate that space as available if they needed and go for a CPU.

Code: Dr. Hutton explained that they need a buffer as the next property is residential.

Attorney Orsmond explained that under the ordinance, you can take the area for the use, but its preferential not to and may be required to remain a buffer.

Ms. Sass explained that while they are a health center, they are not open to walk-ins. These patients are expected with scheduled appointments. They would be able to limit the flow of traffic by reducing scheduled appointment times.

Chair Carley asked if there was on-street parking.

Attorney Orsmond stated that there is on-street parking on the opposite side. They don't mind putting parking spaces back there if it is allowed, however, they do not feel it is necessary. They would still need a variance due to the dimensions of the lot as they do not have the minimum width to comply.

Code: Dr. Hutton explained that because it is within 50 feet, there is a requirement to shield the lighting from the parking lot. There is no specific buffer standard in this case.

Attorney Orsmond stated that they do not have the minimum dimensions necessary to comply.

Chair Carley queried if they added the spots, they would have to go back by 18 feet.

Attorney Orsmond agreed, two on one side, one on the other.

Mark Davie asked for clarification on the boundary line.

Attorney Orsmond stated that they believe the current parking is sufficient for the use, however they would be happy to add the spaces if necessary.

In Favor: None

Opposed: None

Code: None

DECISION: Chair Carley stated that there is a request for a number of variances with the desire to maintain an existing parking lot that is three spaces short. The Board heard testimony that the appellant does not want to expand the number of parking spaces as they do not want to invade the green space. The existing dimensions of the parking lot doesn't permit the proper dimensions to meet the regulations.

Ms. Perkins stated that she is ok with it as they have twenty parking spaces. They don't seem to need the additional spaces, and they can manage their flow since they do not take walk-ins. The lot size is not wide enough for most of the requirements that they are asking variances for.

Ms. Spector-Morgan stated that she has no issue with the dimensional variances as there is a hardship because of the configuration of the lot. The parking lot has existed and will not change the character of the neighborhood or surrounding property values. She has a problem with the variance concerning the number of spaces. This variance goes with the land and any other health care facility could take it over. She does not see anything from the lot that makes it a hardship to install the three spaces. She stated that she is not in favor of this aspect.

Mr. Davie stated that he is inclined to agree, as there would be a domino effect of needing other variances.

Mr. Wallner stated that if the Board enforced all of the requirements they would be down to 12 spaces. He feels that would create a hardship on the community which would affect street parking. He is inclined to support the three-space variance.

Chair Carley agreed that the dimensional requirements create a hardship due to the configuration of the lot. He doesn't see why the other three spaces couldn't be added. He suggested to possibly divide the motion.

A **motion** to deny the variance for the number of spaces required under Section 28-7-2 was made by Ms. Spector-Morgan; motion failed for lack of a second.

A **motion** to approve the variance for the number of spaces under Section 28-7-2 was made by Mr. Davie, seconded by Mr. Wallner; passing with a vote of 3-2, with Ms. Spector-Morgan and Chair Carley in the minority.

A **motion** to approve the variances for all of the requested dimensional parking regulations was made by Mr. Wallner, seconded by Ms. Spector-Morgan; passing with a unanimous vote.

### *PUBLIC HEARINGS*

Mr. Winters and Mr. Monahan returned as voting members for the remaining cases.

Applicant seeks a Special Exception pursuant to Article 28-2-4(j), *Table of Principle Uses*, for a change of use from Retail (H-1) to Service Business (D-1). Additionally, the applicant seeks variances from the following parking requirements:

1. Article 28-7-7(g), *Setbacks and Restrictions*, to allow parking to the property line where a 10-foot setback is required;
2. Article 28-7-7(h), *Surfacing and Drainage*; to allow the existing non-conformities to persist;
3. Article 28-7-7(i), *Curbing and Guardrails*; to allow the existing non-conformities to persist;
4. Article 28-7-7(j), *Illumination of Parking Areas*; to allow the existing non-conformities to persist;
5. Article 28-7-8(c)(2), *Separation of Driveways in non-residential Districts*, to allow a driveway on a collector street to be less than 200-feet from street intersections and adjacent driveways;
6. Article 28-7-10, *Parking Area Landscaping Standards*, to allow the existing non-conformities to persist.

Thomas Talbot testified. The existing property's use is for Retail and he is looking to change the use from Retail to Service for a hair salon, with 4-6 stylists working at a time. Per the condominium documents they are assigned 12 parking spaces. He stated that no on-street parking problems were anticipated. They will be updating the interior, and painting and updating the siding on the exterior.

Ms. Spector-Morgan questioned if all of the variances he was requesting were to keep existing non-conformities and asked if he was anticipating any changes.

Mr. Talbot stated that he is not anticipating making any changes to the parking lot.

Mr. Winters asked Code why a Special Exception was needed to change the use, while all of the other variances require a variance.

Code: Dr. Hutton explained that they are requesting a change of use. She furthered that when you change a use you have to come into compliance fully with all parking requirements such as access and circulation. If it needs a site plan it has to go through Planning Board review for those changes. If it does not require a site plan then it has to go through the City Engineer. Either way, you have to come into full compliance if you change the use.

Mr. Winters asked Code to clarify that if they had started from scratch, would a hair salon not be allowed in this zone.

Code: Dr. Hutton stated that it is a Special Exception use. Change from one Special Exception use to another Special Exception use and it would need review regardless.

Mr. Talbot explained that the parking lot is existing and shared with an exercise business, a tailor, and the American Legion. He stated that there is no space to expand or change the parking lot to comply with all of the requirements.

Ms. Spector-Morgan asked if he had enough parking.

Mr. Talbot stated that there is ample parking for the current businesses and the anticipated salon.

Code: Dr. Hutton stated that no analysis has been done on the full parking requirements of the uses in the structures. She explained that it is a shared condo' d property.

Mr. Winters clarified that it is a condo lot whether the association creates the division of spaces. He explained that the Condo Association could theoretically change the number.

Code: Dr. Hutton explained that they usually calculate each individual primary use and then add the spaces together. In the past, with changes of use, there has been a difference with how it has been handled. Currently, there is discussion to address this issue, but this application was caught in the middle as no decision has been made yet in order to do the calculations. She did not have the data for the other building.

Ms. Spector-Morgan asked what the square footage was of the building

Mr. Talbot stated it is 2500 sq. ft.

Mr. Winters stated the lot is unique and did not realize it was a condo.

Chair Carley stated the parking lot layout has been configured that way for many years.

Mr. Monahan asked how many parking spaces are allowed for the current retail business.

Mr. Talbot stated that he thought it was 12 parking spaces.

Mr. Winters asked Mr. Talbot if all of these non-conformities also apply to the other condo owners as well.

Mr. Talbot agreed they did.

In Favor: Kathy Ahlin testified. Mentioned that she does not have a copy of the deed, but the spaces are recorded in their deed.

Ms. Spector-Morgan asked if the condominium declaration could be amended.

Ms. Ahlin stated it is deeded and cannot be changed (without review and approval).

Opposed: None

Code: None

DECISION:

Chair Carley reviewed the case, with a request for a Special Exception for the use, suitability and compatibility.

Mr. Wallner stated that he feels it meets the criteria for a Special Exception, and sees nothing further that he would have an issue with.

Mr. Monahan stated that it is a unique piece of property, having operated this way for 30-40 years. The activity takes place there between retail, service, and fraternal. No major change in the neighborhood.

Ms. Spector-Morgan stated that the criteria for Special Exception are all met based on the materials in the application and the testimony.

Mr. Winters agreed it is a change in use, with a slight impact, but won't be material in the total commercial or transitional nature of the neighborhood, and feels that the Special Exception criteria are met.

Change of Use:

A motion to approve the change of use Special Exception was made by Ms. Spector-Morgan, seconded by Mr. Monahan: passing unanimously.

Parking:

Mr. Winters was challenged by some of the variances. He stated that due to the configuration, there are some that they could not address (1, 5, 6) due to the existing nature of the lot, the setbacks, the separation of driveways, the parking, and the landscape standards. Variances 2, 3, and 4 could be addressed, but because it is a condo they can't just unilaterally make those changes. It could be unfair to force them to make changes they can't make; however, it then invalidates the code.

Ms. Spector-Morgan stated that she has no concerns for the dimensional requests as the parking lot is currently there, and has functioned well. There is nothing that they can do on their own to change or fix it., so there is a hardship. There would be no change to the neighborhood, and it will not diminish neighboring property values. It would be an injustice to deny.

Mr. Monahan agreed with Ms. Spector-Morgan, pointing out that it is a one-way street. They have granted similarly for the Ledyard Bank and it would be consistent with how they have voted in the past.

Chair Carley stated in the case of 32 S. Main St, the Board granted a variance for the location of the driveway access on Fayette Street, which is also one way.

Mr. Wallner was fine with it.

Chair Carley was also fine with it.

Mr. Winters stated that he was good with it, and was in agreement.

A **motion** to approve all of the dimensional variances was made by Ms. Spector-Morgan, seconded by Mr. Monahan: passing unanimously.

[0131-2023](#)      285 Loudon Road; *GWP – Gateway Performance District*, Dundee Investment Associates LLC, Owners:

Applicant requests a variance from Article 28-2-4(j), *Table of Principle Uses*, to permit the establishment of a veterinary hospital (M-9) where such use is not permitted.

A **motion** to was made to recess the case to February 7<sup>th</sup>, by Ms. Spector-Morgan, seconded by Mr. Winters; passing unanimously.

[0132-2023](#)      30 River Road; *RM – Medium Density Residential District and FH – Flood Hazard Overlay District*, 30 River Road Properties LLC, Owner:

Applicant seeks a variance from Article 28-8-5(b)(1), *Continuation of Non-Conforming Structures*, to construct a 7-foot by 22-foot addition on a single-family dwelling.

Attorney John Bisson, and Peter Grenier, contractor, testified on behalf of the owner. The applicants circulated a paper submission with an update on a prior real estate opinion. The prior request mentioned that there was no diminution in value of the neighboring properties. They also provided photos that were taken that day in order to provide perspective. Photos 1-5 are of the addition, looking from the house up towards the road. Photo 6 is the reverse, the view from the abutter to the property, looking at the stoop/additional space. Photos 7-8 are close up views from the electrical panel to the right, then photo 8 is of the opposite side. On the bottom of the stoop is a copper drip edge, and below that are off-white panels. This property is on footings.

The issue is the Flood hazard overlay, and if you remove the panels there is no foundation as it is on footings so water could move freely. At the last meeting, it was approved to raise the structure in order to bring it into compliance for

the height issue.

This application is to address the addition to the building. The previous owner started the structure updates prior to the current owner. They are confused as to the record as far as permits. The property was already framed the way that it is. The area by the electrical panel and back was already framed in. Essentially, they are getting approval for something someone had done previously. They asked if they had come initially, what would have been the decision. Asking for the additional space, which complies with the flood overlay because it is on footings so that the water can flow freely. Went over the variance criteria, stating that the house has been in the neighborhood for over 100 years. Neighbors have said the property looks better than it ever has. The photos show the view from the owner's perspective. They are enhancing the property and asking for the relief that should have been asked previously.

Chair Carley asked if the reason for the variance is for the expansion of the non-conforming use and not for the structure itself.

Code: Dr. Hutton stated that is was for the expansion of the non-conforming use and non-conforming structure.

Ms. Spector-Morgan asked for a clarification on the hardship.

Attorney Bisson stated that the hardship would be requiring economic waste to order the restoration of the property to its former state. The prior owner made these changes.

Mr. Winters clarified that they wanted the Board to look at this as if it had not been done.

Attorney Bisson stated that with the expansion, they were wondering how would it have been considered. The issue is the flood hazard overlay, and whether the water can go underneath it. It is on footers. If the Board orders the destruction of the home there is no benefit.

Ms. Spector-Morgan asked about the abutters concerns about the second floor and whether that is legal.

Code: Dr. Hutton stated that this is for a non-conforming use in the district and any expansion would not have been permitted.

Ms. Spector-Morgan asked if they are coming back for a variance for the expansion of the second floor.

Code: Dr. Hutton stated that she has not seen a request. All of the residential structures are non-conforming in the Flood Hazard Overlay. She explained that very few uses are allowed in the 100-year flood plain. Residential homes are not permitted in the 100-year flood zone and that part of the structure is in the floodway.

Mr. Monahan clarified that the structure was there prior to the flood overlay district was formed.

Code: Dr. Hutton stated that the original structure was there prior to the overlay district.

Attorney Bisson explained that the expansion is on the other side of the structure, further away from the river.

Mr. Winters raised the issue of economic waste, and asked what would be involved in the removal of the addition.

Attorney Bisson pointed out the areas that would need to be removed. They were confused as to what was approved, or not approved through the City, as the file may or may not be available.

Code: Dr. Hutton stated that the photo in the staff memo was taken in June 2021, when a notice of violation was posted for the additions and outbuildings. The outbuildings have since been removed. The additions were not part of the permit.

Ms. Spector-Morgan clarified that the picture was taken in 2021 for violations that occurred then.

Code: Dr. Hutton confirmed.

Mr. Winters asked if the notice was sent to the prior owner. He asked if the home, as it looks in that condition, was preexisting at that point.

Code: Dr. Hutton stated that everything since then is additional and was not permitted.

Chair Carley noted that a second-floor expansion was mentioned as not being approved, however, there seems to be a second floor in that picture.

Code: Dr. Hutton explained that it was the front that was not there before, not the rear.

In Favor: None.

Opposed: David Belser and Rosanne Beurivage testified. Stated that Mr. Grenier stopped by the house this morning and spoke with them and the other immediate abutters. They are no longer necessarily against the variance, but it would be a stretch to say they are for it. They are looking for assurances as to how the construction will be handled. Provided photos and information that accurately portrays the house since the house started being worked on in 2021. He had first right of refusal and did not want to own the house. There is confusion about the ownership. Mr. Grenier has been involved in the project since the beginning and he is not the owner. They were told today, that Mr. Faria owns it and it is in a trust. Mr. Faria intends to move in and reside there as his full-time residence. They were told the house will remain a single-family property. Mr. Grenier also explained to them that Mr. Faria does not intend to run a full-time business out of the property. Mr. Belser would like to know that if in fact it is intended to be his house, that it won't be used as a vacation spot, a rental, or a rehab house. He understands that Mr. Faria is Portuguese and does not speak English well.

Mr. Winters asked about the ownership history, with 30 River Road, LLC being the current owner. In June of 2021, it shows that B&B Contracting was the owner. There is no specific individual.

Mr. Belser stated that Mr. Grenier bought the property and then sold it to Mr. Wroblewski who did not have regard for ordinances or rules. It was then sold it to 30 River Road LLC.

Ms. Beurivage stated that the shared right of way does impact three abutting neighbors and that extra cars and extra people does have an impact.

Mr. Winters stated that it strikes him that the variance request is because of the flood zone. Everyone is grandfathered. No one there can expand and the improvements seem to be an advantage to the neighborhood. Clarified that it is an increase in density that is the concern, that it's not necessarily the additions.

Mr. Belser stated it is to avoid houses being flooded, however living in that neighborhood is very difficult to do any additional renovations and for good reason. Many people have had to scale back their intentions. The Zoning Board has been reasonable. He stated they are not against the owners, but they just want assurances.

Code: Dr. Hutton mentioned the parking of a commercial vehicle would require additional approval.

Attorney Bisson stated that the zone itself provides the assurances that the neighbors need. Nothing, unless it is water related as a matter of right, would be approved. The extent that anything has happened since 2021 has been trying to bring it back to what would be appropriate. The neighbors' concerns are legitimate, but they do not have anything to do with the variance. Can't put a commercial vehicle on the property. The shared driveway is a very tight space.

DECISION:

Chair Carley reviewed the requests to approve the expansion of a non-conforming use and non-conforming structure, with the entryway being built on piers, with no continuous foundation, posing no additional flood hazards.

Mr. Monahan stated that there is a lot going on. Most concerns are addressed by the current ordinances. Given the long history of multiple ownerships, and that the current owner was not responsible for the lack of proper

permitting, seems the consequences would be inappropriate. He would be in favor.

Ms. Spector-Morgan stated that she does not see the hardship. Feels it is about the wants and needs, and decisions made by other people. She cannot vote in favor.

Mr. Winters stated that he reluctantly supports the request. He pointed out that someone could take advantage of the system, flaunting the code, and then sell the property. It is hard to know if it is a related ownership entity. By using a little judgement of the representations made through the current owner's advocates, he sees this could be a reasonable solution. The neighbors seemed to have a lot of institutional knowledge about the property, and now are hesitantly vouching for the project. He explained that the situation gives him pause. The hardship is well taken by Ms. Spector-Morgan, however, trying to view it as a brand-new request. He furthered that this seems to be a reasonable use. He would be willing to approve.

Mr. Wallner agreed with Mr. Winters and Mr. Monahan. Unfortunate circumstances, however, he does not see penalizing the current owner for the mistakes of others in the past.

Chair Carley stated that the presence of the floodway/floodplain, creates a hardship related to the property that is similar in concept to the 89 N. State St. case heard earlier this evening in that the existing, unchangeable configuration of the property prevented a reasonable use. That request was granted. Here there is an addition which is quite modest and does not appear to create any additional hazard which is the purpose of the Flood Hazard Overlay. There appears to be a hardship because it is an existing building with constraints that the owner cannot control. It is a small addition for an entryway and seems to be a reasonable use.

Code: Dr. Hutton stated that there are additional findings for Flood Hazard Overlay variances. She stated that she did not hear anything to the fact that the variance is the minimum necessary to afford relief.

Chair Carley stated that it is a modest addition. It is an entry with a small mudroom, and it could not get a whole lot smaller and still function.

Mr. Davie questioned the expansion of a non-conforming use and if the second floor would be a part of that.

Chair Carley mentioned that they are not considering that tonight.

A motion to approve the variance was made by Mr. Winters, seconded by Mr. Monahan; passing by a 4-1 vote, with Ms. Spector-Morgan in the minority.

#### OUT OF ORDER:

##### 0134-2023

50 S State Street; *CU – Urban commercial District*, 40 South State LLC, Owners:

The applicant seeks variances from Article 28-6-9(a), *Table of Maximum Sign dimensions for Non-residential Districts* and Article 28-6-7(d) *Signs Prohibited under this Ordinance*, to allow a sign that is 87.5 square feet where 25 square feet is allowed and for the sign to be painted directly on the front of the building.

Josh Craggy testified. He stated that he has owned and operated Lucky's Barbershop and that he also owns the building. He is here about the painted sign on the front of the building. The building was erected in 1860, with the exterior brick being renovated in the 1960's; brick from another building was reused at that time. The previous hanging sign was approximately 6.5 feet by close to 7 feet. It was a double-sided light box sign. It had two signs in the box, about 5.5 x 5.5 square. Mr. Craggy explained that in the summer of 2022, the City began to revitalize downtown. He was trying to keep up with that revitalization with improvements to his building. During the removal of the granite blocking and asphalt, General Services mentioned that the sign was leaning and seemed to be a concern. It was not a warning, just something that they took notice of. That motivated him to revitalize the front of the building. The sign was affixed to the brick. He elected instead to paint a sign with the intention that it was not an obstruction and trying to match with the spirit of the City. He tried to favor

some other signs in the City, paying homage to Concord's past. The letter type is called Gas Pipe. It was a specific font that was used in Concord, and used in the period of the original structure. The sign was approximately 90 sq. ft. and the painted sign is less than that. He was unaware that a variance was needed. He produced a letter from a brick mason that explained the condition of the brick, and that affixing a new sign directly to the building or trying to update the previous double-sided light box sign would cause irreversible damage due to the weight. Also stated that removing the painted sign would compromise the bricks and mortar which could cause damage to the structural integrity of the building. The brick could not withstand the weight of affixing a sign which would be a concern to the public. Discussed that the paint will protect the brick and removing the paint would risk harm to the brick based on the age. During 2022, the Thomas and Hope sign had been repainted and caught his eye, mentioning that many murals were painted as well. Stated the new sign is 2.5 sq. ft. more than what was there.

Mr. Davie asked where 25 sq. ft. comes from because he sees 40 sq. ft.

Code: Dr. Hutton explained that it is based on the linear building frontage.

Mr. Craggy explained that the previous sign was the same light box and structure that was used for many years.

Code: Dr. Hutton explained that the light box was 30 sq. ft., in which there were two signs 5.5' x 5.5' and it equaled 30 sq. ft. It was legally non-conforming. This painted sign is much larger than the previous sign.

Mr. Craggy thought it was relatively the same size. He provided a letter from the former landlord.

Mr. Winters asked about the Thompson and Hope sign, questioning if there are any zones that allow by right painted signs in the City.

Code: Dr. Hutton stated that it is not allowed in the city, and that a mural is not considered a sign.

In Favor: Aaron Fracht-Monroe testified. Lucky's has been a real asset to the neighborhood. He felt that the painted sign does enhance the character of the building, similar to signs from the 1800's where they were more frequent. The sign, lights, and trim has enhanced the aesthetics of the building. Improves pedestrian safety. Substantial justice would be served as it is well loved by patrons, and noted as a traffic safety improvement.

Opposed: none

Code: Nothing additional.

DECISION:

Chair Carley reviewed the case.

Mr. Wallner stated that he likes the sign, with a classic early 1900's historic look. He stated the hardship is that there may be issues with the brick tolerating a fixed sign, limiting the applicant from any type of signage.

Mr. Monahan stated he is concerned, as it is 350% larger than what it is supposed to be. While it is an artistic sign, there is not enough information on the integrity. He was willing to listen to his colleagues.

Ms. Spector-Morgan stated that she would be in favor on the sign painted on the brick, based on the letter from the mason. However, there is no hardship on the size.

Mr. Winters felt it was one of the best signs that has come in front of them, and that it adds character. Hardship is tough to meet.

Chair Carley asked since he is on a corner if he can count all of the frontage or just the primary street.

Code: Dr. Hutton stated only the principal entrance.

Chair Carley stated that the hardship is a stretch, however, there is no gain to anyone to have the sign removed and painted over. The potential damage to the brick could be a hardship, and there is no reason to ask the appellant to risk that. The purpose of limiting the size is aesthetic, and the sign does not appear out of character with its surroundings. It is a very close call, but he would vote for a motion to approve.

Mr. Monahan asked how Code Enforcement is working through issues with the applicant.

Code: Dr. Hutton explained that the first step in the violation remediation process is coming to the Board for relief. If it is approved, it would have to go to the Architectural Design Review Board. If not approved, he would need to bring the sign back to the brick color and then reduce the size. He has been working with Code to figure out what to do next.

Mr. Monahan asked if he would need to come back for another variance if he paints.

Code: Dr. Hutton confirmed.

Mr. Monahan asked if it might be better to take no action and let him come back with a proposal, which might give a better choice.

Mr. Davie asked what would it take to be considered a mural.

Code: Dr. Hutton stated that murals could not be advertising a business.

Mr. Monahan stated that it was challenging to get approval, but also worries that there are a lot of sign questions.

Code: Dr. Hutton explained that he could come back if the Board tabled it. Code would take no action while the case is pending.

Mr. Wallner mentioned that either way he would need to repaint over the sign.

Ms. Spector-Morgan asked Mr. Craggy if he would have an interest in coming back.

Mr. Craggy discussed the style and size, and that when it rolls across, it would be disproportionate if he reduced it, making it less appealing. Concerned that if he were forced to remove the paint, that sandblasting or other measures would damage the brick.

Chair Carley mentioned that they should separate the requests or table the case. The appellant made a clear statement that he does not want to change the design or size. Not sure how it would be removed as you cannot sandblast, which would damage the brick.

A motion to deny the size variance, on the basis that there is no hardship that arises from the property that necessitates the size of the sign, was made by Ms. Spector-Morgan.

Mr. Monahan questioned Ms. Spector-Morgan if he could instead make a motion to table the case for further information.

Ms. Spector-Morgan asked what further information would be gathered.

Mr. Monahan stated that maybe the applicant would revisit his request.

Ms. Spector-Morgan withdrew the motion.

A motion to continue to the February meeting was made by Mr. Monahan, motion failed for lack of a second.

A motion to deny the size variance, on the basis that there is no hardship that arises from the property, was

made by Ms. Spector-Morgan; seconded by Mr. Monahan. Motion passed by a 3-2 vote, with Mr. Wallner and Chair Carley in the minority.

A **motion** to approve the variance for painting the sign directly on the front of the building, as there is a hardship because a traditional sign cannot be supported due by the brick facade, it would not diminish surrounding property values, or change the character of the neighborhood, and no justice to requiring him to remove the painted brick, was made by Ms. Spector-Morgan, seconded by Mr. Monahan; passing unanimously.

0133-2023

270 Loudon Road; *GWP – Gateway Performance District*, Onyx Steeplegate Concord LLC, Owners:

In the redevelopment of the Steeplegate Mall property into a mixed-use development, for this multi-building/multi-lot project the applicant requests the following variances:

1. Article 28-4-1(h), *Table of Dimensional Regulations, Maximum Height*, to allow a maximum height of 59' 8" where 45' is allowed.
2. Article 28-2-4(j), *Table of Principal and Accessory Uses*, to allow a Tire Center (J-8) where prohibited in a GWP.
3. Article 28-4-1(c), *Table of Dimensional Regulations, Minimum Lot Frontage*, to allow frontage to be calculated based on the combination of frontages on a corner lot rather than the calculation along "one" street as required.
4. Article 28-4-1(h), *Table of Dimensional Regulations, Maximum Lot Coverage*, to allow 91% coverage where 85% is allowed.
5. Article 28-7-2(e), *Table of Off-Street Parking Requirements*, to allow 1833 parking spaces where 3298 are required.
6. Article 28-7-7(f), *Driveway Widths*, to allow a 30' driveway width where 28' is the maximum.
7. Article 28-7-7(j), *Illumination of Parking Areas*, to allow light posts at 36' 6" in height where 25' is the maximum,
8. Article 28-7-13(c), *Design Standards for Loading Spaces*, to allow 12' wide loading spaces where 14' is the minimum.
9. Article 28-7-14(e), *Screening of Refuse Containers*, to not screen trash compactors where screening around 3 sides is required.

Attorney Ari Pollack, Doug Richardson, Wayne Morrill, Mark Marchisano testified. Attorney Pollack stated that they were there on behalf of Onyx Partners Limited, owner, and developers Onyx Steeplegate Concord, LLC. The Steeplegate Mall property has been in decline and Onyx is proposing an exciting and complete redevelopment of the former Steeplegate and Regal Cinema properties. The mixed-use proposal includes three multifamily residential apartment buildings, and a combination of six new and existing non-residential buildings that would preserve an existing fitness facility and indoor commercial recreation park, while also preserving the JC Penney box as part of the existing structure.

Tonight's variance is specific to the Steeplegate Mall parcel. The Regal Cinema parcel is part of the redevelopment proposal, but not part of tonight's variance proposal. If the variances are approved, they don't anticipate coming back. The Tire Center would be located entirely within a new Costco building, no different than the tire center in Sears. The redevelopment would consolidate and re-subdivide the subject parcels. The Applebee's and the TD Bank will be spun off to create individual parcels. They have separate ownership and are not participating. The Gateway Performance District is intended to facilitate mixed use, allowing multi-family apartment style uses and offers flexibility to combine uses on same parcel. The redevelopment site would be bisected by two proposed new public roads. The layout of these streets is all part of a Comprehensive Development Plan that is in front of the Planning Board. The plan has been tabled waiting for traffic studies, ZBA approvals, etc.

Attorney Pollack started with the variance for maximum building height. The applicant is proposing three multi-family apartment buildings. R1 proposed as a five-story building, with a proposed height of 58', R2 is proposed as a four to five story building, with a maximum height of 59'8" and, R3 is a proposed four-story building of 48'. The ordinance allows a maximum building height of 45'. Each of the three buildings would require additional height as proposed and each require a different height. Could be reviewed as one variance allowing up to 59.8" or take each one separately. The subject property is part of an assemblage of tracts. And large development opportunities in today's world often require redevelopment. The demolition alone would be more than the budget for some projects. Looks like a fortress that requires significant demolition.

The proposed multi-family residential locations are not in close proximity to other residential uses on surrounding properties. We have not asked for variances for front or side setbacks, buffers, or unit count. The redevelopment will create a village atmosphere with open space and public amenities that are subject to site plan review and planning. Making the residential buildings taller gives the flexibility to have fewer buildings, leaving space for walkable streets, courtyards, and throughways. Proposing a very nice park on the waterfront that is on private property that would be open to the public.

The variance for building height is reasonable considering the Performance district allows for multi-family dwellings and that the four-story structure could probably be approved without zoning. It is the fifth-floor that pushes into the 50's for these buildings. The zoning allows consolidation into three buildings without interfering with the amenity or retail concepts. It is usually the residential properties that anchor a site and this is not the case with this project. Public interest is in redeveloping a nonperforming property. There is substantial community interest to develop modern safe affordable rental housing. The project is close to services on both the properties and the surrounding properties, with public transportation available.

The Spirit of the ordinance would be met in order to encourage mixed-use development, zoning in a recognized performance zone. The uses are all permitted with the exception of the tire center which would be inside of a building. Someone could live, work, play, and eat there. There is no evidence to suggest that surround property values would be affected. The redevelopment of a long neglected, tired, blighted Steeplegate Mall only enhances the values.

They are looking to create a retail lot that will house JC Penney and Costco on one parcel. Costco is proposing their proto-typical layout. They will have gasoline sales, pharmacy, and medical optometry in the footprint of the building. They will also have a garden center, which is permitted. The Tire Center needs relief because they are not allowed as a primary or principal use in the Gateway Performance District and are not discussed as an accessory use. It will be entirely self-contained and will not be disruptive to surrounding uses. It is accessory to the retail use. Costco operates on a one-stop shopping model with these accessory services all over the country. Striking one accessory use while allowing others would be a hardship to the applicant. The Tire Center is an essential part/critical part of the Costco model. It is a reasonable use and is consistent with other big boxes around Concord. Part of Sears had a Tire Center which happily coexisted as part of their building. The public interest in redeveloping an underperforming property is consistent with the spirit of the ordinance. The fact that it is self-contained gives no evidence that there would be any negative effect on surround properties.

Attorney Pollack then discussed lot coverage. The existing TD Bank facility and lot would be separate from the mixed-use development. That lot requires 300 feet of road frontage on one road. It does have continuous frontage on a combination of two roads and they are looking for a variance to count those together. If the Board wants to add a condition that this road being built is public, they would understand that, with 300 feet on two public roads. The hardship is that this structure already exists, in its current condition and is entirely functional. It would soon be considered its own parcel if this variance were approved. It is a unique circumstance, and is reasonable use because it preserves the current use.

Chair Carley stated this is also true of Applebee's.

Attorney Pollack stated that public interest is recognizing two streets instead of one, and it is in the spirit that this already exists, and functions properly. No one is financially harmed as it is landlocked.

Minimum lot coverage relates to the JC Penney and Costco portion of the proposal. The lot will contain 18.27

acres when subdivided. It is informed by the layout of the streets. The current shape that is shown, is 94% impervious. Looking to reduce the coverage but will still exceed the 85% required to 91%, and still not compliant. If you take the redevelopment of the mall as a whole and compile your impervious coverage limits, you actually get an existing coverage of 80%, and can get the whole property down to about 74%. If you focus only on Costco and JCPenney you are taking a 94% and making it a 91%. The whole area is compliant but this one area needs a variance. Inheriting a situation that is non-conforming and doing their best to bring it forward. There are reasons the roads are located where they are, as there are existing driveways; the applicant is trying to deal with site distance, curvature, and grade, etc. Engineers are deliberate with those issues. Reasonable use allows permitted uses that remain, a new use to come in, while making the development more conforming. Public interest supports a redevelopment. Substantial justice and spirit in the intent is that they are making things better, and there would be no suggestion that there would be a diminution of property value.

Attorney Pollack turned the discussion to off-street parking. If you were to take each individual use, you would end up with a large number of required parking spaces. The ordinance allows for alternate parking arrangements. The Planning Board gets to receive and review parking information as part of the Conditional Use Permit process, however, the ordinance has language to provide area for all of the parking, even if excused from construction now. If the Planning Board is satisfied, then it is no different than any other relief. These are typically Conditional Use Permits and are part of any large redevelopment. The applicant is seeking a variance and to allow the Planning Board to decide the amount of parking based on the uses and not be required to set-aside land to construct the parking, if needed, at some later date. The residential uses have a two-space requirement for each unit which is a lot given the public infrastructure of the area. Costco thinks that they can park significantly less than a similar retailer. If we put in all of the parking that is required it would be a 110%.

Mr. Winters asked if Attorney Pollack knows if the mall had a variance for parking.

Attorney Pollack did not know the answer. His suspicion is that they provided every piece of parking that they physically could as there is no green space.

Ms. Spector-Morgan mentioned the whole overflow parking area that has been barely used.

Mr. Wallner asked about unit R1 and that the proposal is asking for only .95 spaces per unit, where two are required. He inquired if Attorney Pollack knew the proposed bedroom count.

Attorney Pollack stated that they will be one- and two- bedroom units.

Mr. Davie asked about underutilized parking at other Costco units.

Attorney Pollack stated that they are going to need to do a parking analysis at some point, as the Planning Board requires it. The hardship is trying to digest two competing portions of an ordinance pushing towards parking that we don't need. The next version of the Zoning variance will address this but it is not in place yet.

Mr. Monahan questioned if there would be 1600 spots short on the residential piece.

Attorney Pollack mentioned that they are proposing one space per unit.

Mr. Monahan mentioned that it shows for lots 40-42, that R1 is short 321 spots. He asked Attorney Pollack if he knew how many spaces the development would be short.

Mr. Richardson mentioned that projects of this type, especially with mixed-use, have non-simultaneous occupancy. The trampoline park and retail stores will not be open at night and there will be an overlap of required parking.

Mr. Winters clarified that the residential portion has a road in between them.

Mr. Richardson stated that the parking is self-contained. There is circulation on that site.

Attorney Pollack pointed out that on lot 40-2, there are two residential buildings, the health club, the

trampoline park, and some small retail multi-tenants, and the parking comes out to 1400 required, with 700 spaces provided. For R3, it would be 240 spaces required, 157 provided. They are asking the Board to recognize that two spaces per unit is too heavy. There are some folks that will park at the apartments and then walk to the other services.

Ms. Spector-Morgan stated that they are short 542 residential spaces.

Code: Dr. Hutton offered clarification that when they did the parking, they did the parking calculation for the trampoline park as team play instead of indoor recreation and therefore, the math will not match.

Attorney Pollack stated that was true, however, they are asking to uncuff the Planning Board in order to examine the proposed uses and to not require that every single space is planned and set on a plan.

Mr. Monahan stated that it is a pretty unique request, for the Zoning Board to pass it along to the Planning Board, questioning if that is because it is a unique property with multiple uses.

Attorney Pollack stated that they are suggesting that it is unique and due to the shared uses and the amount of parking that the ordinance requires, however a shared parking arraignment is already part of the ordinance and part of the purview of the Planning Board. They are asking that the Board takes away the requirement that they show every parking space and let the Planning Board do what they are already tasked to do.

Mr. Monahan stated that it is highly unusual for an applicant to say to the Zoning Board to stay out of it and leave it to the Planning Board to approve.

Attorney Pollack mentioned that with multi-use projects that are built and proposed, that they all deal with parking issues and they were dealt with by the Planning Board. He urged the Zoning Board to let the Planning Board do their typical analysis.

Chair Carley asked if they have enough room.

Attorney Pollack confirmed that without some relief this design would not work.

Mr. Winters clarified that as far as the height, that they could do more buildings, but that would result in less parking.

Attorney Pollack stated that everything affects something else.

Mr. Winters asked if there will be any garages underneath.

Attorney Pollack stated that mixed-use projects can have uses that are more segregated but here there are buildings with mixed uses in the same buildings. Someone who lives in the residential building could use the gym and walk over to the Costco Building and they have not used their car.

Mr. Monahan clarified that they are suggesting to go from 3298 spaces to 1833 spaces and to let the Planning Board figure it out.

Attorney Pollack said that they are asking for the Planning Board to evaluate the parking proposal and to use their discretion to figure out the amount of parking required, and to vary the language that says set aside areas for the full amount of required spaces to serve the respective uses.

Code: Dr. Hutton asked if the request is for the table of off-street parking requirements and not the alternative parking arraignment standards.

Attorney Pollack stated that it all arises out of the same article and that the description is accurate. They are seeking relief to give the Planning Board considerations to consider less parking. He questioned the Board on how they could approve 1833 spaces with what is in front of them.

Mr. Monahan agreed. He stated however, what is in front of us is asking the Board to do that.

Code: Dr. Hutton stated that it is a different section of the ordinance.

Chair Carley stated that the parking relief requested is not something that that the Board can grant based on the noticed request.

Code: Dr. Hutton confirmed that what he is asking for was not noticed. The Board could act on it, but it was not noticed. The request would be a variance from Section 28-7-11(b and (c).

Attorney Pollack stated that they believe that the Planning Board could enable them to build less spaces. Looking for a variance on C, which is to designate where to build them.

Chair Carley mentioned that they would have to set aside that issue as it is not on the agenda, and not the way it was requested.

Mr. Winters asked how it would be phrased if it was requested.

Code: Dr. Hutton stated it would change the article number and the request to not construct the remaining number of spaces as opposed to not provide. By requesting a variance from the table of off-street parking, it is to not provide the spaces at all. What he is saying now is that they are not currently necessary and they would never need to construct them.

Attorney Pollack is asking permission to not provide space for the parking at all.

Code: Dr. Hutton stated it is under the alternative parking regulations section, not the table of parking standards.

Attorney Pollack mentioned that maybe they should defer or withdraw that request.

Chair Carley agreed as it seems there is some confusion around it.

Mr. Monahan mentioned that they are not trying to be difficult, they are just concerned that it would ultimately add shackles where they are seeking to limit some of those issues.

Attorney Pollack redirected to variances that are specific to the Costco lot. The ordinance states that the driveway widths need to be a maximum of 28 feet but they are requesting 30 feet, as shown in Exhibit 6.1. Costco has found this to be a better layout. He pointed out in Exhibit 6.2, that the wholesale club carts are bigger than your typical retail cart. The applicant is trying to balance all of the needs, as well as public interest and safety, and it's reasonable. Not sure what public interests are preserved by only allowing 28 feet.

Chair Carley asked if they had done a calculation as to how much impervious area the extra two feet adds. Attorney Pollack did not have that calculation.

Attorney Pollack mentioned that there is no evidence to suggest that the redevelopment would have any impact on surrounding property values. The project is going to need a drainage system. He pointed to Exhibit 7.1, in which the ordinance states that you can't have a light post higher than 25 feet, explaining that what is existing there now is taller. By allowing taller and fewer light poles, it ultimately offers fewer obstructions. If you used 25-foot poles you would need 89 poles, and 40 poles at the 36-foot height, which is less than half of the required poles. Exhibit 7.2 shows a series of poles in a Costco in Scarborough, ME, with no light spillover. He commented that the poles work very effectively.

Mark Marchisano, Director of Development for Costco Wholesale, testified, stating that they are a large facility which has two-way traffic, members pushing carts, and semi-trucks or firetrucks accessing the facility. That is where the 30-foot factor comes in as it is a safety factor. Specifically meant for those access points where there is potential for larger vehicles to access it. They have a single point of entry. Costco is very particular that there is always enough space, maintaining 30 feet around the building as well as the arterial points. As far as

lighting, he pointed out a Costco in CT that is near a residential area. The LED lights can be controlled for spillover. Larger lights are used to reduce quantity, then they typically disappear, as they are pretty indiscriminate. The taller light poles give a much cleaner and more consistent light, which is a much safer environment.

Mr. Wallner asked what the current height of the light posts were at Steeplegate.

The applicants responded that the current poles are 40-feet high.

Attorney Pollack stated that there would be no impact on surrounding properties, with little spillover.

As far as loading spaces and the loading dock, the applicant is proposing 12-feet wide instead of 14-feet wide. Attorney Pollack showed an image from Scarborough, ME, which shows 12-feet per bay, but it has a total width of 40-feet combined. For Concord, there are six loading bays proposed, with more than 84 feet in total width. Costco operates hundreds of sites and achieves total width required. The hardship is that it forces them to build something that they don't need.

Attorney Pollack mentioned the refuse containers, discussing how all refuse containers are not created equally. Costco utilizes a trash compactor that is self-contained and it is accessed from within Costco. The screening would create a hardship as it would be in the way of disposal. The compactors are picked up in their entirety and trucked away.

Chair Carley asked for clarification on their placement on the proposal.

Mr. Marchisano stated that they units are usually painted to match the side of the building in order to disappear.

Attorney Pollack mentioned that it is not unsightly and there would be nothing loose to blow around. It is in the public interest to have a functioning redevelopment, and there is no evidence to suggest that a self-contained unit would have any impact on property values.

In Favor: Aaron Fracht-Monroe, resident, spoke at the Planning Board meeting about the project and is in favor of the alternative parking arrangements. Across the country cities are reducing parking requirements. Additional parking spaces create increased costs to the developer. We all want this mall to be redeveloped for housing and retail to help with the tax base.

Opposed: Attorney Maria Dolder, represents Silver Holding LLC, which is the bank property. The Bank is not opposed to the redevelopment or the general plan, as they are only concerned with the parking and not sure how much time to spend on the subject since they are asking to defer at this point.

Attorney Pollack clarified that this is specific to the parking request. They are withdrawing at this time so that they can clarify what they are asking for.

Attorney Dolder stated that there are concerns about the extreme reduction in parking. Concerned about density and how many commercial uses they will have and the drive to ask for less parking. Concerned that residential units will have cars and how does that impact her client's parking.

Chair Carley stated that as far as Board procedure, normally when the Board closes public hearing there is no more testimony. The Board will need to make an exception if it is going to defer the public portion for that one item. He stated that it is a lot of information and a lot of complicated discussions and the Board might not want to start deliberation tonight.

Attorney Dolder clarified that the Board is not considering anything to do with parking as it has been withdrawn.

Mr. Winters questioned if he would have to resubmit on that issue.

Code: Dr. Hutton explained that could still apply for a new hearing. If the request changes, we will have to re-

notice the abutters.

Ms. Dolder stated that the big concern is a 44% reduction in parking, which is significant. Concerned if there is enough parking on the site to support what they are proposing.

Chair Carley stated that the Board will continue the hearing without closing public testimony portion.

Opposition: Ray Schweiker testified that he wanted to speak in opposition to the previous gentleman. Parking requirements are far too small. If you own a business you need a Special Exception, but if you work for a company and bring home a large truck you don't need a Special Exception. Costco may have less people than a typical grocery store, and maybe an ordinance should be considered for that. He is concerned that the meetings are oriented towards developers, but the person testifying cannot rebut what someone else says. He stated that at the last meeting, he discussed permeable pavement and was not permitted to rebut statements made by the applicant. He stated that one request is for more lot coverage than allowed. UNH has information on their website about how to utilize permeable pavement, which was designed to keep runoff onsite instead of running off. If you are approving the coverage variance then you should require permeable pavement. Most of their requests sound reasonable. He expressed that his feeling is that the City has an ordinance that they feel is reasonable. These people don't have a hardship. They shoved too much on a lot.

Code: Dr. Hutton stated she had nothing additional to add.

Attorney Pollack mentioned that as far as the parking issue, they would like to withdraw that particular item. But would like to see where the Board falls on the other items.

Chair Carley polled the Board, however, he noted that they are not obliged to act tonight. The Board could:

1. Recess the case and revisit
2. Close public testimony and still defer
3. Act upon the variances, absent the parking question.

Mr. Wallner stated that he would like to finish tonight.

Mr. Monahan stated that he was unsure that the Board would get much done tonight.

Ms. Spector-Morgan mentioned that there are a lot of variances and a lot of material presented tonight and would be in favor of closing the public hearing and deliberating at the next public hearing.

Mr. Winters was prepared but would also respect his colleagues.

Chair Carley stated he would prefer to defer.

A **motion** to close the public hearing and recess the case until February 7<sup>th</sup> was made by Ms. Spector-Morgan, seconded by Mr. Winters; passing unanimously.

A **motion** to approve the December 6, 2023, minutes was made by Mr. Wallner, seconded by Ms. Spector-Morgan; passing unanimously.

A **motion** to approve the December 6, 2023, findings of fact was made by Mr. Wallner, seconded by Ms. Spector-Morgan; passing unanimously.

A **motion** to adjourn the meeting was made at 9:21 pm by Mr. Wallner, seconded by Ms. Spector-Morgan; passing unanimously.

-Deborah Tuite, Clerk  
Zoning Board of Adjustment