

City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Monday, September 19, 2022

6:30 PM

Council Chambers
City Hall

Members Present:

Joshua Gorman, Chair
Joseph Hoppock, Vice Chair
Michael Welsh
Richard Clough

Staff Present:

Jesse Rounds, Community Development
Director
John Rogers, Zoning Administrator
Corinne Marcou, Zoning Clerk
Michael Hagan, Plans Examiner

Members Not Present:

Jane Taylor

I) Introduction of Board Members

Chair Gorman called the meeting to order at 6:30 PM and explained the procedures of the meeting.

II) Minutes of the Previous Meeting

III) Unfinished Business

A) House Bill 1661: Notice of Decision outlining the Findings of Fact

John Rogers, Zoning Administrator, stated that he wanted to remind the Board about House Bill 1661, which they spoke about at their last meeting. He continued that during deliberations of applications, the Board could make sure they delve into the reasoning of their decisions. Staff will take notes during the deliberations so they can adjust their Notice of Decisions to reflect statements made by the Board. As he stated before, the Board already does a good job with this; it is just something to keep in the back of their minds.

IV) Hearings

A) ZBA 22-15: Petitioner, 310 Marlboro St., LLC, requests a Variance for property located at 310 Marlboro St., Tax Map #595-001-000-000-000 that is in the Business Growth & Reuse District. The Petitioner requests a Variance to permit five total stories above grade where three stories above grade are permitted per Chapter 100, Article 5.4.4 of the Zoning Regulations. ZBA 22-16: Petitioner, 310 Marlboro St., LLC, requests a Special Exception for property located at 310 Marlboro St., Tax Map #595-001-000-000-000 that is in the Business Growth & Reuse District. The

Petitioner requests a Special Exception from Chapter 100, Article 9.2.7.C.2.a & b. of the Zoning Regulations, Major Parking Reduction Request.

Chair Gorman introduced ZBA 22-15. He continued that tonight the Board would be hearing ZBA 22-16, which has the same Petitioner, so he will ask for staff's input on both.

Mr. Rogers noted that Jane Taylor is not present tonight due to illness, so there is a four-member Board tonight. Chair Gorman replied that as he understands, the Applicant is aware and wishes to proceed.

Michael Hagan, Plans Examiner, stated that 310 Marlboro St. is located on 4.5 acres in the Business Growth & Reuse District (BGR). He continued that it is 78,312 square feet, built of brick, CMU, and metal in 1947. He could not find any Variances on file, as far as the City's records go back. The intent of the BGR is *"to serve as an additional downtown zoning district that provides opportunity for redevelopment and revitalization of a former industrial area, in an environmentally sensitive manner that is of a scale and type compatible with the adjacent residential neighborhoods. The development in this District should be oriented toward pedestrian and bicycle access. All use in this district shall have City water and sewer services."*

Chair Gorman asked if anyone had questions for Mr. Hagan. Hearing none, he asked to hear from the Petitioner.

Randall Walter of Westmoreland stated that he is involved in the redevelopment of 310 Marlboro St. He continued that he is an architect and his colleague Hillary Harris, also an architect and developer, is here with him tonight. As architects, their goal is to understand what a place, building, or site should be or what it best serves. They are not housing developers or any specific kind of developers; rather, they are looking at each opportunity through the lens of their training. They read the neighborhood, read the existing conditions, and are receptive to what is intended to happen in the BGR District and that is what they bring forth tonight. They are acutely aware of the housing shortage, which encourages action.

Mr. Walter continued that they are also aware that the City of Keene has put a number of documents and commitments together regarding sustainability, clean energy, and resiliency in the City. Many of those are highlighted in the passage Mr. Hagan read about the goals of the BGR District. He and Ms. Harris are compelled by that acronym. Regarding business, they have a mixed-use building that they have been redeveloping since July 2021, bringing back into a vital component of the downtown, which 310 Marlboro St. has the opportunity for growth. The most interesting part is the notion of adaptive reuse, as this is a previous manufacturing facility. The building was initially launched by the Pittsburgh Plate Glass Company as a paintbrush factory in 1947 through the late 1970s, then sold to the Kingsbury Company, where it was added to their collection of buildings in the neighborhood and used for about another 20 years. Mr. Walter stated they are interested in picking up the vitality and the opportunity from there.

Mr. Walter continued that he and Ms. Harris see this property as a unique and distinct project, based on the ability to look at housing, to redevelop 310 Marlboro St., and to make use of a building that is not what it may seem. Mr. Walter compared the building next door, 312 Marlboro St. as both buildings are about 60 feet wide, and appear similar but could not be more different. Built in 1920, 312 Marlboro St. is a 2-story timber building. It is just what it appears to be and that is all it can be. By contrast, 310 Marlboro St. is a steel structure. The Pittsburgh Company built a robust steel structure and then made it look like a mill building, cladding it in brick and making it appropriate for the City of Keene. They have the opportunity to do something and take advantage of the robust steel structure in a sustainable way.

Mr. Walter stated that they are also intent on producing housing without clearing any trees or using any more open land in Cheshire County. He continued that there is a lot of property they could develop, but it has become apparent to them, through the course of this work, that building on top of an existing building is held in high regard, not just around the US and Canada, but all throughout Europe. Everyone is looking for housing solutions, and they are looking for solutions that have the least impact and most benefit. They see this as an aspirational opportunity where they can create high-performance housing, which is housing that will be net zero and generate as much electricity and energy as it needs to consume. It will reinvigorate the District with already some good activity in the District, with Keene ICE and some other properties. They hope this would be a way to jumpstart and eventually see something good happen with the rest of the Kingsbury properties. They will show tonight how it supports the City's goals, and how they believe they will reduce the carbon footprint.

Hillary Harris stated that she is an architect, developer, and colleague of Mr. Walter. She continued that they have worked together for about 20 years in varying capacities. She has been interested in working on solutions to climate change challenges by designing buildings with the utmost highest standards for sustainability. She worked with Mr. Walter on the first net zero house build in Maine in 2008, for Union College, a collaboration with Bensonwood Homes and MIT. She says this to make the case that sustainability and high performance buildings are in her and Mr. Walter's wheelhouses and are of paramount importance to them.

Ms. Harris continued that in thinking about the design strategy for this project, sustainability was central to their goals. The goal of the State of NH's Climate Action Plan (CAP) is to reduce greenhouse gasses by 80% by the year 2050. This project addresses the majority of the overarching strategies as laid out in the NHCAP. It maximizes energy efficiency; decreases the impact on forests, keeping forests open because they are not proposing a greenfield development; and sequesters carbon, both by using the existing structure to its highest potential - foundations are often the highest component of carbon in a building - and using a mass timber design. They are trying to take all angles on this to make this the most high performance building possible.

Ms. Harris stated that Michael Welsh, Chair of the Comprehensive Master Plan (CMP) Steering Committee for the City of Keene, said the following when the CMP was adopted:

“The new plan likewise affirms the City’s long-standing preference for concentrating development within the areas bounded by the Route 9/10/12 bypass and Route 101 to create a walkable community. The new plan also supports an established Keene goal, one with an official history stretching back to the 19th century, of creating and protecting green spaces, trails, parks, and natural wildlife corridors.”

Ms. Harris continued that lastly, this project is in line with the Sustainability Energy Plan that was adopted by unanimous vote by the City of Keene on January 21, 2021. The number one pathway to achieving net zero is to reduce energy use. This project does it, by optimizing the surface to volume ratio, which pertains to the reason for wanting to build three stories; utilizing the existing infrastructure; creating a walkable and bikeable community; encouraging live/work; and using renewable energy. They have had widespread support on this project thus far. They have received grants from the Department of Energy and REDL (the Rural Economic Development Loan & Grant Program), the 79-E tax credit, and funding through the NHCDFR (New Hampshire Community Development Finance Authority).

Chair Gorman stated that before Mr. Walter gets into the Variance criteria, he wanted to let him and Ms. Harris know that if there is any overlap between the information they will be providing for the two applications, the Board is happy to hear the information once. The Board will have to deliberate separately on each application, but the presentation can overlap and dovetail. Mr. Walter replied that the narrative for both is indeed similar, so he will go through it now and then not repeat it. Chair Gorman replied that he and Ms. Harris could add whatever specifics for the second one that they need to.

Mr. Walter stated that he thinks the application touched on many of the details of ownership and property description, but he wants to give more information about the goals and purpose. He and Ms. Harris believe that approval of this Variance is critical to allow them to develop a variety of housing units to help alleviate the housing shortage in Cheshire County. Multi-family housing is a permitted use in the BGR, so it was clearly the City’s intent. The key is how they are going about it, with their proposal 57 housing units.

1. Granting the Variance would not be contrary to the public interest because:

Mr. Walter stated that he and Ms. Harris believe that underutilized industrial buildings can be, and often are, contrary to the public interest. They want to revitalize this area, not just the building, but also the entire site. They have applied to the InvestNH Housing Fund, which was part of the reason for the acceleration of the schedule. They are behind schedule with that, because they do not have their building permit, which was required on the submission date, and this meeting is critical to moving forward. InvestNH encouraged them to apply regardless, and they have told InvestNH that if successful with both the Planning Board and the Zoning Board, they would be able to submit a building permit by the end of the year. More importantly, he and Ms. Harris went through many strategies to be able to complete this project on the same schedule

that they originally set out, which is for occupancy in the spring of 2024. They can catch up, even though they started out behind.

Mr. Walter continued that the reason for housing is multi-faceted. If there is a simple supply and demand argument, the more supply there is, the more costs will be reduced. Additionally, they are talking about a different type of housing, a high quality, high performance home that would reduce the carbon impact of new construction. Mayor George Hansel is a member of the Ad Hoc Committee on Housing Stability and has been supportive of the project from the outset. It is in the awareness of employers and all sorts of people, and they believe that it is clear that housing as a development strategy would be in the public interest to advance 310 Marlboro St.

2. *If the Variance were granted, the spirit of the Ordinance would be observed because:*

Mr. Walter stated that with hearing the description of the BGR District and noting that housing is one of the permitted uses, it is evident to him that the staff and planners who developed this district, envision this type of development. It is intended to serve *“as an additional downtown zoning district that provides opportunity for redevelopment and revitalization of former industrial areas in an environmentally sensitive area that is of a scale and type compatible with the residential neighborhoods.”* Each of those phrases strikes him as nearly describing the project that he and Ms. Harris have created. They intend to create something that is of a scale, five stories total, which would be permitted downtown. They are revitalizing a former industrial area, and they are focusing on the environmental sensitivity. Furthermore, the development of the district oriented toward bicycle and pedestrian access is ideal, given that 310 Marlboro St. has two fronts – the traditional front on Marlboro St., and a second front that faces the rail trail, which connects right to downtown. They will touch more on that opportunity and asset in the next application.

Ms. Harris stated that the image the Board sees right now is a rendering of the proposed design as seen from Marlboro St. She continued that while it is an additional three stories on top of that two-story building, the visual impact of it on Marlboro St. is very slight.

Mr. Walter stated that again, their proposal intends to use the existing building as a foundation, called a “vertical addition.” This environmentally sensitive opportunity does not exist in most buildings. A study in Europe showed that about 20% of European buildings have the capacity to take one or more stories; so again, this is part of something larger. This is the most sensitive way to not increase foundations, and not increase sight disturbances, by building upwards.

Mr. Walter continued that there are other benefits to this proposed design. First, it puts a high insulated “hat” on top of the existing building, so not only are they producing new and high quality living environments, but also the addition will improve the base building by insulating it. The size/height of the three stories has to do with the surface area analysis - as they go taller; the surface area diminishes and can lose heat energy per floor. Therefore, they will also use fewer

materials as a one-story structure would require many more materials and use a lot more heat, and be a less aesthetic and less functional outcome.

Mr. Walter continued that he and Ms. Harris have seen, in downtown Keene, other projects that address the housing concern. The housing project on Roxbury St. was successful and now has a waiting list, but he laments the sports field that used to be there. The purpose of this project is to try to preserve open space and existing buildings and homes to avoid using up green fields.

Mr. Walter continued that regarding the scale and the rendering on the screen, a careful analysis was done as to the positioning of this three-story addition. They have worked and looked at different locations. By locating it approximately in plane with 312 Marlboro St., they feel that it has less impact on the adjacent residential neighborhoods. The low-density neighborhood is directly across the street. They also think it is appropriate to align with the neighbor and create some compatibility, which is one of the reasons they have set it back as far as they have.

3. *Granting the Variance would do substantial justice because:*

Mr. Walter stated that the built outcome clearly optimizes the location and the stated goals for the district. He continued that it takes advantage of an existing building and structure that has the capacity to carry additional floors. The structural engineers on the design team have analyzed the existing building, and the fact that manufacturing was happening on the second floor resulted in the way the building was built. There was over a 300 pound per square foot load capacity. The second floor is very robust, and the addition will not rest on the second floor, but that second floor compelled the engineers to produce columns that were capable of carrying that load.

He continued that there are multiple floors currently used for a different purpose. There is no longer manufacturing on the second floor. There is a video studio, architecture office, other offices, and workout facilities for activities using mats and gym equipment. Thus, the existing building's load rating has gone down, leaving a remainder of probably about 75 to 100 pounds per square foot for each additional floor. They want to take advantage of that capacity and use it to carry new, relatively lightweight structure, a mass timber structure. A wood structure sequesters carbon. It is far less heavy than steel and concrete, which allows them to produce this five-story overall composition, with three stories of lightweight wood on top of this base/pedestal that can carry it. This is the piece of the puzzle they do not see in, for example, the neighboring building, nor do they see it in most of the older buildings in Keene. It is a product of steel structures, thus, it is a relatively unique situation. It is definitely a unique situation for the BGR District. Their goal is to create a scale that is consistent with the neighborhood and simultaneously produce a significant number of housing units.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished because:*

Mr. Walter stated that the current state of Marlboro St. at times lacks scale and vitality. He continued that there are many buildings and many empty sites. Things are trending in the right direction, but this project would bring an opportunity for an overall spirit and liveliness throughout the day with revitalizing this building. With housing, they create a “live/work environment” where people who already work in the building could potentially live upstairs. Additionally, they have introduced some new uses to the buildings, activities, salons, and so on and so forth, so people are coming to 310 Marlboro St. for new reasons all the time. Ultimately, they hope for a restaurant, a permitted use in the district. Things like that tend to improve the neighborhood, not take away from it. Marlboro St. is completely capable of handling all the traffic and volume, which they will get into in the next application.

Mr. Walter continued that it is vitality built in to both this site and the overall street, and he thinks what is clearest is that the activity that exists proposed is all toward the rear of the project, more toward the rail trail. They are not changing the front, not adding to the front building. They have already put solar panels on the first block of brick that is in the photo, and on the metal building. It is their understanding that this will be an improvement to the neighborhood and to the City.

Ms. Harris stated that she wants to add that a number of studies support the fact that well designed, multi-family projects like this do increase the value of surrounding properties, and there is no evidence that they decrease it.

5. *Unnecessary Hardship*

A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:*

Mr. Walter stated that two significant attributes of 310 Marlboro St. distinguish it from other properties. First is the size of the existing building relative to its lot size. It is about 80,000 square feet and sits on just over four acres, which sounds like a lot, but there is over an acre of footprint alone. Thus, with the setbacks, the building is conforming but there is not a lot of additional area. That compels them to go vertically instead of horizontally. Second is the structural capacity that defines this as a unique property. “Property” is defined as both land and buildings, so they do not just look at the land; they look at the overall composition and the way it has been developed to date. The structural capacity and the ratio of building to lot size are the criteria that distinguish this property from others in the district.

i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:*

Mr. Walter stated that the definition of the BGR District, as conceived about three or four years ago, is relevant here. They propose to build a five-story overall outcome when three stories is allowed, with four stories allowed with parking. Four stories with parking would have the same impact visually, regardless of the parking, so in many ways they are looking at an additional

story relative to that outcome. They do not intend to park cars in the building; he is not suggesting that, but it is worth noting that they are essentially asking for a story larger than could be the outcome. To that end, the Board has heard the district intention which written by the City itself - to create a downtown district, a place that feels compatible with that kind of density. It is noteworthy that the Downtown District allows seven-story buildings in a number of zones. He and Ms. Harris chose five, looking at a balance between the number of apartments they could create, an appropriate setback from Marlboro St., and the ratio of surface area to floor area.

He continued that the five-story outcome is found throughout the city. There are many three- and four-story buildings, but there are five-story examples and even a six-story example, an elder care facility off Roxbury St. The tallest building in the district now is housing for elders that is four stories on Water St., which is also an addition to a mill building. Being just one story taller than that feels reasonable. Furthermore, if you stand out on the back half of 310 Marlboro St., you are in an unusual setting. It does not feel connected to a residential neighborhood. You back up to the rail trail and Victoria Ct. behind it. It is clearly an industrial area with the City garage to the east and the Kingsbury property to the west. Getting back to this relationship between public purposes, the need for housing, and the provision that was written into the BGR District, he and Ms. Harris feel that that relationship exists based on those facts.

and

ii. The proposed use is a reasonable one because:

Mr. Walter stated that he and Ms. Harris believe the proposed use is a reasonable one, for all the reasons stated. He continued that at this moment, the needs of the City and its employers to produce high quality housing to attract people to the area, and to improve people's opportunity to have a pedestrian life and a lower carbon footprint, are significant.

Mr. Walter continued that given that they have defined and met the criterion of 5.A., he does not think he needs to go on to 5.B., which is only relevant if they have not established 5.A.

Mr. Hoppock asked for more information about the 57 units, such as whether they will be one-bedroom, two-bedroom, etc. Mr. Walter replied that they are sort of in a "cart before the horse" situation. He continued that about two thirds will be one-bedroom, one third will be two-bedroom, and it worked out spatially that there is a studio on each floor. In theory, that could change, depending on final design, but they need to get through the request for the Variance to determine whether they will move forward with the project and a final design of the units. He believes that unit mix is likely to remain, in large part because the research they did suggests that is where the need is based and this project is about the live/work community. They are focusing on a variety of different groups, but the one-bedroom is the least common in Keene, so they focused on that.

Ms. Harris replied that they also have "one bedroom plus," which is the same for all intents and purposes. Mr. Walter replied yes, they are the same but with different attributes.

Chair Gorman asked staff if it is correct that parking requirements are based on the number of units, and are not related to the number of bedrooms in a unit. Mr. Rogers replied that is correct, the BGR District requires two parking spaces per dwelling unit.

Mr. Welsh stated that he finds one of the positive features of this proposal, is the setback from Marlboro St. for the three stories. He asked if the steel strength of the building extends forward all the way to the Marlboro St. face of the building, or if they are stopping the front of the three stories because the steel integrity. Mr. Walter replied that this is one of the most uniform structures he has ever seen. It is a 24' by 24' foot grid and is relentless; it does not vary from front to back, thus, it all has that capacity. What changes for him and Ms. Harris has to do with some of the uses in the base building and where it is more appropriate to stack versus not stack. The alignment with the neighbor is more a reference than a goal. It has to do with where they can place the stair towers, where they can impact their current tenants and the functioning of the building in the most beneficial ways, and it turned out to be very similar to the façade of 312 Marlboro St.

Chair Gorman asked for public comment.

Richard Grant of 285 Marlboro St. stated that the Applicants had displayed a photo that showed the street view of the building with the new proposed building sitting on top. That photo was taken from in front of his house. He continued that he has talked with several of his neighbors, and with the setback as far back as it is going to be, he and his neighbors have no objection to the project.

Mark Froling of 240 Roxbury St. stated that he is a business owner of a facility on 20 Manchester St. He continued that he is also a contractor for 310 Marlboro St., involved with the renewable heating energy that is going into that building, and he disclosed that because he has some gain from this project. He wanted to speak in favor of this project from a personal perspective because he is in the renewable energy field. He commends the ownership group and the development group here for going forward with these goals, because it is easy to make a statement about having everything renewable by 2050, but few people actually engage in the goals and fulfill them. Very few people put their money where their mouth is, so this intrigued him early on when he was in discussions about doing some work for Mr. Walter. He realized there was a lot at stake for the future and aligning the City's goals with Mr. Walter's goals and his own goals, involved with the renewable energy world as a business owner. It is very dear to him, and important, and he would like to see support for this project.

Carolyn Jones of 14 Monadnock St. stated that she appreciates this project because it is going up instead of out, and will not be using a cornfield or a place where a playground could be. She continued that she appreciates all of the work that has been done to get it this far and is in favor of the project. She walks on Marlboro St. all the time, and thinks it needs a little pizzazz. She thinks this building could do that.

Cory Conderino of 6 Summit Rd. stated that having recently entered the Keene Young Professionals Network, he could personally attest to the housing crisis in Keene. He continued that during two separate housing searches between the summers of 2021 and 2022, he and his partner were faced with waitlists of 50 to 75 parties at multiple apartment buildings located in or around downtown Keene. Due to this, they settled for an oversized housing option in west Keene, potentially taking away a housing opportunity from someone who needs the extra space. He continued that had this project been developed at the time of his housing search it would have provided him and his partner with a sustainable, walkable, and future-driven opportunity for housing just outside of downtown Keene. The current housing climate creates a dangerous situation for tenants like him, as rent prices seem to have no ceiling right now. These conditions are enough to cause some people in his demographic to leave Keene in search of something available and/or affordable. From a sustainability standpoint, a building like the one the Petitioner is proposing is only going to push all future buildings to come to Keene in the right direction. He has always held a deep appreciation for Keene since he entered the community in 2017, but it is clear that something needs to be done about the housing crisis. He thinks what the Petitioner proposes is not only something but the right thing for the future of the City. He firmly believes that this project will promote the City's mission to advocate for and implement sustainable structures in Keene.

Chair Gorman stated that the Board also received a letter, which he will read into the minutes.

“Dear Chairman Gordon and members of the Zoning Board of Adjustment:

As a local real estate broker and one who is aware of and excited about the project being proposed by 310 Marlboro St., LLC., it was my intention to speak on behalf of this much needed housing project, but due to a commitment to another Zoning Board of Adjustment, I submit this for your consideration.

As you are well aware, Keene is in desperate need of additional housing of all economic strata and type. The rental market, in particular, is under stress with a vacancy rate of 1%, when a vacancy rate of 5% is considered healthy. With the lack of single-family houses available for sale and the substantial increase in the sales price of single-family homes, many who would otherwise purchase a home are now required to find rental apartments. While the State of NH has experienced the housing need, the shortfall of adequate housing is especially acute in Keene. This has made it difficult for existing businesses to maintain market share and grow while also acting as an impediment to companies considering establishing in Keene, due to the lack of adequate housing for employees.

Allowing an increase of the number of stories from 3 to 5, will permit the construction of 57 housing units utilizing sustainable building techniques and achieving energy efficiencies that are two of the stated goals of the leadership in Keene. Permitting this in an underutilized industrial building will also serve to create the live/work environment that Keene desires as well. By granting a variance to accommodate this vertical expansion, on a building which has the

structural integrity to support the extra load, will also create the benefit of preserving and potentially increasing the existing green space.

Approving this variance will provide substantial justice for 310 Marlboro St., LLC, as well as the broader Keene community, as the ZBA will be providing an additional 57 housing units with no negative impact on the surrounding neighborhood. Denying the variance will have a negative impact on the developer as well as the Keene community with no corresponding benefit to the surrounding properties.

Approving the variance will not have a negative effect upon surrounding property values, rather it could improve surrounding property values as this is another example of a substantial increase in the investment in properties on Marlboro Street.

Granting the variance will observe the spirit of the ordinance, which in part states a desire to:

- *Create more housing*
- *Utilize sustainable building practices*
- *Achieve energy efficiency*
- *Support walking and biking, which this property does with its location on Marlboro St., close to downtown and by being adjacent to the Cheshire Rail Trail*
- *Provide a live/work experience for many of the residents and the commercial tenants*
- *Maintain and increase the existing green space*

The ZBA may grant the Special Exception for reduced parking by utilizing the current parking usage standards as expressed in the VBH Engineering analysis. It is reasonable to consider that parking spaces would be used by residents in the evening and commercial tenants during the day. There are other properties in Keene that use their onsite parking area in a similar manner.

Thank you for giving consideration to this letter of support for the variance and special exception needed for the development of 57 units of housing on Marlboro Street.

Respectfully submitted,

*Bill Hutwelker, Broker
SVN The Masiello Group
69A Island Street”*

Chair Gorman stated that sums it up for public input, and he is now closing the public hearing. He asked the Board to deliberate.

1. *Granting the Variance would not be contrary to the public interest.*

Mr. Hoppock stated that clearly, this project's proposal is to provide housing in a situation where it is desperately needed. It is thus consistent with the public interest, in terms of what they are proposing.

Mr. Welsh stated that he would add that the Applicant has done a good job with the narrative and written application, expressing conformance with the CMP and the intent of the BGR District. He continued that it is a compelling argument that the public interest is addressed by this proposal.

Chair Gorman stated that he agrees.

2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

Chair Gorman stated that some of what Mr. Welsh said regarding the first criterion applies to the second as well.

Mr. Hoppock stated that the intent of the BGR District is clearly met by this project, as stated in the application.

3. *Granting the Variance would do substantial justice.*

Mr. Hoppock stated that this could be a positive in both directions if the Variance were approved. He continued that refurbishing a former industrial building and repurposing it for residential and retail use allows a tremendous gain to the neighborhood, the City, and the public at large, because developing the area means it will not be run down, abandoned, or left the way it is. The way the building would be built, would be around for a long time. He continued that putting the building to a residential use in this particular environment is almost a necessity. He thinks the gain to the public is high, and the gain to the Owner/Applicant would be great if this were approved, and what they are intending to do with the project is a public benefit.

Chair Gorman stated that he agrees, and thinks this is one of those anomalous situations where it is a win/win for both the Applicant and the public. He continued that it seems like across the board, it fits with the intentions set forth in the Zoning Code, making this is good cause for a Variance.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

Chair Gorman stated that it is plain to see the repurposed use in an industrial building in an area of the City that has begun some form of rebranding or gentrification. He continued that the whole Marlboro St. area has a ton of potential. A person tonight said it needs some "pizzazz," which he thinks is aptly put. He thinks this project will give the area that, and as a result, will raise property values. He cannot see any possible manner in which it would lower them.

Mr. Hoppock stated that it runs the risk of providing the area with an economic boost, in terms of more people, more business, and more activity. He continued that certainly, the renderings the Board sees appear well-designed, and there will not be an aesthetic blight on the neighborhood. He does not see any danger of diminished property values by this project.

Mr. Welsh stated that he agrees. He continued that they also have, read into the record, an opinion from a real estate professional along those lines. He thinks it will increase property values all around.

5. *Unnecessary Hardship*

A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because*

i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property and*

ii. *The proposed use is a reasonable one.*

Mr. Hoppock stated that he agrees with the applicant that the special conditions of the property are the size of the building in relation to the lot size. He continued that if he heard correctly, it is a one-acre building on a four-acre lot, which is considerable. Second is the building itself, with its strength and integrity and how it could be used in a development sense. The proposal Mr. Walter is making is directly tied to that structural integrity. He thinks there are special conditions the Board has to recognize. He questioned if those special conditions of the property make the application of the Ordinance unnecessarily harsh to this property. He thinks the answer is yes, it creates a hardship, because you cannot build out. Mr. Walter cannot put 57 housing units on this property going out; he does not see how that would happen. However, he can build up. The intent of this district is to be an extension of the downtown, and seven stories are permitted downtown, and not in this district, which seems to him more of a transition than anything else. However, he does not see going two or three stories over the limit. The limit is three, so Mr. Walter is going two stories over the limit, but the special conditions on the property make that limit, he thinks, unnecessarily hard on this Applicant, because it is not necessary, in terms of the lot size and the size of the building, and the way the building is built.

Chair Gorman stated that he agrees and would add, just relative to specifics of this property, that there are situations on this street or in this district where a five-story building could dwarf surrounding buildings. This is not one of them. He continued that he feels that way not just because of the building's layout and the way they have drafted plans for the general street front façade to be minimally impacted, but also because the Public Works facility, hockey rink, and Police Station are nearby, which are all rather industrial properties. It is not like there is a five-story building going up between two houses. This is a unique property, and he thinks that lends to its hardship, in terms of development, and this is a perfect opportunity for the developer and the City to compromise and have something good come out of it.

Mr. Hoppock made a motion to approve ZBA 22-15. Mr. Welsh seconded the motion.

1. *Granting the Variance would not be contrary to the public interest.*

Granted with a vote of 4-0.

2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

Granted with a vote of 4-0.

3. *Granting the Variance would do substantial justice.*

Granted with a vote of 4-0.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

Granted with a vote of 4-0.

5. *Unnecessary Hardship*

A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because*

i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property and*

ii. *The proposed use is a reasonable one.*

Granted with a vote of 4-0.

The motion to approve ZBA 22-15 passed with a vote of 4-0.

B) ZBA 22-16: Petitioner, 310 Marlboro St., LLC, requests a Special Exception for property located at 310 Marlboro St., Tax Map #595-001-000-000-000 that is in the Business Growth & Reuse District. The Petitioner requests a Special Exception from Chapter 100, Article 9.2.7.C.2.a & b. of the Zoning Regulations, Major Parking Reduction Request.

Chair Gorman asked for feedback from Staff. Mr. Rogers stated that regarding the question that came up earlier, the requirement would still be for two parking spaces per dwelling unit, as well as if there would be some parking calculations that Staff would need to do for an overall reduction. He continued that the Applicant might have that as part of his application and he will let him speak to that. There would be the other parking requirements based on the first two floors and the current or future uses, so the Applicant would have to provide those calculations.

As he said, the first two floors are still under some vacancies, some occupancies, and new occupancy is happening. There would still be the requirement for the three floors going up, for 114 parking spaces for the 57 dwelling units.

Mr. Rogers continued that the new LDC has several options for parking reductions that can occur. First, the Zoning Administrator has the ability for a 10% reduction of the overall requirement if certain criteria are met. Second, is the one the Applicant is before the Board, a 49% reduction in parking requirements, continuing the required parking study is part of the application. While deliberating on this Special Exception request, the Board will need to consider items A through G in Section 25.6.6, as well as two criteria under C.2. in Section 9.2.7 of the LDC. This type of parking reduction is something new for the Board, and ultimately the Applicant could still seek a Variance for anything over that 49%. The Applicant is before the Board tonight seeking that Special Exception, the middle of the different types of reduction requests that exist.

Chair Gorman stated that the Special Exception could be granted; that is one course this could go. He continued that in the event that it is not, the Applicant could still pursue a Variance or off-site parking. He asked if that is what Mr. Rogers is saying. Mr. Rogers replied yes, if the Special Exception were denied, the Applicant could still apply for a Variance. He continued that as Chair Gorman mentioned, the Zoning Code has an allowance for "Remote Parking." For example, if the Applicant needed to have 100 parking spaces and only had 60, under the Code, the Applicant has the ability – through staff, and done administratively – to obtain leases on other properties that have extra parking. They have to be parking spaces that are not required to meet the Zoning Code for that other property. The Applicant could speak to that, but he believes he has obtained some parking spaces off-site with a lease with an abutting property that had some extra spaces, so the Applicant has taken steps to try filling some of this need.

Mr. Welsh asked if there is the potential, with the space and given the size of the lot, to build more parking spaces while complying with setbacks. Mr. Rogers replied that he will let the Applicant speak to this in more depth, but he thinks that between setbacks and lot coverages, it would be very difficult for him to be able to expand the parking that is there. There is quite a bit of pavement and parking already on the site.

Chair Gorman asked to hear from the Applicant.

Mr. Walter stated that as Chair Gorman suggested earlier, he and Ms. Harris are not going to repeat text that is already on the record, but it all does apply. There is not a lot of new narrative to add here, but he wants to set the expectation for what they have today and what is proposed. It is correct that while the entire site is developed in one way or another, with the exception of a parcel at the bottom of the displayed image, that they intend to keep open and green, there is an increased opportunity by organizing the parking better. They intend to generate more parking with more or less the same site, which they will do with two means. First, a relocated the curb

cut as their parking is dysfunctional and chaotic, especially when there are times with 45-50% presence. It almost gets clearer when it is fuller.

Mr. Walter continued that they would shift the curb cut to the west. That is the primary entrance and exit, and shifting the curb cut means they will no longer zigzag through the property, but rather will go straight in and create a separate lot to serve some of the tenants toward the front of the building. The second piece of the high level is that the east side, which some people have started to call “the alley,” will be designed as a one-way only. People will be able to come in and out of the west side of the property, but anyone who loops the property will only exit to Marlboro St. That allows an increase in parking there, angled spots of an appropriate depth, in an area where chaos currently reigns. They will manage to pick up a handful of spots in the reorganization of the property relative to parking. They are interested in reducing their impervious area and improving their greenspace, which is not particularly a topic for the Board, but it is related. They are in non-conformity of their impervious surface, so they can keep it the same or it needs to go down, otherwise there is relief they would be seeking on that. He would not want to develop that western green area, but in theory, if it was not for impervious area, they could increase parking there. Mr. Walter stated they are not pursuing that option.

Mr. Walter continued that there is a parking study to dig into, which addresses the ways that a live/work community can use parking in different ways that are acknowledged and supported by statistics. There are ways to use the same parking spot multiple times throughout a day. Before he gets into that, he wants to clarify that this entire application and packet includes the two-story base building/pedestal as if it were fully occupied, in addition to the 57 proposed units. He mentioned that VHB Engineering was able to do the study. Apparently, he is the first owner of the last two that let the Assessing Office staff go through the building, so he has a reporting of the uses. Mr. Walter stated that parking ratios go to use with different uses requiring more or less parking. Thus, this analysis does assume the parking needed for the current condition and the 57 apartments. They are ahead of schedule on filling the base buildings, which means they have good insight into how that is playing out, with the mix of manufacturing, offices, and gyms.

Mr. Walter stated that regarding the idea of reduced parking requirements, what they are doing is not saying 57 times 2 is 114, and 114 plus the potential parking need of the base building would result in 258 parking spaces needed. He continued that that big number of 258 assumes that once you have used a parking space it is as if that space is blocked forever. For example, if a person came to the building to buy a pie from Saxy Chef then left, the 258 number would suggest that that parking space is no longer available to anyone else. By contrast, VHB’s study looks at commonly understood use patterns. He showed a bar chart stated that it is a study of when the current tenants need their parking. There is a natural pattern of residency; people living there will go to work around 7:00 or 7:30 AM, and the business needs begin at 8:00 or 9:00 AM, and by 5:00 PM the business needs are gone and the residents are returning. Thus, they can overlap the parking. The same spaces can be used during the day and then they go back to the residents.

Mr. Walter continued that furthermore, this is a conservative evaluation. He wants to highlight the things that the VHB Engineer could have taken into consideration in this report but did not. He did not take into account anyone who lives upstairs and works downstairs. He did not take into account anyone coming to more than one business on a trip. Much of this trip generation, and the 258 number, is based on needing every single parking space.

He continued that this way of looking at parking is regularly done and was not completely familiar to him and Ms. Harris. Because of that, they will also talk about some relief valves, or extra parking, which will at least ensure them that a good result will come of this project. If they do not do a good job of designing a parking solution, it is actually going to affect them and their ability to rent space and have satisfied tenants. He thinks it is of equal interest to him and his colleagues as it is to the City that these are reasonable. They are requesting a 49% parking reduction, which is consistent, as Mr. Rogers mentioned, with the regulations in the LDC. Getting into that, as he mentioned, a single space can be used as many as three different times by three different users. They see this with some of their current tenants. Two gyms are in 310 Marlboro St., and the gym communities have unusual hours - people are there at 5:00 AM and are pulling out at 7:00 AM when he arrives. Gym traffic picks back up again late in the day, and there is some Saturday activity as well. This mixed use actually helps with parking. By contrast, if it were a factory again, it would have homogenous use.

Mr. Walter stated that another factor to be aware of is the rail trail. He continued that Making Community Connections, more commonly known as MC2, is a 75-student charter high school in the first floor of the building. He stated that some of these students arrive by bicycle. There is the ability to use other means to reduce parking taking that into consideration such as there is also public transportation. Their neighbor at 312 Marlboro St. runs some of the City shuttle busses, and 310 Marlboro St. is a natural stop on the public transportation route. All of this goes to how this project, in this location, with the intentions of the LDC, are working in a harmonious way. They are approaching the maximum use of spaces, not just peak load. They are rethinking how it is a dynamic, rotating use over a 24-hour period.

- A. *The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, the LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in the LDC for the particular use.*

Mr. Walter stated that what he just said applies to this criterion.

- B. *The proposed use will be established, maintained and operated so as not to endanger the public health, safety or welfare.*

Mr. Walter stated that he cannot impress enough that approval of this application allows him and his colleagues to redesign the site, and this site will be greatly safer, for the reasons of the curb cut and clarifying circulation. He continued that they also propose a drop-off lane, which is not paramount to parking, but it goes to the fact that the school's lease does not have parking for all the students, with most students are dropped off. He continued that they are anticipating that

tenant's needs. They expect that the clarification of the parking will make it easier for all users, including recurring users, residents, and visitors. Clearly, they are improving the property through organization. Mr. Walter stated that they will go to the Planning Board where there are many standards to be met for striping and signage, which will also improve the safety. By having a primary entrance and exit and a secondary exit only, the traffic on Marlboro St. would be simplified.

C. The proposed use will be established, maintained and operates so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property.

Mr. Walter stated that they are working to increase green space. He continued that they would clarify and improve the paving. For their own purposes but also for the neighborhood, they are adding outdoor seating, and clarifying recreational areas, mostly toward the west and north of the property toward the rail trail. He stated that those elements will improve the condition. Their intent is that this development and all the growth that they are talking about will allow them to establish and maintain it.

D. The proposed use will be of a character that does not produce noise, odors, glare and/or vibration that adversely affects the surrounding area.

Mr. Walter stated that some of these criteria do not particularly seem to pertain to parking, but nonetheless, this is transitioning from a factory. He continued that the factory had a lot of parking and paving that happened in awkward ways, right against the building. This project is going to improve the exterior. They will organize separate zones and activities, so in general, all of those things will go to the visual character of the property and its appearance. Therefore, it should not adversely affect the surrounding area.

E. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.

Mr. Walter stated that to his and his colleagues' understanding, the burden would not be more or less, than it is now. They are reducing the impervious area slightly, so the storm water would therefore be reduced, and if anything, they are improving things.

F. The proposed use will not result in the destruction, loss or damage of any feature determined to be of significant natural, scenic or historic importance.

Mr. Walter stated that maintaining and developing the buildings and resurrecting them, in some cases is going to improve the overall appearance. He continued that the parking and the parking lots would be done that way. The historic nature of the property exists in the story of being a paintbrush factory, and their response is preserving that front lot, which is the most untouched at this point. The Kingsbury Company did not have to go through this process when they added the grey metal building on the side.

G. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.

Mr. Walter stated that this is mentioned in the VHB Engineering report, which they will get to, but Marlboro St. is an arterial street, classified as a Category IV road, which is appropriate for this use and volume. If anything, the volume will be less concentrated, compared to a factory use that would get out at 4:30 pm with potentially hundreds of cars. The ITE trip generation shows that there are less than 30 cars per hour, so with that low intensity, there are no concerns and it did not trigger certain other studies.

Mr. Walter stated that he would now go through the highlights of the VHB memo, which is based on the Institute for Transportation Engineers (ITE). He continued that he specifically asked VHB whether their database included rural projects, because he had some concerns. Mr. Walter stated that he questioned since they paid for this study, because it was a requirement for the Board process, can he trust it as a document to base his decisions on as the developer. He became convinced that yes, in fact, their data set is not just cities, it also includes both rural and smaller communities.

He continued that page 2 has a table of all the different uses. Office space, industrial space, and storage space come from their tax card and the proportion of those/the amount of space within the building, and then the associated trips from those different activities. This is just about trip generation, not parking. Mr. Walter continued that this is not exactly on point, but it useful information as these numbers are per hour. A hundred vehicle movements in an hour might sound like a lot, but it is actually not; it is maybe two in some minutes, but many minutes have only one or less.

Mr. Walter continued that page 3's most impactful information is about parking demand, and the way they arrived at this space allocation, and first, for the base building. They see that the different uses generate a different need for spaces. This is just in the raw; this does not take into account any of the overlapping strategies. He continued that the report states 116 spaces for the office use, 22 for light industrial, and 6 for storage, which makes sense, because the different uses have different loading, whether for employees or visitors. Taking the numbers of 116, 22, and 6, and adding 114 spaces for the 57 proposed units, gives the gross or potential number of 258. They work backwards from that in their request for a 49% reduction.

He continued that a number of methods are employed here with VHB Engineer noting some good notes regarding what is included and not included. The peak parking demand, on page 6, shows where someone could struggle to find a parking space. During the hours of 10:00 to 11:00 AM, based on the VHB memo, they predict 128 spaces to be occupied with the proposed plan having 145 spaces, thus, providing a buffer, and they will talk about other relief mechanisms not taken into account in the report. Clearly, not everyone living in an in-city environment is a two-car family. They intend to have electric vehicle charging, bicycle racks, and other items, which

are in their site plan review for the Planning Board, that support this reality that there are other ways of transportation besides a car.

Mr. Walter stated that before he speaks to the a. and b. criteria, he wants to highlight that there are additional things he and Ms. Harris have become aware of that factor into parking. First is that Marlboro St. has on-street parking available, on both sides, extending in both directions. Over 100 spots are available within walking distance of 310 Marlboro St. However, they are aware that in 2023/2024, there is a proposal, potentially, to redevelop the Marlboro St. scape with what is often referred to as a “chicane plan.” They are aware that would reduce the parking from the graphic that is on screen, but it would still give a 20-30 car relief of on-street parking that would be available to anyone on Marlboro St., including 310 Marlboro St.

Mr. Walter continued that he probably should have mentioned this regarding ZBA 22-15, but secondly, they have support from and are working closely with their neighbor, 312 Marlboro St. It is a tenant of 310 Marlboro St. and houses the Meals on Wheels vehicles and community shuttles, in a building in the northwest corner. Their business model has evolved, largely due to COVID-19, and they have excess parking. As a relief valve, 310 has already negotiated a lease with 312, just to make it a non-issue. 310 currently leases 10 spots from 312, on a trial basis, to see how it impacts 310’s needs and whether it is something they want to continue. The agreement allows a provision for another 30 spots to the north of the 310 building. These two properties used to be one parcel and have been subdivided. In order to build this building, there will be chaos, for about 7 to 12 months. During that time, they need to provide the current tenants of 310 with somewhere to park and/or stage the construction work. Thus, negotiating this relationship with their neighbor has been an effective strategy that gives them confidence that they can go forward. As he said before, the standard for him and his colleagues is just as important as the process. They want to make sure people lease, work, and enjoy their ability to get to 310 Marlboro St. and find somewhere to park. That agreement with 312 is included in the agenda packet for the Board to review. They do not know whether they will need to trigger the additional spots, but 312 is supportive and thinks it is a good development for the neighborhood. Overall, there is on-street parking, additional neighborly parking, and they can file this with the City if needed. At this point, it seems more natural that they are doing it of their own volition, instead of doing it for required purposes. He does not believe the City talks about parking during construction, but he is acutely aware of it. This building will be pre-fabricated, so they will be shipping large components of it to the site and will need a place to store that. Staging materials is what he would first put in some of those 30 spots, so they can develop the building rapidly.

a. The specific use or site has such characteristics that the number of required parking spaces is too restrictive.

Mr. Walter stated that number would be 258, citing the analysis. He continued that the report concludes a much lower number by using the overlap strategies or shared parking spaces, in that a peak load of 128 spaces would be adequate, as opposed to the 258 required by the ordinary process. There is a surplus of 17 spots built into their application.

b. The requested reduction will not cause long-term parking problems for adjacent properties or anticipated future uses.

Mr. Walter stated that they included the complete project, both the existing base building and the proposed housing, and they have parking to spare. He continued that they have also cited that they have strategies of on street, non-metered spots that would be available during peak time. He does not know the overnight rules for Marlboro St. parking, but as the table shows, the tight spot was mid-morning, which is an ideal time to make use of on street parking. Many students who drive park on the street. With those two relief valves, the ability to lease and on street parking, they do not anticipate any problems. It is interesting that the adjacent property is part of the solution.

Mr. Rogers stated that clarity is needed, because the table says 135 parking spaces, but Ms. Harris said something about 145. Mr. Walter replied that there was a late adjustment based on compliance with the rear setback. He continued that their initial packet showed a slightly different parking configuration on the north end of the site. Mr. Rogers may not have seen it, but it was on the City website version for a while. In order to bring that parking lot that runs east/west to the north of the building into conformity with the setback required from parking to the property line, because it is parking on the other side of that line, too, right up to it – they actually gain spots. There were fewer spots in the first drawing. Their landscape architect was being opportunistic and found those spots, and because they changed the angle, they actually reduced some of the paving areas, so he was in favor of it. He apologizes for the confusion. That is how they went from the initial 135 to 145.

Mr. Hoppock stated that he is seeking clarity. He continued that there are 145 parking spaces proposed. The overflow will be 30 from the street, give or take, depending on what Marlboro St. does, and 10 from the neighbors. Mr. Walter replied 10 currently, but it could be more, if needed. Chair Gorman asked if it is correct that it could be 30 more from the neighbor. Mr. Walter replied yes, that is what the lease allows. He continued that would be directly left of the plan the Board is looking at, in the piece of land that loops behind the property and the rail trail. Ms. Harris added that that was originally part of the site.

Mr. Welsh stated that Article 9.2, the two-part answer that they were just looking at, states that the ITE study shows 118 parking spaces required. He asked where that number comes from. Mr. Walter replied that it is a typo. Ms. Harris replied that it should say 128. Mr. Walter replied that it says 128 in the report.

Mr. Welsh stated that he has another question to make sure he understands their methodology and is in stronger agreement with their estimation. It seems like the hours of 6:00 to 7:00 AM and 10:00 to 11:00 PM have a projected demand of 63 and 59, but it also seems to him that would be a time of peak demand for apartment dweller parking. With 57 apartments, it would probably be more than 57 cars demanding those spots. He stated that he understands why there

is flux throughout the day, but questioned why does demand go down that way at night when residents are there.

Ms. Harris replied that if she recalls correctly, the Parking and Traffic Engineer who did this study explained with statistics from the ITE Manual that surprisingly, it is never the case where all people are dwelling in their units all the time. She continued that you do not ever have what you would imagine, full capacity where everyone is there. Maybe someone went away to visit their parents, or is away for some other reason. Mr. Walter replied that he agrees with Mr. Welsh's sense, with him and his colleagues having had the same conversation. He finds the morning window to be harder to reconcile, other than travel. The afternoon window speaks to irregular patterns of people with their after work hours, with not always going straight home. The Engineer talked about how all the activities that tend to cause the return from work are less homogenous than going to work. The main takeaway for him, once he learned that their data set does apply to communities like Keene, is that they have to trust this number. Their Traffic Engineer also went back to say that this is not just a data set they do once and then forget about; they actually use satellite photography to analyze these numbers, to verify that this data can be counted on. They spend a lot of money buying this data and he has become convinced that it is accurate, but ultimately, the proposal is that they want to have some relief. They do not want to cut it so close that someone cannot find a spot or has to go around the building twice to find one spot. He thinks they have enough of a buffer that, in the event that VHB is slightly off about Keene and Keene patterns, they will not fall into any of those negative connotations.

Chair Gorman asked if there were any further questions from the Board. Hearing none, he asked for public input.

Richard Grant of 285 Marlboro St. asked to again see the picture of the overview of the building. He continued that he has a couple problems with the site itself. The green space to the left has a trailer with a truck parked in front of it. Every time there is flooding in Keene, that whole area of land between the parking lot and the auto parts store, which is approximately three to four feet lower than everything else around it, floods. If that truck had been parked there last week, all four tires would have been underwater. He does not know where all the water comes from; assuming from the top of the building and stated it has been going on for years. To the right of the truck is a black spot in the middle of the parking lot, and another black spot is to the left of the truck. Last week, a fountain of water came out of those drains into the parking lot, and that whole area was completely flooded. Instead of driving in that way to get to the back of the building, people had to go around the other side or go to the next street up and go in and around through Kingsbury's parking lot in order to get into the 310 Marlboro St. lot. Thus, he has a great deal of concern about the availability and actual use of all of those parking spaces without reconstructing the whole parking lot. He wants everyone to be aware of that problem.

Mr. Grant stated that he has another concern, this one with the MC2 students who are there from 9:00 AM to 3:00 PM. Today there were nine cars parked in front of his house and his neighbor to the east. Four were on his side of the road and five were on the other side. Mr. Grant

commented that the Applicant stated that those parking lots are not available to the students, but there were seven different cars parked in that parking lot. There are students parking there, and that takes away from the ability to park on the street. Half of the street parking that is on Marlboro St. will be gone if the City completes the reconstruction of Marlboro St. into chicanes. The chicanes will be moving back and forth from one side to the other and it will be eliminating all the parking on one side of the street. Mr. Grant continued, questioning the consideration of where all these people are going to park. He is in favor of, or rather, has no objection to the building, but he does have a large concern about parking. Recently, large vehicles belonging to students were parked so close to his driveway on both sides that he could not see down the street while pulling out. He is strongly in favor of the curb cut and the single direction around the building, and thinks that will solve many problems, in terms of traffic flow. Right now, 310's entrance is almost directly across from his driveway but just enough at an angle that it makes it very difficult for him to back out of his driveway. Many times, he backs into his driveway so he does not have to back out. He has a feeling that the building, if the Board grants the Variance, will result in many more cars parking on Marlboro St.

Mark Froling of 240 Roxbury St. stated that he is in favor of this project and specifically the parking Special Exception application. He continued that he thinks this parking solution, even though it is far below the City standard, is right in line with the rest of the development, where it is carefully reviewed and studied. He continued that it falls in line with being a green building and a green development, using the resources several times over rather than doubling up the parking spaces to meet the Ordinance requirements. He thinks it is a good use of natural resources and not expanding pavement.

Chair Gorman asked if there was any further public comment. Hearing none, he asked Mr. Walter if he wanted to respond.

Mr. Walter stated that he is slightly embarrassed and was unaware of this flooding. He continued that it sounds like a maintenance issue. There are three storm drains in the photo, one at corner of the metal building, and as Mr. Grant mentioned, one next to the truck and one north of the truck. Those all flow toward Marlboro St., gathering mostly surface water from the parking lot with the roof drains on the metal building diverting water to the front of the building. He believes there may be an issue that he was unaware existed. Interestingly, he did not hear about this from any tenants, and they are usually good at passing information. He and his colleagues will certainly look into this. There are two strategies to this; one they want to gather water off the impervious surface into storm drainage where it collects with the rest of the city drainage. Two, the pervious area to the west of that parking is a low-lying area, and not much of that is 310's property, owning only a small portion. He believes a lot of drainage comes from in the vicinity into that loosely defined swale, and then it does re-percolate. The good news is Keene's sand base reabsorbs water rather quickly, so that is normal. There is more of a pond that happens even further north of that and to the west, also.

Mr. Walter continued that the big unknown is how the street evolves. He and his colleagues are not counting on the street to remain with as much parking as it could have, as previously mentioned, supporting the chicane plan, which is about slowing traffic on Marlboro St. and creating a proper bike lane, which is good. The piece of the plan they are most interested in is an accessible, ADA ramp that goes from the Butterfly Park to the bike trail. He continued that it is tricky, because the chicane plan is funded with some Federal money, with input on the plan is elusive, but he and his colleagues have continued to reach out and he thinks there is an opportunity in December to at least offer suggestions. These sorts of things are critical, questioning why the chicanes will be place as planned. Mr. Walter stated that he is aware that VHB Engineers created this plan, which is unrelated to the fact that VHB was the parking consultant for the 310 Marlboro St. project. VHB Engineers did not know about 310 Marlboro St.'s redevelopment when they did the street drawing, so perhaps there is an opportunity to do something with them constructively, but he thinks 310 will still meet its parking demand regardless.

Mr. Walter stated that in the areas to either extent of that green area, the City has cross-striped the on street parking. In the region shown on the slide, it is not cross-striped. In other words, there is less input about how to park. Cross striping is something he has talked with a few folks about it. By cross striping the parking on the street, would naturally stripe to stay away from driveways to create better sightlines. Those are things where they all just have to work together and figure it out. He knows that if they get the chicane plan they will get cross striping and they will get that clarity that should give better buffers.

Ms. Harris stated that they forgot to mention that in the proposed parking plan for 310, the new curb cut is actually not directly across from a house. It is across from a fence that is in between two houses. They believe that is a better situation for the people across the street.

Chair Gorman closed the public hearing and asked the Board to deliberate on the seven criteria as well as a. and b.

A. The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, the LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in the LDC for the particular use.

Mr. Hoppock stated that viewing the application in the broadest sense possible, it is consistent with the spirit and intent of the regulations, as they demonstrated in the Variance case. He continued that it is repurposing an industrial zone, and the Applicants are using what is there, which is a rather large lot with a rather large building on it. Thus, he would have to say it is consistent with the spirit and intent of the Zoning regulations, the LDC, and the CMP, for those reasons. It does not comply with all applicable standards in the LDC, though, because they are struggling with the parking problem. They have room to play with the joints a little, so he does not think this means exactly all applicable standards, because one of the applicable standards is a way to get around the applicable standards. He is satisfied this criterion is met, having just tried to explain the inconsistency of the criterion.

Chair Gorman stated that he agrees, and he thinks there is relevance to the mixed uses and the undeniable fact that there will be some traffic rotation/parking rotation throughout the day. He continued that the one use that is not consistent with the other, in terms of parking toll. It will be busy at night as a result of the dwelling units, and busy during the day as a result of the other uses, he suspects. The parking study further supports that.

B. The proposed use will be established, maintained and operated so as not to endanger the public health, safety or welfare.

Mr. Hoppock stated that the Applicant's suggestion with the adjusting curb cut, leading to more parking spaces, and placing it in a position where it is not interfering with the driveway across the street, is helpful. He continued that the traffic pattern within the site is well thought out, with one entrance and two exits. For those reasons, it will be maintained and operated so as not to endanger the public health, safety, or welfare.

Chair Gorman stated that he also thinks the storm water runoff issue the neighbor brought up is relevant, but they are building up, so they are not increasing that sort of storm drainage. He continued that he thinks there will be slightly more pervious surface area at the completion of this project. That, culminated with the repair of the problem they just found out about, will help with public health, safety, and welfare in terms of any potential flooding.

C. The proposed use will be established, maintained and operates so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property.

Chair Gorman stated that the one-way lane and all of the steps that are being taken, such as the relocation of the curb cut, would be an improvement, as the abutter himself stated. The green area around the building that will be established will also be an improvement.

Mr. Welsh stated that the proposed use with regard to the parking and the paved areas around it would also increase public access to the rail trail, which is an improvement to surrounding properties.

Mr. Hoppock stated that it is interesting to note that one of the adjacent property owners will be interested in resolving some of the parking issues with this Applicant by allowing 310 Marlboro St. to use up to 30 spaces. Other people here speaking in support of the application, helped him realize that this proposed use will not impede the development, use, and enjoyment of adjacent property.

Chair Gorman replied that a footnote to that is that the person spoke about some of the challenges that could occur from the on street parking. He continued that it is his opinion is that this project is separate from that, and if the on street parking is a problem that is more of an issue for the Public Works Department (PWD), such as delineating it properly. He suggests to Mr. Grant reaching out to the PWD to see if they can do anything to keep the driveway more open. He does not think this project is specific to creating a problem there, nor does he think it would be. Either the on street parking is allowed the way it is, or it is not, regardless of what happens at

310 Marlboro St. He does not think the Board should factor on street parking into a calculation anyway. He continued that it is nice that there is on street parking, and will help during the day with any possible overflow, but he is not willing to put it into the calculation.

D. The proposed use will be of a character that does not produce noise, odors, glare and/or vibration that adversely affects the surrounding area.

Chair Gorman stated that he thinks the Applicant put it well when he said that some of these things may not specifically be geared towards parking, but nonetheless, they do need to try to answer this criterion.

Mr. Hoppock stated that he is being facetious, but unless there is an abundance of people from New York and New Jersey who do not like to wait for parking spaces and are blaring their horns, he does not see this as an issue. He continued that he does not find this criterion that applicable. There will be cars coming in and out, and the traffic study seems to be a well-educated estimation as to what that level will be. Cars going in and out of parking lots go rather quickly, not make a lot of noise. He does not find this criterion to be problematic at all.

Chair Gorman replied that he agrees, and if they had to grasp at one straw, they could say that the project is improving some potential glare by relocating the curb cut so that it is pointing more toward a fence instead of being directly across from a residence. Mr. Hoppock added, that managing the internal traffic the way they described, with one way in and two ways out will also be a benefit. Chair Gorman agreed.

E. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.

Mr. Hoppock stated that he heard nothing tonight that would suggest that the use would place an excessive burden on the sidewalk, the road itself, public services, Police, Fire, rescue. He continued that certainly utilities would be affected by this. He does not think there will be any burden on public improvements, facilities, services, or utilities.

Chair Gorman agreed.

F. The proposed use will not result in the destruction, loss or damage of any feature determined to be of significant natural, scenic or historic importance.

Chair Gorman stated that they did touch upon the original look of the brick building. He continued that although it is not as dated as some of the historically significant properties in Keene, it is nice to see it being preserved. He does not see anything else that has any historic integrity, that he is aware of, that is suffering because of this.

Mr. Hoppock stated that the only feature they could affect would be topping the parking lot, and that will be an improvement. He continued that is not of historic value, though. He is satisfied this criterion is met.

G. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.

Mr. Hoppock stated that on this particular factor he would rely on the chart, Table 2, Parking Demand Summary. He continued that for the reasons they heard, he thinks it is the best educated guess they are going to get on the volume of traffic. It does not seem to be an unreasonable level, and it is not to the level of creating a safety hazard or an increase to the traffic level or congestion of the area.

Chair Gorman stated that he agrees and thinks that the nature of the street is one that is designed to handle a rather heavy traffic load. He continued that it is sort of an artery for that side of town.

a. The specific use or site has such characteristics that the number of required parking spaces is too restrictive.

Chair Gorman stated that he thinks they have heard adequate testimony. He continued that when you consider some of the overlap, one spot being able to perform two separate functions, being overlooked, which certainly helps.

Mr. Welsh replied yes, the key phrase here is “the specific use” of the site they are planning. He continued that the proposed plan is one that creates a parking situation that is different than if you were to open a set of stores or restaurants. Chair Gorman agreed.

Mr. Hoppock stated that the variety of mixed uses allows that overlap to work to the advantage of the parking.

b. The requested reduction will not cause long-term parking problems for adjacent properties or anticipated future uses.

Chair Gorman stated that 310’s neighbors are offering some parking spaces, so he does not think it will create a problem for them. He continued that the parking study goes a long way in answering these questions.

Mr. Hoppock replied that is what he would rely on. He continued that he does not think it will cause long-term parking problems for adjacent properties or for this property.

Chair Gorman stated that with one-bedroom apartments, there is a strong likelihood that a significant number of them will have a single person living with one car, or a couple living with one car. He continued that is more likely to be the outcome than a family of six with four cars, which is not to say that cannot or will not happen, but it is not as likely in this particular proposal.

Mr. Hoppock made a motion to approve the Special Exception request for ZBA 22-16, for all the reasons just stated. Mr. Welsh seconded the motion.

Mr. Rogers stated that for the sake of clarity, for Staff's benefit, he asks that the motion dictate the percentage discount. He continued that the Applicant is asking for a 49% reduction.

Chair Gorman asked if they should redo math based on 145 spots, or if that is accurate. Mr. Rogers replied that he thinks the percentage would be easier for staff to work with, especially as they move forward with the Applicant as he is developing the rest of the building, as opposed to a set-in-concrete number of spots.

Mr. Hoppock stated that for the reasons discussed with respect to the applicable criteria, he makes a motion to approve a parking reduction of 49% for ZBA 22-16. Mr. Welsh seconded the motion.

- A. The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, the LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in the LDC for the particular use.*

Granted with a vote of 4-0.

- B. The proposed use will be established, maintained and operated so as not to endanger the public health, safety or welfare.*

Granted with a vote of 4-0.

- C. The proposed use will be established, maintained and operates so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property.*

Granted with a vote of 4-0.

- D. The proposed use will be of a character that does not produce noise, odors, glare and/or vibration that adversely affects the surrounding area.*

Granted with a vote of 4-0.

- E. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.*

Granted with a vote of 4-0.

- F. The proposed use will not result in the destruction, loss or damage of any feature determined to be of significant natural, scenic or historic importance.*

Granted with a vote of 4-0.

G. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.

Granted with a vote of 4-0.

a. The specific use or site has such characteristics that the number of required parking spaces is too restrictive.

Granted with a vote of 4-0.

b. The requested reduction will not cause long-term parking problems for adjacent properties or anticipated future uses.

Granted with a vote of 4-0.

The motion to approve ZBA 22-16 passed with a unanimous vote of 4-0.

V) New Business

Chair Gorman asked if there was new business. Mr. Rogers replied that he would like to introduce the new Community Development Director, Jesse Rounds. Chair Gorman thanked Mr. Rounds for coming tonight.

VI) Communications and Miscellaneous

VII) Non-public Session (if required)

VIII) Adjournment

There being no further business, Chair Gorman adjourned the meeting at 8:43 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Reviewed and edited by,
Corinne Marcou, Zoning Clark