

City of Keene  
New Hampshire

**ZONING BOARD OF ADJUSTMENT**  
**MEETING MINUTES**

**Monday, March 06, 2017**

**6:30 PM**

**Council Chambers**

**Members Present:**

Nathaniel Stout, Chair  
Jeffrey Stevens, Vice Chair  
Elena Brander  
Josh Gorman  
John Rab, Alternate

**Staff Present:**

John Rogers, Acting Health Director

**Members Not Present:**

Louise Zerba, Alternate

**I. Introduction of Board Members**

Chair Stout called the meeting to order at 6:30 PM and introduced members of the Board.

**II. Minutes of the Previous Meeting**

Mr. Gorman noted a change on page 8, third paragraph “Mr. Gorham” should be changed to “Mr. Gorman”.

Chair Stout noted a change on page 8, last paragraph “Chair Pro Tem” should be changed to “Chair Stout”.

Mr. Gorman made a motion to accept the minutes from February 7, 2017 as amended. The motion was seconded by Mr. Rab, which carried unanimously.

**III. Unfinished Business: None**

**IV. Hearings**

**ZBA 17-02:/ Petitioner, Brickstone Land Use Consultants, LLC of 185 Winchester Street, Keene, NH, requests a Variance for property located at 143 West Street, Keene, Tax Map Parcel #002-02-012, which is in the Office District and owned by 143 West Street, LLC of 143 West Street, Keene. The Petitioner requests a Variance to permit a mix of uses on a single lot in the Office District per Section 102-573, Permitted Uses in the Zoning Ordinance.**

Mr. Rogers explained that the location of the property was on the corner of Colorado Street and West Street. He noted that the property was in the Office District.

Chair Stout recognized David Bergeron, Brickstone Land Use Consultants, LLC, Keene, NH. Mr. Bergeron stated that he was representing the owner, Charlie Donahue. He

presented the Board with the existing condition plans. Mr. Bergeron indicated that the location of the property was located along the corner of West Street and Colorado Street. He stated that the brick house located on the property was built approximately in 1837. Mr. Bergeron continued to describe that the property had a circular driveway, an ADA wheelchair ramp and that there are large trees in certain sections of the property.

Mr. Bergeron stated that the Variance request was a proposal to add another building to the rear of the existing building. He said that the additional building would be a carriage shed that would be used as a single family residence. Mr. Bergeron stated that the residence would be located on the second floor of the building and the first floor would be used as a garage as well as storage space. He explained that there would be no basement in this section of the house and this was the reason why the first floor was to be utilized as storage space.

Mr. Bergeron stated that the existing parking spaces for the business are located in the rear of the property and would be configured to accommodate the addition.

He continued, to present the proposed addition plan. Mr. Bergeron indicated that the proposed carriage shed would be built on the back section of the existing building and would face Colorado Street. He explained that under the second floor there were three garage doors and two of those spaces would be used as garage space. Mr. Bergeron noted that the third space was not large enough for a car and that some of the space on the second floor would be taken up by mechanical equipment.

Mr. Bergeron reviewed the criteria:

- He stated that the request was a mix of uses on a single lot. Mr. Bergeron said that the Variance request was to add residential to the existing office use on the lot. He stated that even though it was a mixed use on the lot, both office and residential are allowed uses in the Office District. Mr. Bergeron stated that the properties in the area were mixed. He noted that the commercial properties directly across the street were People's Bank and Friendly's. Mr. Bergeron stated to the west of the property there were other commercial uses and to the rear and east of the property there were residential uses and other offices. He stated directly abutting the property was a mixture of commercial office and residential uses. Mr. Bergeron explained that the proposed plan would be the same type of use on one lot, which would be a mixture of office and residential. He noted that this already mimicked what was already in the area of the property. Mr. Bergeron stated that it would not be contrary to the public interest because the two uses are allowed in the district as well as the fact that the neighborhood was an area of mixed uses.
- Mr. Bergeron stated that it would not be contrary to the Spirit of the Ordinance because the two uses are allowed in the Office District. He explained that the City of Keene's Master Plan specifically recognized in the chapter, "Future Land Use & Policy" a section for Mixed-Use Commercial Areas and identified West Street as an area where "Mixed-Use on each lot and within buildings are strongly encouraged".
- He stated that granting the Variance would do substantial justice because it would allow use of the property that is consistent with the character of the neighborhood.

- Mr. Bergeron explained that the office use and residential use were both low intensity uses. He stated that it would also allow the owner of the property to live and work within walking distance to downtown.
- Mr. Bergeron stated that the proposed use would not diminish surrounding property values because the surrounding area is already a mix of uses. He explained that residential use was an allowed use in the Office District.
  - He stated no fair relationship exists between the general purposes of the Zoning Ordinance and the restriction of mixed use in the Office District. Mr. Bergeron stated that the Office District allows both residential and office use as permitted and that the surrounding uses are a mix of commercial and residential uses. He said that it would not negatively affect the neighborhood due to the low-intensity use. Mr. Bergeron noted that it was also in keeping with the Keene Master Plan, as an area that should see a mix of uses on individual lots.
  - He stated that the proposed use is a reasonable one because the surrounding area is mixed-use. The addition of the residence attached to the existing office will allow the owner to live and work in downtown Keene and will not alter the characteristics of the neighborhood. Mr. Bergeron stated the building was designed to fit into the neighborhood. He noted that the owner had done a substantial amount of work on the property to bring it to the condition that it is in today. Mr. Bergeron stated that the addition was designed in keeping with the look of the building and to add a carriage shed. He explained that a carriage shed was on the building at one point in the past. The carriage shed is adding to the structure what would have been on the building at one time in the past.
  - Mr. Bergeron stated that the addition of the residence attached to the existing office will allow the owner to live and work in downtown. Allowing the mix of uses on the property would be in keeping with the Keene Master Plan. He stated that, without the Variance, the owner would not be able to use his property in a reasonable manner based on its unique setting in a unique neighborhood of mixed uses that included commercial and residential uses. Mr. Bergeron stated that it was reasonable for the owner to be able to use the property in a manner to add that residence, which is a low-intensity use and is a reasonable use given the fact that those uses are allowed in that district. He concluded stating that the proposed plan did reflect the character of the neighborhood.

Chair Stout asked if the mixed use was approved, would it carry on past the current owner. Mr. Bergeron replied in the affirmative. Chair Stout asked if it carried on in the sense of allowing a residential use, mixed with office or was the mixed use broader. Mr. Bergeron replied that, with the Variance, they were specifically requesting to allow a residence attached to an office. Mr. Bergeron stated something other than that request would be much more of an intense use and would not be in character with the Variance request. Chair Stout stated that Mr. Bergeron would probably be reluctant to see a condition outlining the mixed use restricted to only residential use. Mr. Rogers referenced the permitted uses in the Office District from the Zoning Code of Ordinances as follows: nursery or childcare facility, senior center, institutional use, home occupation, funeral parlor, single family and multifamily.

Mr. Bergeron stated that primarily they were asking for a Variance for the mixed use to allow a residential use. He noted that the office use was already an existing use.

Chair Stout welcomed public comment.

Charlie Donahue, 143 West Street, Keene, NH spoke in support of the application. Mr. Donahue stated that he bought the property in 1996. He explained that long before he became a lawyer he was a national park ranger in Lowell, MA. He explained that historical renovation and preservation ran deep in his blood. Mr. Donahue stated that if anyone was familiar with the property, it would show the great lengths he had gone to in order to keep the property historically accurate. He explained that by looking at an old map of the City of Keene in 1836 or 1837, people would see a picture of his property with a carriage house. Mr. Donahue noted that over the years the property fell into disrepair.

He stated when he bought the house in 1996 he remembered standing in the back yard thinking about the beauty of the lot. Mr. Donahue explained that his desire is to be historically accurate. He stated that he wanted the property to be first class and really nice.

Mr. Donahue explained that his office was located at this property and now he and his wife wanted to live close to downtown. He stated that he appreciated the concerns of Chair Stout, but did not want anyone to think this plan was something to be turned around quickly and then turned into retail. Mr. Donahue stated that what he was proposing would make the City proud.

Mr. Rab asked if the Variance request was to generally use the property as a mixed use, not limiting it to a residential use with an office use. Mr. Donahue replied in the affirmative. Mr. Rab stated that it was also a general request for a mixed use to change over time. Mr. Donahue stated that he understood and that if it was tied to anything more than what they were looking to do, it was reasonable someone would have to come back before the ZBA. Chair Stout stated that in order for that to be accomplished the Board would need to add in a condition at the end of the Variance, stipulating the specific mixed use required. Mr. Donahue stated that was a reasonable concern.

With no further public comment, Chair Stout closed the public hearing.

Mr. Stevens made a motion to approve ZBA 17-02, which was seconded by Mr. Rab.

*Granting the Variance would not be contrary to the public interest:*

Mr. Gorman stated that the proposed use was validated by the surrounding properties. He stated that the area already consisted of a mixed use and residential and would not be contrary to public interest. Mr. Stevens stated that he would agree with Mr. Gorman that the proposed addition would blend in well with what was already located on the property. He stated that, by adding the single family residential unit, the characteristics of the neighborhood would not change. Mr. Rab stated that the proposed plan would also maintain the character of the property. Chair Stout stated that he was impressed that the

plan seemed to fall in line with the City's Master Plan. He noted that the property was an attractive part of West Street.

*If the Variance were granted, the Spirit of the Ordinance would be observed:*

Mr. Stevens stated that the proposed plan fit right in with the Spirit of the Ordinance. Mr. Rab stated that both uses were already permitted in the district one way or the other. Mr. Stout stated that there was quite a lot of other mixed use in the area.

*Granting the Variance would do substantial justice:*

Mr. Stevens stated that it was a reasonable request to put another dwelling on the property in which to live and the proposed plan was the only way to accomplish that plan. He stated that, to not allow the request, would be a bigger harm to the land owner than any gain by the City. Chair Stout stated that he would agree with Mr. Stevens and that he found it interesting that there was a carriage house on the property at one time. He said that in a sense it could be considered honoring the history of the property.

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

Mr. Gorman stated that if anything, it would add aesthetically to the property and in return benefit the abutters. Mr. Rab stated that it was common sense that the proposed plan does not diminish the surrounding properties.

*Unnecessary Hardship*

*E. 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:*  
*ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property:*

Mr. Rab stated the proposal clearly meets all of the requirements of an unnecessary hardship. Mr. Stevens stated he agreed with Mr. Rab.

Chair Stout reviewed the Findings of Fact:

*Granting the Variance would not be contrary to the public interest:* Granted 5-0

*If the Variance were granted, the spirit of the Ordinance would be observed:* Granted 5-0

*Granting the Variance would do substantial justice:* Granted 5-0

*If the Variance were granted, the values of the surrounding properties would not be diminished:* Granted 5-0

*Unnecessary Hardship*

*E. 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:*

*ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property: Granted 5-0*

*x. The proposed use is a reasonable one: Granted 5-0*

With a vote of 5-0, The Zoning Board of Adjustment approved ZBA 17-02.

**ZBA 17-03:/ Petitioner, Brickstone Land Use Consultants, LLC of 185 Winchester Street, Keene, NH, requests a Variance for property located at 143 West Street, Keene, Tax Map Parcel #002-02-012, which is in the Office District and owned by 143 West Street, LLC of 143 West Street, Keene. The Petitioner requests a Variance to permit twelve parking spaces where sixteen spaces are required per Section 102-793, Minimum Parking Requirements of the Zoning Ordinance.**

Mr. Rogers explained that the application was the same property as discussed in the first hearing. He explained that the existing and proposed conditions for the parking spaces were provided in the packet that was given to the Board. Mr. Rogers stated that the applicant based their calculations on the current office and the proposed residential unit, where it was required to have the sixteen parking spaces. He noted that the proposal called for twelve parking spaces.

Chair Stout recognized David Bergeron, Brickstone Land Use Consultants, LLC, Keene, NH. Mr. Bergeron presented the exiting condition plan, indicating the location of the parking spaces in reference to the location of West Street and Colorado Street. He stated that there were currently six or seven parking spaces that had served the building for the past nineteen years and was adequate. Mr. Bergeron noted that the applicant had been in business at this location for nineteen years and that the parking had been adequate for the business. He stated that, because of the proposed change, they were looking at what was actually needed for parking spaces in terms of use.

Mr. Bergeron stated that the proposal was to add an addition to the back of the building that would take up some of the parking spaces in order to accomplish the proposed plan. He explained that they would need to widen an area in the rear of the property to make room for the additional parking spaces. Mr. Bergeron explained that there were several large trees on the property and the plan was keep the trees intact. Mr. Bergeron stated they would also be turning parts of the property into green space. He stated that the goal was to keep the green space in the front along West Street. Mr. Bergeron explained that the area of the property was really the only section on West Street where houses from the 1800's still existed.

Mr. Bergeron reviewed the criteria:

- Mr. Bergeron stated that the brick building was constructed in 1837 and since a residence was added there was a need for additional parking. The business at the building currently has a total of three employees and has been in this location for over 19 years. He stated the client traffic involved one or two visits per week. Therefore, the day to day parking requirements were for four spaces plus the two additional parking spaces for the residents. Mr. Bergeron stated the requirement

for this particular office use was for about six spaces. He stated that having the smaller parking lot would be in the interest of the public because it will keep the parking off the street, away from West Street and will maintain the streetscape of the historical building. Mr. Bergeron stated that more spaces are needed for larger client meetings and the twelve spaces would completely be able to handle the use on the site.

- Mr. Bergeron stated that the use is not contrary to the Spirit of the Ordinance because the minimum parking requirements were established so that individual uses would provide adequate off-street parking for their use and to protect public safety. He explained that the business had existed at this site for almost 20 years and, on a continual basis, needed far less parking spaces than the number required by zoning.
- He stated that granting the Variance would do substantial justice because the existing parking requirement in the Zoning Ordinance does not recognize that some offices are less intense than others and do not require the same number of parking spaces. Mr. Bergeron stated that they used the Institute of Traffic Engineers (ITE), which put out a Parking Generation Manual, land use category 711 - General Office Building. Mr. Bergeron reported that the average rate of parking spaces used by an office is 2.79 spaces per 1,000 square feet of gross floor area. He further stated that based on this information for the office space in this building that would equal eight parking spaces. Mr. Bergeron stated there are a total of twelve parking spaces proposed for the office use and the residence. He explained it was just and fair to allow the desired use of the property in a manner consistent with the actual needs of the business and residence.
- Mr. Bergeron stated that the proposed use would not diminish surrounding property values because the proposed use is permitted in the Office District and has been at this location for over 19 years. He stated that the property has always been well maintained in appearance and is an asset to the neighborhood. Mr. Bergeron stated that the addition of the residence will not significantly increase traffic, and there will be sufficient spaces on site for the office and the residential use. He stated that allowing the smaller parking lot will be more in keeping with abutting residential properties, and the smaller parking lot would be less likely to diminished property values than a larger one.
- Mr. Bergeron stated that no fair and substantial relationship exists between the general public purposes of the ordinance provisions and the specific application. He stated that the provision to the property based on the parking requirement for uses falls under the category of Office and Residential in Section 102-793 of the Keene Zoning Ordinance. Mr. Bergeron stated that the business has existed at the location for 19 years and has functioned safely and efficiently with much less parking than required by the Keene Zoning Ordinance. He stated that the estimated need for their parking was based on the number of employees in the building and the number of clients at any given time.
- Mr. Bergeron stated that the proposed use was a reasonable one because the proposed parking would meet the needs of the business. He stated there was no need for the additional parking spaces to be added to the site.

- Mr. Bergeron stated that the property is one of the few remaining historic structures along this section of West Street and is the center property between two other significant buildings. He said granting the Variance would keep the parking lot small and to the rear of the lot, thereby preserving the streetscape along West Street. In addition, Mr. Bergeron the plan will preserve some of the large trees on the lot that otherwise would likely need to be removed.

Chair Stout asked for the square footage of the office space. Mr. Rogers stated that according to the plan the office space was 2,866 square feet.

Chair Stout stated that he voiced his concern that if approved, the Variance would carry over to the next owner. He said that the Board should also take this into consideration.

Mr. Rogers stated that with the previous Variance request, that if there was a change of use that occurred at the property, the owner would need to come back before the ZBA. Chair Stout asked if there was a minimum size requirement for a single office in an office building. Mr. Rogers replied that there was not a minimum size requirement.

Chair Stout asked if anyone wanted to speak in support or opposition. Hearing none, Chair Stout closed the public meeting.

Mr. Gorman made motion to approve ZBA 17-03, which was seconded by Mr. Stevens.

*Granting the Variance would not be contrary to the public interest:*

Mr. Stevens stated it would be in the public interest to prevent overcrowding and overflow parking on the street. He said the only other way to achieve the additional parking would be to cut the trees down and move the parking to the front of the building. Mr. Stevens stated that cutting the trees down would be a shame and thought that would be counter to the public interest.

Chair Stout stated that he would concur with Mr. Stevens. Chair Stout said he thought the addition of green space was a major improvement.

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

Mr. Stevens reiterated that the Variance would prevent overcrowding and overflow parking on the streets.

*Granting the Variance would do substantial justice:*

Mr. Stevens stated that the twelve parking spaces seemed to be more than adequate for the property and its uses. He said to require the move of parking to the front of the building and removal of tree would be a shame and totally unnecessary.

Mr. Gorman stated that it should be noted that the applicant was increasing the number of parking spaces while maintaining green space.

*Unnecessary Hardship*

*E. 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:*



*ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property:*  
Granted 5-0

*x. The proposed use is a reasonable one:* Granted 5-0

Chair Stout stated that to not allow the mixed use would be a bit of a hardship. He said there was potential in some sense to restore the property to where it was before. In his opinion, he viewed this as an improvement.

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

Mr. Stevens stated that this would not have an effect positively or negatively. He continued, that one could argue that removing the trees and adding front greenspace would reduce property value. Mr. Stevens stated that he did not see a problem with the Variance request at all.

On a vote of 5-0, The Zoning Board of Adjustment approved ZBA 17-03.

**ZBA 17-04:/ Petitioner, Heather Pelow of 186 Tory Hill Road, Langdon, NH, requests a Variance for property located at 45 Summer Street, Keene, Tax Map Parcel #001-05-013, which is in the Office District and owned by Timothy O'Meara of 11 Leeward Run, South Yarmouth, MA. The Petitioner requests a Variance to permit the change from office/residential to beauty salon/residential where retail service is not permitted (beauty salon) per Section 102-602, Permitted Uses of the Zoning Ordinance.**

Mr. Rogers explained the property was on Summer Street, located between Court Street and School Street. He stated that the building was currently being used as office space with a residential unit. Mr. Rogers stated that the request for a Variance was to permit the change from office/residential to beauty salon/residential while still maintaining the residential unit.

Chair Stout asked if there were any specific square footage requirements for a hair salon. Mr. Rogers replied in the negative.

Mr. Gorman asked what other types of business would fall under retail service. Mr. Rogers replied that a wide range of services were eligible such as a nail salon, barber shop or a musical instrument repairs shop. He noted that most retail services would have small accessory type retail sales. Mr. Gorman asked if the primary use would be service related and not sales. Mr. Rogers replied in the affirmative.

Chair Stout recognized Heather Pelow of 186 Tory Hill Road, Langdon, NH. Ms. Pelow stated that she has been a business owner for 17 years. She explained that she currently rents and would love to invest in her own property. Ms. Pelow stated that she was partial to this property because of the location.

She explained that there were other businesses in that area that she felt her business could compare to such as a lawyer's office and doctor's office. Ms. Pelow said she conducted

her business in the same manner as these offices and all appointments were to be by appointment and that it was very unlikely for walk-ins. She noted that the traffic coming into the property would only include clients coming to an appointment.

Ms. Pelow reviewed the criteria:

- She stated that granting the Variance would not be contrary to public interest because the property is already established as mixed use. She compared her business as a professional office because they are offering a service just as in the medical field, by appointment.
- Ms. Pelow stated that the Spirit of the Ordinance would be observed because her business is low intensity and she runs a professional business with licensed employees, most whom have been with her for over 10 years. She said that by having clients by appointment she could control the flow of traffic.
- Ms. Pelow stated that the business was currently owned by someone that was not in the area. She said that she only wanted to approve upon the building and there would be no harm to the general public and no benefit to the public by denying the Variance. Ms. Pelow stated that the building needed a lot of improvements and she would be happy to do the renovations.
- She stated that her business would be located in the same interior space as laid out with no exterior changes. Ms. Pelow explained that she would like to make the building and bathroom handicap accessible and bring some of the things with the building up to code.
- Ms. Pelow stated that the special condition of the property is the small size. She explained that her business was currently in West Keene and was looking to have a smaller footprint for herself and her employees.

Mr. Rab stated that the tough things with Variances, especially Use Variances, were in the meeting of the unnecessary hardship criteria. He asked Ms. Pelow to elaborate more on that area.

Ms. Pelow stated that she felt her request met the zoning requirements and that she could understand how parking would be considered an issue. She explained that her business would be allowed six parking spaces in the back of the building. She explained that she spoke with the person in charge of 53 Summer Street and he had offered to lease her additional parking spaces that were not used.

Ms. Pelow stated that she did not know if parking was the issue with zoning for the hair salon. Mr. Rogers stated that based on the plan there would be adequate parking.

Mr. Stevens explained to Ms. Pelow that the Variance was requesting a change from office use to a service use and without the Variance she would not be allowed to have a residential and retail service use at the same time. Ms. Pelow stated that she understood but when she looked at Summer Street there is a doctor's office that operated with appointments. She noted that the doctor's office also had clients coming and going.

Mr. Gorman asked if Ms. Pelow was familiar with any other retail services that existed within the Office District. Ms. Pelow replied that she thought Devine Back and Body Care were in the same district.

Mr. Rab asked Mr. Rogers if a professional office was allowed in the Office District. Mr. Rogers replied in the affirmative. Mr. Rab asked if the retail service was not allowed in that district. Mr. Rogers replied in the affirmative. Ms. Pelow stated that very rarely do clients come into the salon to buy hair products.

Mr. Gorman stated that it was important to note that the Variance goes with the property and was part of the bigger picture. Mr. Stevens asked if the podiatrist across the street qualified as a professional office. Mr. Rogers replied that with most of the professional offices, one would see doctor's offices, lawyer's offices and state licensed type professions as opposed to a retail service.

Mr. Stevens asked if the term retail service had anything to do with the fact that the salon would be selling shampoos or if the hairdressing service itself was considered the retail service. Mr. Rogers replied that the hair cut service was provided on a retail basis.

Chair Stout asked what the distinction was between a doctor's office and the applicant's request. Mr. Rogers replied that he was not sure on how to respond without a clear definition.

Mr. Gorman asked what the scope of enforcement would be if stringency was placed on a Variance. Mr. Stout replied that compliance would only work if a complaint it was reported.

Mr. Rogers stated that there was not a definition of retail services in the Zoning Ordinances and that was part of the problem. He explained that the Land Use Codes were in the process of being updated. Mr. Rab stated that he was intrigued that there was not a clear definition of a professional office or a retail service.

Chair Stout opened the public hearing and welcomed public comment.

Mr. Stevens read a handwritten letter from Carol Sawyer, 38 Middle Street, Keene, NH, dated January 3, 2107 that read, "*No objection to this zoning change request*".

Anthony Tremblay of 67 Summer Street, Keene, NH referred to the point Mr. Gorman made about how the Variance would travel with the property. He asked the Board to think about how granting this Variance could impact the neighborhood in the future. Mr. Tremblay stated that this potentially could open the door to a substantial change in this historic neighborhood.

Mr. Tremblay stated that he lived in the Jonathan Daniel's family home and that it was considered historic. He said that granting this particular Variance was potentially opening up a can of worms in that neighborhood.

Chair Stout stated in his opinion the nature of a Variance is such that it does not necessarily set precedence. He said that there is an argument that there might be another person who comes before the ZBA for a Variance who might site a neighboring building that has similar function. Mr. Stout stated by no means is the ZBA obligated to approve another Variance based on surrounding properties.

John Norton of 109 School Street, Keene, NH stated that he had an answer to Mr. Rab's question about the definition of a professional office. He stated there is no definition of a professional office but there is a definition of office. Mr. Norton read the definition from the Zoning Ordinance Section 102-2 as follows, "*the building, room or series of rooms in which the affairs of a business, profession or branch of government are conducted*". He said that there was no definition of retail sales or services listed anywhere in the Zoning Code.

Mr. Norton said that the Office District was weird and came about 15-20 years ago. He stated that the Office District created a separate and special zone intended as a buffer zone. Mr. Norton stated that the intent of the Office District was to provide for noncommercial use within walking distance to the downtown area. He said that the uses were intended to be low intensity such as professional offices. Mr. Norton stated that historically, professional offices were considered doctor and lawyer offices.

Mr. Norton said to his knowledge there were no retail services in the Office District. He stated that this became very important because a use was trying to be put in place that was clearly not permitted in the Office District.

Mr. Norton stated that retail sales and services do have permitted districts. He listed the districts as follows: Central Business, Central Business Limited, Commerce and Commerce Limited.

He said that it was important that the zoning structure had a place for retail sales and services. Mr. Norton stated that what was proposed by the applicant was wonderful from a personal point of view but from a zoning point of view it was absolutely abhorrent. He explained that the particular business of retail sales and services is simply not permitted in the Office District.

Mr. Norton some history of the property was also fairly important. He stated that he was interested in purchasing the property at one time and reviewed the file with the City's Plans Examiner, Gary Schneider to find out more information. Mr. Norton reported that in 1995, there was a building permit issued to do renovations on a residential, two-office space. Mr. Norton stated that he found a Variance request to expand the residential unit into two residential units. He reported this was ZBA 99-05 and that it was unanimously denied by the ZBA Board on May 3, 1999.

Mr. Norton said he wanted to review the criteria and began with the unnecessary hardship. He noted the unnecessary hardship was known as the key to any Variance. Mr. Norton stated that in this particular case there was absolutely no valid legal reason to even consider the application as a hardship because there is a reasonable permitted use in existence.

Mr. Norton said inserting sales or retail services into the Office District was basically destroying the Office District altogether and adding a whole new complex that was never intended. He said a vapor shop or a head shop was considered retail sales and services. He asked the Board if they wanted that to occur on Summer Street in an Office District. Mr. Stevens asked if Mr. Norton's statement of retail was accurate. Mr. Rogers replied

that the wording of the Variance that the applicant is asking for specifically does call out retail service and not sales. He said there could be some of the services Mr. Norton stated but that these retail sales would not be allowed as a retail service.

Mr. Rogers stated that Mr. Norton was correct in stating that there were some districts with retail sales/services and that there would be some separation looked at from the zoning side. Mr. Rogers stated that there would be a difference in retail sales such as a convenience store in that location. He said that there could be a condition placed on the Variance.

Mr. Norton stated that he would have a question on any condition that was put on retail sales and/or services. He said that he believed the ZBA would be opening the door for other retailers. Mr. Norton referenced the idea of a tattoo parlor coming into the Office District in a residential setting.

Mr. Norton stated that he urged the Board to follow what he thinks is required under the Zoning Code to deny the requested Variance no matter how much the applicants proposal was liked. He concluded, stating he believed approving the Variance would affect the neighboring property sales.

Chair Stout asked if there was anyone else that wanted to speak in support or opposition of the proposed.

Mr. Rab announced that he needed a ruling from Chair Stout because he did not realize Mr. Norton would be testifying in opposition of the application. He said that if he had known this beforehand, he would have disqualified himself. Mr. Rab stated that Mr., Norton was a longtime ZBA member and that they were good friends. He said that he was aware that he was supposed to disqualify himself before the opening of a public hearing but he did not realize Mr. Norton would be testifying prior to the start of the hearing.

Mr. Rab asked if he should be disqualified at this point, abstain from voting or disqualify himself and if so, would the applicant be entitled to a five member board. Chair Stout asked Mr. Rab if he benefited financially. Mr. Rab replied no, but felt that he could not sit in as an impartial juror.

Mr. Rab apologized to the applicant for bringing this information up at this time during the hearing.

Chair Stout explained that the City tries very hard to make sure if an applicant who wants five votes from the board would get five votes. Ms. Pelow stated that she did not come to meeting last month because she wanted five votes.

Mr. Stevens stated that it would be wise if Mr. Rab recused himself. Mr. Norton stated that he was not aware Mr. Rab was a member of the ZBA.

Chair Stout stated that the Board would have to vote in order to determine if Mr. Rab should be recused. He said after that point the Board would have to offer the applicant the chance to be heard again. Mr. Rogers stated it would be the Board's prerogative to offer a

five member Board. He noted that the Board could also make the decision to move forward with a four member vote.

Mr. Stevens stated that the applicant already postponed this application in anticipation of a five member Board and the applicant has shown that was important to her.

Chair Stout closed the public hearing to vote on recusing Mr. Rab.

Chair Stout stated that Mr. Rab firmly stated that he felt he was in conflict. Chair Stout made a motion to recuse Mr. Rab; the motion was seconded by Mr. Gorman. On a vote of 4-0, the Board recused Mr. Rab who removed himself from the table.

Chair Stout reopened the public hearing.

Chair Stout asked the applicant if she wanted to move forward with a four member vote. Ms. Pelow replied that she wanted to move forward with the four votes. Ms. Pelow asked what would happen if there was a tie. Chair Stout explained that she would have to get a majority of the Board and that she would have a better chance with five votes versus four votes. He said that he wanted the applicant to be absolutely clear that it was the prerogative of the City of Keene to let her have the five votes. Chair Stout stated that he did not want her to leave thinking it could have gone a different way. Ms. Pelow replied that she was fine proceeding with the four votes.

Katie Beam of 4 Eaton Road, Walpole, NH stated that she was Ms. Pelow's real estate agent and was licensed in New Hampshire. Ms. Beam said that Ms. Pelow wanted to buy a property to pursue her dreams of owning a salon in Keene. She explained that Ms. Pelow had a lot of clients in town and wanted to find a salon that was located in Keene. Ms. Beam reported that Ms. Pelow had won many awards and was known as a good business owner in the community.

Ms. Beam stated that she came across the building on Summer Street and that it occurred to her that the same type of services were happening in that area. She explained that there was an attorney located in the same area where people would make appointments, pay for their services and then leave.

Ms. Beam stated she was also a customer of Ms. Pelow's for ten years. She explained that she calls Ms. Pelow to make an appointment, goes to the appointment and then pays for services received. Ms. Beam stated that there was a small amount of retail in the salon and that very few people visited the salon just for retail.

Ms. Beam stated that she heard a lot of concerns expressed by the last speaker over use of the property after Ms. Pelow's ownership of the property. She said she had not heard anyone talk about what was happening to the property at the current time. Ms. Beam stated that the property was dilapidated and has been for sale over a year and half. She reported that the building was not up to code, that the electrical needed to be updated and that there were also some fire hazards. Ms. Beam noted that there was the potential the whole building could burn down.

She said that the current owner does not live in town and that he was not watching the property. Ms. Beam stated that the last time she was at the property broken glass was everywhere as a result of vandalism.

Ms. Beam stated that instead of worrying about what was going to happen in forty years, it was more important to look at the potential in trying to improve that property. She said that Ms. Pelow loved the historical part of the building and that she has no intentions of changing that. Ms. Beam stated that Ms. Pelow would make the building handicap accessible and change some parts of the interior of the building.

She said that there was not a lot of traffic at the salon's current shop and that she did not foresee any additional traffic at the proposed location.

Ms. Beam stated that she did look at the zoning in Keene and it did appear that Devine, Back and Body Care was in a comparable use. She said that she did not see the difference.

Ms. Brander asked what type of services Devine, Back and Body Care provided. Ms. Beam said they provided massages, facials, nails and pedicures. Ms. Brander asked if this property was in the Office District. Mr. Rogers replied that he believed Devine Back and Body Care is located in the Office District.

Barbara Tremblay of 67 Summer Street, Keene, NH stated that she was born and raised in Keene. Ms. Tremblay stated that her and her husband bought the Daniels House in 1984. She noted that the house needed a lot work.

Mrs. Tremblay explained that one of the reasons they bought the house was to bring it back to its former state. She explained that Summer Street was the home of many doctors who would also provide their services out of their homes. Mrs. Tremblay stated that it was appalling that there was even a discussion about the difference between office residential and retail space. She said that this beautiful street was a historic area in Keene that should be preserved. Mrs. Tremblay stated that the City does need to preserve some of the elements many of the residents of Keene live in the City for and that are what makes Keene a great place to live. She reported that she is a former member of the Rindge Zoning Board and that such thing as office, residential and retail sales and services were made very clear back then. Mrs. Tremblay thanked the Board for their time.

Mr. Stevens stated that, for the record, he wanted it to be clear that the application was not talking about retail sales but talking about retail services. Mrs. Tremblay stated that if this was not made clear what would happen in 10, 20 or 30 years.

With no further comment, Chair Stout closed public hearing.

Mr. Stevens asked Mr. Rogers if in the past if there had been any approvals granted with a narrow focus to a hair salon. Mr. Rogers said he was unaware of such approvals but that the Board could put conditions on the Variance.

Chair Stout stated that the Board did have the option to continue the hearing in order to ask the Zoning Department to find out if there were other situations in the Office District similar to this application. Mr. Gorman asked if it would be possible to resolve what seems to be some level of ambiguity in terms of retail service and its limitations. Chair Stout replied he did not believe that could be done at this time.

Ms. Brander asked why retail service was not part of the Office District. Chair Stout replied that retail sales service is not allowed as a use in the Office District. Mr. Gorman stated that there was not a definition of this use. Chair Stout explained that as a Zoning Board they were confined to sticking to what the Board has to work with and have to vote based on what the Ordinance calls to support.

Ms. Brander stated that where it does not appear to have been specifically disallowed that there are other zones in which office use was specifically permitted to have retail sales services. She said that in her opinion that does imply a distinction. Ms. Brander said it appears retail services and sales might not be subcategories of offices because in some cases both offices and retail sales services are permitted. She stated, based on the definition of offices, it seems that retail sales and services could be included but because of the way it is used, she was able to determine there was an intention to distinguish between office and retail sales and services.

Ms. Brander made a motion to approve ZBA 17-04; the motion was seconded by Chair Stout.

*Granting the Variance would not be contrary to the public interest:*

Chair Stout stated that the Board had heard vocal opposition from people in the neighborhood and when that occurs, the Board has to pay attention. He said that there was vagueness between retail sales and services and office use. Chair Stout stated that this made him uncomfortable and he could not support the application.

Mr. Stevens said he was in support of the application and did not see the difference between the retail sales and service and office use. He used the example of the podiatrist a few doors down. Mr. Stevens stated that he did not see a large enough difference between retail sales and service and an office of a podiatrist. Mr. Gorman stated that he would agree with Mr. Stevens on the part that the specific application is not going to damage public interest, especially by putting contingencies relative to of appointment only visits. However, Mr. Gorman said the sticking point was that the Board was not approving a hair salon but was approving something far greater. He said that he needed more information about what retail sales and serviced is and what it means.

Chair Stout stated in his view, having heard both sides of the situation, there was some fairly knowledgeable testimony opposing the application. Ms. Brander stated in one particular district there is a permitted use of home occupation in the Office District. She referenced the Zone Ordinance, Section 102, Article 5, Division 5, Category 8 as follows *“Retail sales as a primary home occupation that attracts customers to the residence to purchase articles/goods is not permitted. Retail sales that are accessory to a home occupation, such as a beauty salon selling hair care products, is permitted. Retail sales*



*where the customers do not visit the residence is permitted, such as sales over the Internet and the goods are shipped either from the residence or another location”.*

Ms. Brander stated that based on this information she has an understanding that a hair salon such as the application, with an accessory retail sales is what she would consider a retail service. She noted that the information she provided referenced retail sales and not retail services.

Chair Stout stated that it was not just a question of public interest but also if the Office District was being observed. Ms. Brander stated that she does not feel if the Variance were granted it would be contrary to public interest. She said that she would compare it to other businesses in the area.

Mr. Stevens stated, based on the information from Mr. Rogers referencing a bong shop, there is used that clearly do not fit into that location. Mr. Rogers stated that the bong shop example would be considered as retail sales and that it should be clear that the applicant was asking for a retail service.

Mr. Gorman stated that a good means of separating a potential bong shop from a potential hair salon is the appointment-only stipulation. He recommended if the Board moved forward with the Variance it put a condition requiring “by appointment only”. Mr. Stevens stated that might be something someone could try to get around by having a fake appointment book.

Chair Stout stated that he believed that the Board all agreed that the hair salon was a retail service but that the Board did not have a definition of retail services. He said that if the Board granted a Variance that it would transfer to future owners without full knowledge of their potential uses. Chair Stout noted that the Board would not be doing their job. He recommended withdrawing the motion, because a delay is better than negative vote. Mr. Stevens asked what if the Board approved this particular application for a beauty salon use only. There was a question as to whether or not that could occur as this is a retail service use with no clear definition. Ms. Brander stated that the beauty salon would be defined as a retail service.

*If the Variance were granted, the Spirit of the Ordinance would be observed:*

Mr. Stevens stated that the Spirit of the Ordinance would be to keep control of what type of traffic visited this type of business. He stated that the hair salon would be considered as a low intensity use.

Chair Stout stated that he was unsure about how many clients there would be at once and felt that was something that the Board should know. Ms. Brander said she heard testimony that the most customers at a time would be five.

Mr. Stevens asked about the parking spaces. Mr. Rogers referred to the diagram provided to the Board that showed there was an easement with eight spots on the backside of property as well as a driveway for residential parking. Mr. Stevens asked what the parking requirements were for a hair salon. Mr. Rogers replied that it would be based on the retail numbers that would be there and would be one per two hundred square feet.

Chair Stout stated that the Board needed more information about the square footage of the building and the definition of retail services. He said that he would like more information on square footage and the maximum number of clients before he could vote in the positive.

Ms. Brander made a motion to withdraw the motion and to reopen the public hearing. The motion was seconded by Chair Stout.

Chair Stout reopened the public hearing.

Katie Beam of 4 Eaton Road, Walpole, New Hampshire stated that the square footage for just the office space was 1,336 square feet. Mr. Gorman asked if that was the current square footage number or the proposed. Ms. Beam replied that the square footage number was the current and that the square footage would remain the same with the proposal. Ms. Pelow stated that the building structure would stay the same and she would only be doing cosmetics to the building.

Mr. Stevens asked how many chairs would be in hair salon. Ms. Pelow replied there would be four chairs. Chair Stout asked, based on four chairs, how many people would in the salon at one time. Ms. Pelow replied at the most there would six customers. Chair Stout asked if there would be 8-10 cars at one time counting employees. Ms. Pelow replied in the affirmative.

With no further comment, Chair Stout closed the public hearing.

Ms. Brander made a motion to approve ZBA 17-04; the motion was seconded by Chair Stout.

Chair Stout reviewed the five criteria.

*Granting the Variance would not be contrary to public interest:*

Mr. Stevens stated for the record his previous statement about this category remained the same. Ms. Brander stated that her comments would also remain as stated.

*If the Variance were granted, the Spirit of the Ordinance would be observed:*

Mr. Stevens stated for the record his previous statement about this category remained the same. Ms. Brander stated that her comments would also remain as stated.

*Granting the Variance would do substantial justice:*

Mr. Stevens stated that in this case it would do substantial justice to grant the Variance since it seemed that the use was already in that area. He continued, if it was correct that Devine, Back and Body Care was an identical use than it does fit into the area. Ms. Brander stated that she agreed with Mr. Stevens that it would do substantial justice to grant the variance.

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

Mr. Stevens stated that there was no evidence that the proposed application would diminish the surrounding property values.

*Unnecessary Hardship*

*E. 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:*

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

*x. The proposed use is a reasonable one:*

Mr. Stevens stated that this hardship category was the hardest one of the whole Variance application to meet. He said that the size of the property is a problem for the area. Mr. Stevens stated that it was a good spot for an office and the size of the building was not seen as a problem for offices.

Chair Stout reminded the Board that the applicant has recourse after the hearing for an appeal. He referenced the Zoning Board of Adjustment’s Rules of Procedure, stating “that the Board shall deliver a motion for a rehearing within 30 days of the date of the filing of motion, the deliberation by the Board shall not require a public hearing and shall be conducted solely by the Board and based on the contents of the motion. If the Board grants a new motion for a new hearing the new hearing shall be held within 30 days of the decision to grant the rehearing....” Chair Stout stated that would be the next recourse if the applicant decided.

Chair Stout reviewed the Findings of Fact:

*Granting the Variance would not be contrary to the public interest:* Granted 4-0

*If the Variance were granted, the spirit of the Ordinance would be observed:* Granted 4-0

*Granting the Variance would do substantial justice:* Granted 4-0

*If the Variance were granted, the values of the surrounding properties would not be diminished:* Granted 3-1, Chair Stout opposed

*Unnecessary Hardship*

*E. 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:*

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

Granted 4-0

*x. The proposed use is a reasonable one:* Denied 0-4

*a. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. 4-0* Granted

On a vote of 0-4, The Zoning Board of Adjustment denied ZBA 17-06.

Mr. Rab returned to sit on the Board.

**ZBA 17-07:/ Petitioner, Monadnock Brewing Company, Inc. of 17 Bradco Street, Keene, requests a Special Exception for property located at 17 Bradco Street, Keene, Tax Map Parcel #194-01-004, which is in the Industrial District and owned by Tremac Development, LLC of 20 Central Square, Suite 2A, Keene. The Petitioner requests a Special Exception from Section 102-632 Permitted Uses in the Industrial District to permit a brewery with an accessory retail space on the property where a brewer**

Mr. Rogers explained that the property is located at the very end of Bradco Street. He said that this was a permitted use in the Industrial District. Mr. Rogers stated that the application was a Special Exception and not a Variance.

Chair Stout recognized Steve Bonnette, owner of Tremac Development, LLC, which owns 17 Bradco Street. Mr. Bonnette stated that 13 months ago there was an application by Monadnock Brewing Company for a Variance for a different property in Keene. He said that was granted and wanted to point out that they were present again because that property did not go through for a number of reasons. Mr. Bonnette explained that Monadnock Brewing was seeking a Special Exception to brew beer, soft drinks and to also have a tasting room where food would be offered. He noted serving food was a good idea any time someone was serving alcohol and was also a requirement of the licensing. Mr. Bonnette stated that there would also be a little retail at the property to sell hats and t-shirts as part of the brewery operations.

Mr. Bonnette stated that Monadnock Brewing would sell the brewery products to the general public and that they were also able to self-distribute in the state of New Hampshire. He noted that the business would also need to apply for a federal license as well as apply for a manufacturer's license in New Hampshire. Mr. Bonnette noted that manufacturing is permitted in the Industrial District and to a large extent that is the process used in the brewery.

Mr. Bonnette reviewed the criteria:

- He stated that the premises have been used in the past for manufacturing. Mr. Bonnette explained that a permitted use in this district is for a home office of a manufacturing firm which includes retailing. He explained that the applicant's use would be permitted in this district and in fact, in the past, the premises had occupants that did manufacturing and retail sales. Mr. Bonnette explained that the brewery would initially occupy the back part of the building, which comprises approximately 4,675 square feet. He said that it was anticipated that the brewery would have 5-10 full time employees. Mr. Bonnette noted that a portion of the building has been vacant for a substantial period of time and there is no current interest, other than the brewery, in renting this space. He stated that the use will improve the property value, create new jobs and add to the City tax base. Mr. Bonnette stated that the premises contains approximately 200 parking spaces, is in

- the Industrial District and is surrounded by various businesses such as AT&T, Hamshaw Lumber, and G.S. Precision. He noted that there were no residences that abut or are in close proximity to the premises.
- Mr. Bonnette stated that the Special Exception to allow for a brewery at the premises would not reduce the value of any property within the district. He explained that the property is zoned Industrial and all of the surrounding properties are businesses. He explained that the operation of the brewery, for the most part, is manufacturing which is permitted in this zone. Also, Mr. Bonnette stated that a permitted use in this zone is a home office of a manufacturing company which includes retailing. He stated that the use would not be injurious, obnoxious or offensive to the neighborhood as there are many businesses in the neighborhood with varied operations. Mr. Bonnette said that in the past, the premises have been used for manufacturing, retail, preparation of food for Meals on Wheels, a gymnasium and a daycare as well as a college. He explained that the premises are situated at the back of Bradco Street and contain approximately 6.87 acres and the brewery would operate, at least initially, in the back part of the building. Mr. Bonnette noted that all manufacturing would be done inside the premises.
  - Mr. Bonnettee stated that there would be no nuisance or serious hazard to vehicles or pedestrians. He explained that the premises are located at the back of Bradco Street and that the brewery traffic would be substantially less than the vehicular traffic from previous occupants of the building. Mr. Bonnette explained that at one point, Franklin Pierce College had approximately 200 students making daily trips to the premises. In addition, Mr. Bonnettee said there was a gymnasium that had approximately 1,400 members making various trips to the premises.
  - Mr. Bonnette stated that the premise does utilize the City of Keene's sewer and water. He continued, stated that the premises are at the back part of Bradco Street and has very limited frontage on Bradco Street. Mr. Bonnette stated that there are approximately 200 parking spaces at the premises and it is anticipated that at any one time, the most spaces utilized by the brewery would be 25-30 spaces.

Mr. Bonnette continued to explain that the Notice did not mention a restaurant but only the manufacturing of the beverages with an accessory space. He mentioned this clarification as manufacturing is a permitted use in this district but a restaurant use is not, hence the reason for a Special Exception. This is also a concern as the State may require clarification for the licenses he will need from them. Mr. Stevens asked if the brewery is part of the license. Mr. Bonnette further explained the various licenses but Monadnock Brewery will be applying for a beverage license which will allow them to manufacture and distribute 15,000 barrels of beer a year and a restaurant license. This will allow them to sell a pint of beer not just a 4 oz. sample which a beverage license allows. Chair Stout asked if there was a seating requirement with tables and chairs. Mr. Bonnette replied that the Tap Room will have enough seating for 20-25 people to sit and enjoy some food because they will be consuming alcohol. Mr. Stevens asked if a brewery complies in the City Code as a restaurant. Mr. Rogers replied that the brewery would be one use and the restaurant would be the accessory use which would be allowed as long as they meet the percentage of space occupied. Mr. Stevens asked if the restaurant is the accessory use is

retail an additional accessory use. Mr. Rogers replied that there could be multiple accessory uses as long as they accumulatively met the 25% of floor space.

Mr. Rab questioned as to whether or not there was a Notice issue as it only states an accessory retail use. Mr. Rogers stated in the negative as long as they met the 25% as what is allowed by the Zoning Code for an accessory use. Mr. Rab commented that the City Staff is comfortable with the wording and Mr. Rogers confirmed.

Mr. Stout questioned that the combined spaces of restaurant and retail cannot exceed the total 25% of floor space and as such, combined is the accessory use. Mr. Rogers confirmed.

Mr. Stevens asked what consisted of accessory use. Mr. Rogers read the definition of accessory use from the Zoning Code as follows “*subordinate use which is located on the same lot as the main use related to it and is a usual or necessary adjunct to the main use*”. Mr. Rogers stated that with a brewery it would make sense to have tap room and some retail sales.

Chair Stout welcomed public comment.

With no comment, Chair Stout closed the public hearing.

Mr. Rab made a motion to approve ZBA 17-07, which was seconded by Mr. Gorman.

*The proposed use is similar to one or more of the uses already authorized in that district and is in an appropriate location for such a use.*

Chair Stout stated that it was already known that a brewery was already permitted with a special exception.

*Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.*

Mr. Stevens stated that it would not decrease values of surrounding properties at all, if anything, it would improve values with having a viable business running. Chair Stout that it would add a little life to that section of town and a good building is being reused and brought up to speed.

*There will be no nuisance or serious hazard to vehicles or pedestrians.*

Chair stated that it was a crazy traffic pattern in that area but not due to the fault of Bradco Street.

*Adequate and appropriate facilities (i.e., sewer, water, street, parking, etc.) will be provided for the proper operation of the proposed use.*

Mr. Rab stated that this application met all of the criteria and was what the Special Exception was for, in terms of this application.

Chair Stout reviewed the Findings of Fact:

*The proposed use is similar to one or more of the uses already authorized in that district and is in an appropriate location for such a use. Granted 5-0*

*Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood. Granted 5-0*

*There will be no nuisance or serious hazard to vehicles or pedestrians. Granted 5-0*

*Adequate and appropriate facilities (i.e., sewer, water, street, parking, etc.) will be provided for the proper operation of the proposed use. Granted 5-0*

On a vote of 5-0, the Zoning Board of Adjustment approved ZBA 17-07.

**V. New Business**

Mr. Rogers stated in the packet provided to the Board there was a draft of the Rules of Procedure for their review. He continued, asking the Board to please provide their comments and feedback to Ms. Marcou. Mr. Rogers explained that this was intended to help clean up the procedures.

Mr. Rogers stated that at the next meeting the Board would vote on adopting the Rules of Procedure. Chair Stout said he was pleased to see this was happening. Mr. Rab asked if Ms. Marcou could email members of the Board the parts that were changed to see what has been revised. Mr. Rogers replied that he would contact her with the request.

**VI. Adjournment**

Hearing no further business, Chair Stout adjourned the meeting at 9:32 PM.

Respectfully submitted by,  
Jennifer Clark, Minute Taker