

City of Keene  
New Hampshire

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

**Monday, May 2, 2016                      6:30 PM                      City Hall, Second Floor Committee Room**

**Members Present:**

Louise Zerba, Chair  
Joseph Hoppock, Vice Chair  
David Curran  
Jeffrey Stevens  
Nathaniel Stout

**Staff Present:**

Gary Schneider, Plans Examiner

**Others Present:**

**Members Absent:**

Josh Gorman, Alternate

**I. Introduction of Board Members-**

Chair Zerba called the meeting to order at 6:30 PM and introduced the Board Members.

**II. Minutes of the Previous Meetings** – April 4, 2016 and April 11, 2016

Mr. Hoppock made a motion to approve the minutes of April 4, 2016. Mr. Curran seconded the motion which carried unanimously.

Mr. Curran made a motion to approve the minutes of April 11, 2016. Mr. Hoppock seconded the motion which carried unanimously.

**III. Unfinished Business** –

**ZBA 16-04/:** Motion for Rehearing presented by Attorney Kelly Dowd, regarding 141 Winchester St., which the Zoning Board of Adjustment approved on March 7, 2016 which was presented by Attorney Thomas Hanna, for an Appeal of Administrative Decision by the Zoning Administrator.

Mr. Stevens recused himself from the hearing.

Mr. Stout stated that he is not in favor of reopening the hearing and noted that there were no new arguments to persuade otherwise. Mr. Stout stated that it does not entail a taking by any means and there are other uses for the property. Mr. Hoppock stated that under RSA: 677-02 it states that if there is good argument provided for the case, the hearing can be reopened but an effective argument was not made. Both Mr. Curran and Chair Zerba agreed with the statements.

Mr. Hoppock made the motion to deny the Rehearing of ZBA 16-04. Mr. Stout seconded which carried unanimously.

By unanimous vote the Zoning Board of Adjustment denied ZBA 16-04 request for Rehearing.

Mr. Stevens returned to the Board.

#### **IV. Hearings:**

**WITHDRAWN ZBA 16-12:**/ Petitioner, William C. Clarke Jr. Irrevocable Trust, of 50 Timber Pond Rd., Peterborough, NH, represented by Brickstone Land Use Consultants, LLC, of 185 Winchester St., Keene, requests a Variance for property located at 25 Blossom St., Keene, which is in the Low Density District. The Petitioner requests a building lot of 3.66 acres with 46.14 foot frontage in the Low Density District where a 60 foot frontage is required. The applicant is proposing a two lot subdivision of an existing 6.21 acre lot to create lots of 2.55 acres and 3.66 acres. The 2.55 acre lot would have 135.0 foot frontage with a single family home and two outbuildings. The 3.66 acre building lot would have 46.14 foot frontage.

Mr. Schneider noted that there have been negotiations between the property owners and the abutting neighbor to work out the situation without a Variance. Mr. Schneider noted that there will be a lot line adjustment to meet the frontage requirements. This will then go before the Planning Board.

Mr. Hoppock made the motion to accept the withdrawal of ZBA 16-12 without prejudice. Mr. Stevens seconded the motion which carried unanimously.

By unanimous vote the Zoning Board of Adjustment accepted the withdrawal of ZBA 16-12 without prejudice.

**ZBA 16-16:**/ Petitioner, Mint Car Wash/MOC 76 Realty/Jay Clarke of 22 Phillip Drive, Spofford, represented by Jenn Robichaud of Barlo Signs of 158 Greeley Street, Hudson, NH, requests a Variance for property located at 435 Winchester St, which is in the Industrial District. The Petitioner requests to be permitted the installation of one internally illuminated freestanding sign of 40 square feet, 15 feet tall with a front setback of zero where 10+ feet is required per Sections 102-1313 (2c) and 102-1295 of the Zoning Ordinance.

Mr. Schneider explained the location of the carwash and referred Board members to page 29 of the packet. Mr. Schneider noted that the property is unique because the Winchester Street was once considered for reconstruction for a highway. He continued, stating that because of this consideration the State still owns a piece of the land but it is not a right of way. Mr. Schneider stated that the State was contacted in reference to this hearing. He continued, stating that the property line of this lot is set back further then neighboring properties to the north and south. Mr. Schneider noted that the land owner must still follow signage requirements in reference to size and setbacks. Mr. Schneider noted that the signage code states that within half of the front setback a sign cannot exceed 6 feet and 8 feet for the sign structure. He continued, stating that if it is beyond half of the distance, or in this case ten feet, the sign structure cannot exceed 8 feet in height and the sign cannot exceed 6 feet. Mr. Schneider noted that the signage code also states that no free standing sign can be within five feet of the property line. Mr. Schneider stated that in order for the applicant to have a sign of 15 feet it has to be more than ten feet off the property line. He noted that the applicant will have the sign on the property line.

Paul Martin of Barlo Signs from Hudson, New Hampshire approached the Board. He stated that a larger sign is necessary because of the large distance from the road. Mr. Martin gave the Board a document showing the area and noted that a 15 foot sign would be necessary for visibility. He noted that the sign will still be on the property line but setbacks will not be met.

Mr. Stevens stated that 17 feet was taken from the property by the State. Mr. Stout asked if a sidewalk is in front of the property. Mr. Martin noted that there is an extended black top and the existing telephone poles are about 3 feet from the white line. He noted that the sign will be 23 feet from the road. Chair Zerba inquired about the sign sizes of the neighboring businesses. Mr. Martin stated that they are within 8-10 feet. Mr. Hoppock asked about other lots with similar boundary problems. Mr. Schneider noted that he is not aware of any other lot with these circumstances. Chair Zerba inquired about Fairfield's Cadillac Buick GMC across the street. Mr. Schneider noted that it is located in a different zone and the sign is more than 15 feet in height. Mr. Martin noted that the sign is 20-25 feet in height.

Mr. Stevens asked Mr. Schneider if a 15 foot sign would be permitted with the additional 17 feet from the State. Mr. Schneider stated yes, if it was 10 feet from the property line. Mr. Martin noted that they are asking for the 17 feet to the outer edge of the sign. Mr. Schneider stated that the State was notified via certified mail but has not received a response. Mr. Stout inquired about contacting the State to buy back the lot. Mr. Schneider noted that the petitioner could do that but the State may be reluctant. Mr. Stout asked how the Variance would be affected if the petitioner purchased the remaining land. Mr. Schneider noted that it would not have an impact and the Variance would become moot.

Chair Zerba inquired about lighting. Mr. Martin noted that the sign will be illuminated with a halo effect but not flashing. Mr. Schneider noted that there are two Variances in reference to height requirements and setbacks. He continued, suggesting the Board have one motion.

Chair Zerba stated that she is willing to allow the sign due to the unique circumstance but has an issue with the height. Mr. Stout agreed. Mr. Curran noted that if the State sells the land back to the owner everything will become moot. Mr. Stevens stated that he is comfortable approving the petition given the unique circumstances. Mr. Stout agreed.

Mr. Hoppock made a motion to approve ZBA 16-16 as specified in the plan at zero setbacks. Mr. Stevens seconded the motion which carried unanimously.

Chair Zerba went over 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*

- 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 purpose of the ordinance provision and the specific application of that provision to the property: Granted 5-0.*
  - ii. *The proposed use is a reasonable one: Granted 5-0.*

By unanimous vote the Zoning Board of Adjustment approve ZBA 16-16.

**ZBA 16-17:**/ Petitioner, Key Road Associates, owner Robert Raymond, of 432 Grassy Brook Road represented by Jenn Robichaud of Barlo Signs of 158 Greeley Street, Hudson, NH requests a Variance for property located at 109-147 Key Road which is in the Commerce District. The Petitioner requests to replace a 27 foot high, 92.5 square foot, cabinet sign with a 27 foot high, and 135.37 square foot cabinet sign with space for six tenants per Section 102-1282 of the Zoning Ordinance.

Mr. Schneider asked the Board to turn to page 31 of the packet to review the existing signs in discussion. He noted that the applicant wants to change the signs but the post would stay the same. Mr. Schneider read the Sign Code definitions to the Board. Mr. Schneider noted that Code Enforcement determined that the proposed sign will be substantially different and must meet the 18 foot height requirements. He noted that the current sign is 27 feet. Mr. Schneider noted that square footage would go from 92.5 to 135.37.

Paul Martin of Barlo Signs in Hudson, New Hampshire approached the Board. Mr. Martin stated that the owner is trying to clean up the property. He noted that the sign is not for road visibility but for the traffic exiting the center. Mr. Martin stated that the owner has multiple tenants and wants each business owner to have access to a sign. He noted that the existing Keene Cinema sign will be narrower and fit inside the steel structure. Mr. Martin stated that the bottom two signs have not been determined.

Mr. Stevens asked how many tenants are currently in the building. Mr. Martin stated that there are likely six tenants. Mr. Schneider stated that a condition could be included to specify square footage and then the number of tenants would not matter.

Mr. Stout stated that it is an improvement to what is currently there. Mr. Stevens agreed and noted that it will be visually more appealing. Mr. Hoppock stated that he has a problem with the hardship aspect but will vote in favor of the application.

Mr. Stevens made a motion to approve ZBA 16-17 with the condition that the total square footage of the sign not exceed 135.37 as stated in the application and all other aspects remain the same. Mr. Curran seconded the motion.

Chair Zerba went over 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*

*B. 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:*

*iii. 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.

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

By unanimous vote the Zoning Board of Adjustment approved ZBA 16-17.

**ZBA 16-18:**/ Petitioner, Key Road Associates, owner Robert Raymond, of 432 Grassy Brook Road represented by Jenn Robichaud of Barlo Signs of 158 Greeley Street, Hudson, NH requests a Variance for property located at 109-147 Key Road which is in the Commerce District. The Petitioner requests one internally illuminated wall sign, with electronic changeable copy per Section 102-1292 (6) of the Zoning Ordinance.

Mr. Schneider noted that the sign is currently parallel and out in front of the cinemas. Mr. Schneider asked the Board to review page 47 of the packet. He noted that only the center section of the sign will have the electronic messaging. Mr. Schneider noted that the electronic middle section will be a small changeable copy.

Paul Martin of Barlo Signs in Hudson, New Hampshire approached the Board. Mr. Martin stated that the owner currently changes the movie signs the old fashioned way with a stick. He noted that the lines will be about 6 inch long and there would not be any flashing. Mr. Martin stated that the sign would have a five second fade and with Keene Cinemas text and movie titles. He noted that the sign will not be visible from Route 10 and located on a dead end road. Mr. Martin stated that the copy does not have to include the Keene Cinemas text if this is redundant.

Mr. Hoppock asked how late the sign will stay on. Mr. Martin noted that it will stay on until the last movie. Mr. Stout asked about the timing interval for the fade. Mr. Martin stated that it can be programmed to any request but will be about ½ a second. Mr. Stout noted that ½ a second is very fast. Mr. Stevens asked if the coloring is just red. Mr. Martin stated, yes and noted that most theaters use full color. Mr. Stout stated concern with lights burning out and looking unfavorable. Mr. Martin stated that it is possible for lights to burn out but the service time is usually within a day. He continued, noting that it will be an optic unit and the company has been in service for a long time.

Mr. Stout stated that he is a defender of the prohibition on animated signs. Mr. Stout read aloud the definition of animated signs from Zoning Ordinance Section 102-1282, which did not include changeable copy signs. He continued, noting that most theaters are using changeable copy signs but stated that this opens up potential situations. Mr. Stout brought up a case that was relevant to the topic but was unsure of the name. Mr. Stevens stated that he does not have a problem with electronic signs but enforcement needs to occur with the code that is already written. He continued, stating concern with the next owners of the property using the sign for other purposes. Mr. Martin suggested changing the fade from 5 to 7 seconds.

Mr. Stout also stated concern if the current owner changes the sign activity. Mr. Martin suggested that owner sign an affidavit. Mr. Schneider noted that a condition should be made so enforcement from the City is possible in the future. He continued, noting that more conditions are better for enforcement.

Mr. Stout asked if there will be immediate changes to the prohibition on changeable copy signs. Mr. Schneider noted that the City is in the process and considerations are being made in changing the Zoning Code. Mr. Stout inquired about the ZBA putting a hold on petitions dealing with changing signs. He questioned how the ZBA can approve this knowing that there may be a zoning change down the road. Mr. Schneider stated that the City Attorney would have to be part of this discussion.

Mr. Hoppock noted that the case Mr. Stout referred to was Reed vs. town of Gilbert-Arizona, US Supreme Court.

Mr. Curran made a motion to approve ZBA 16-18 with the condition that the sign has a 7 second display and a 1.5 second fade. Mr. Hoppock seconded the motion.

Chair Zerba stated that she is not in favor of the application and noted that the City will be undergoing Zoning changes. She continued, stating that the Board needs to enforce the City Codes. Chair Zerba stated that she is not in favor of the sign constantly changing over a short period of time. Mr. Stevens stated that he is not opposed to electronic signs but is following the City Codes. He noted that other changeable copy signs change once a week and he also does not feel comfortable giving the owner freedom with the time and change rate of the wording of the sign.

Mr. Curran stated that he is in favor of the application and noted that change is coming and you cannot fight it. Mr. Curran noted that the changes of the Zoning Code should accommodate the future. He noted that denying the application is creating more hardship for the owner and more aggravation for the City.

Mr. Stout agreed with Chair Zerba and Mr. Stevens. Mr. Stout stated that the Board is not educated enough on sign logistics to vote appropriately. He continued, stating that the Board may have personal opinions that contradict how they vote but one cannot stipulate the Ordinance. Mr. Hoppock stated that he is in favor of the application and noted that the sign will be in the appropriate zone.

Chair Zerba went over the Findings of Fact:

*Granting the Variance would not be contrary to the public interest:* Denied 2-3.

Mr. Hoppock and Mr. Curran were in favor.

*If the Variance were granted, the spirit of the Ordinance would be observed:* Denied 2-3.

Mr. Hoppock and Mr. Curran were in favor.

*Granting the Variance would do substantial justice:* Granted 3-2.

Mr. Hoppock, Mr. Curran, and Mr. Stout were in favor.

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

Granted 4-1.

Chair Zerba was not in favor.

*Unnecessary Hardship*

C. *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:*

- v. *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:* Denied 2-3.

Mr. Hoppock and Mr. Curran were in favor.

- vi. *The proposed use is a reasonable one:* Granted 3-2.

Mr. Hoppock, Mr. Curran, and Mr. Stout were in favor.

On a vote of 2-3 the Zoning Board of Adjustment denied ZBA 16-18 due to the timeframe in which the sign changes.

**ZBA 16-19:**/ Petitioner, John Bolster of 12 Brook Street, Keene, requests a Special Exception for property located at 12 Eagle Court, Keene, owned by Ellis Robertson Corp., Chesterfield, which is in the Central Business District. The Petitioner requests a Special Exception to operate a mini-golf course per Section 102-482 for a recreational activity as a business.

Mr. Schneider discussed the location and noted that it is on the eastern side of the property. Mr. Stout inquired about the square footage of the property.

John Bolster of 12 Birch Street, Keene approached the Board. Mr. Bolster noted that the lot is approximately 2,600 square feet. He continued, noting that the lot is currently used to store snow during from the city. Mr. Bolster stated that he is interested in improving the area. Chair Zerba inquired about the bathroom. Mr. Bolster noted that individuals would have to go through the parking lot.

Chair Zerba asked if all of his equipment and structures would be removed for the City and snow removal. Mr. Bolster replied yes, and noted that the greens can be stacked and moved. Mr. Bolster noted that there would be room for nine greens. Mr. Bolster noted that a small structure would be put up for performance space as well. Mr. Stout asked about the proposed hours. Mr. Bolster noted that it would be from around 11AM to 9 PM. He noted that it is important to stay open late and offer an alternative night activity. Mr. Stout noted that the area gets very busy and stated that Mr. Bolster may have to take on responsibilities of the unruly people in the area. Mr. Stout stated concern with late hours and safety. Chair Zerba also had concern with the hours of operation. Mr. Bolster stated that he is prepared for the difficulties that may come and does not want to sacrifice other's fun because of possible vandals etc. He noted that it is important to offer a wholesome alternative for nightlife.

Mr. Stevens noted that including bright lights will create safety. Mr. Bolster noted that there will be a path created as well so customers avoid the street area. Mr. Bolster noted that there will be ground and spotlight lighting in addition to street lighting. Mr. Hoppock asked if the illumination will be after hours as well. Mr. Bolster noted that there could be possible lighting for foliage etc. Mr. Stevens asked about concessions. Mr. Bolster noted that there will be a very small caddy shack. He continued, stating that there are no plans for a liquor license at the moment but possibly in the future. Mr. Bolster noted that he had a letter from an engineer in reference to the building structure.

Mr. Schneider noted that the existing structure has concerns. He stated that one section of the building does not have a roof. He continued, noting that the letter Mr. Bolster referred to was from an engineer after the City required the landlord to have it inspected or it would be torn down. Mr. Schneider noted that Mr. Bolster was permitted to use the west end of the building for office space. He continued, stating that if other areas of the building were used for storage, bathrooms, etc. by anyone other than staff, proper officials would need to be notified. The condition is that both the Fire Department and Code Enforcement would get involved. Mr. Schneider noted that the bathrooms can only be used by staff. Public access is the concern.

Mr. Curran noted that the building abuts the property in discussion. Mr. Stout inquired about the bathrooms and the path to them. Mr. Bolster noted the dotted line in the diagram which is the path for the bathroom and one would have to go through the office to get to it. Mr. Bolster noted that he is planning to repair the bathrooms.

Mr. Schneider noted that the engineer stated that the building must be inspected every year to maintain that it is stable. Mr. Hoppock inquired as to who inspects the building every year. Mr. Schneider stated that no one currently inspects the structure.

Mr. Stout inquired about the dark blue section of the structure on the northeast side as shown in the illustration. Mr. Bolster stated that the engineer agreed that the dark blue section is a separate building and is structurally sound. Mr. Bolster noted that in order to reach this area, one would have to go through the inaccessible space to get to it. Mr. Stout asked if there is any entrance from the north side of the building. Mr. Bolster replied no, and stated that it is in the interest of the business to fix all structures and remove the area in question this fall.

Mr. Hoppock read the letter from the engineer into the record.



Mr. Hoppock made the motion to approve ZBA 16-19 with the condition that any use of the building except for the portion occupied by the owner for his office shall be inspected by the Building Inspector and the Fire Department and the owner must correct any unsafe discrepancy to the City Code Enforcement Officers satisfaction and any use of the building must be upon approval by the City Code Enforcement Officer and Fire Department. Mr. Curran seconded the motion.

Chair Zerba went over 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 4-1.

Mr. Stout was not in favor.

*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 4-1

Mr. Stout was not in favor.

*Adequate and appropriate facilities (i.e., sewer, water, street, parking, etc.) will be provided for the proper operation of the proposed use.* Granted 4-1.

Mr. Stout was not in favor.

On a vote of 4-1 the Zoning Board of Adjustment approved ZBA 16-19.

**ZBA 16-20:**/ Petitioner, Kadle Properties RRT of 668 Main Street, Keene requests a Variance for property located at 668 Main Street, Keene, owned by Daniel and Madeline Kadle of West Peterborough, NH, which is in the Low Density District. The Petitioner requests a Variance to upgrade the current use from Office to Mixed Use. This request seeks to retain the current designations of Office and Institutional uses but also to add other mixed uses including: retail sales/services, offices, including incidental warehousing, wholesaling or retailing, small restaurant, greenhouse, nursery, light manufacturing, processing and storage. These uses are not permitted in the Low Density District per Section 102-361 on the Zoning Ordinance.

Mr. Schneider noted that this piece of property was brought before the Zoning Board of Adjustment many years ago to change the use to Institutional and Office use. He noted that there was a Special Exception for the Industrial Use in 2003 and a Variance for Office use in 2006.

Daniel Kadle of West Peterborough, New Hampshire approached the Board. He stated that the property was purchased in 2002 and initially operated under an Institutional Use but requested a Variance for Office use as well. Mr. Kadle noted that a medical establishment was at the location for about 12 years and a school operated out of the building for about 13 years. Mr. Kadle noted that during the recession tenants were lost and since then he has made efforts to find prospective buyers of the property. He noted that there has been interest in the property but prospective businesses do not fall into the permitted use. Mr. Kadle referred to Keene's Master Plan and noted that the plan discusses Mixed Use as a vision for the City as a whole. Mr. Kadle stated that granting a Variance for Mixed Use to the property would fall in line with the Master Plan.

Mr. Kadle noted that the property has a unique circumstance with zoning and noted that the lower Main Street area has heavy traffic and has a variety of uses including small retail, restaurants, government, multi-family and single family homes. He noted that his building is between a LD and Industrial Zone. Mr. Kadle noted that the traffic reaches about 18,000 cars a day.

Mr. Kadle went through the findings of fact:

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

Mr. Kadle noted that most of the property has been vacant since 2015. He noted that having a mixed use would offer a mixture of products to the public and promote other business. Mr. Kadle stated that Mixed Use would blend well with the mixed neighborhood and compliment the master plan.

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

Mr. Kadle noted that the Mixed Use would be compatible with the Spirit of the Ordinance while promoting a healthy and viable neighborhood. He noted that many of the uses will be interrelated as well. Mr. Kadle stated that the Mixed Use would reflect the Master Plan's vision and noted that he is interested in supporting local products.

*Granting the Variance would do substantial justice:*

Mr. Kadle noted that the Mixed Use would help the local neighborhood and attract those that travel on Route 12. He noted that there are limited products in this area of the City.

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

Mr. Kadle noted that the property has been renovated and he has a history of maintaining his building.

*Unnecessary Hardship*

Mr. Kadle noted that the building has been vacant for over a year and he has looked for tenants without luck. He noted that the use for the building creates restrictions.

*D. 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:*

*vii. 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:*

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

Mr. Kadle noted that the property meets zoning regulations as far as water and sewer. He continued, stated that the Mixed Use would fit with the neighborhood. Mr. Kadle noted that it is difficult to find prospects with a single use.

Mr. Kadle noted that Route 12 is a gateway to other communities and this area should be strengthened to suit visitor needs as well as the neighborhood.

Mr. Curran asked about square footage. Mr. Kadle noted that it is 1,852 square feet. Mr. Hoppock stated concern approving a Mixed Use. Chair Zerba noted that the use can be changed once a business is determined for the location. Mr. Kadle noted that he has lost potential tenants due to the time it takes to come before the Board.

Madeline Kadle of West Peterborough, New Hampshire approached the Board. Mrs. Kadle noted that 250 Marlboro Street was given Mixed Use approval. Mr. Kadle noted that it is very hard to fill the building with single use tenants.

Mr. Hoppock asked about the parking. Mr. Kadle noted that there are 16-17 spaces. Mrs. Kadle noted that there is a large amount of green space which can be changed to parking. Chair Zerba noted that there are many residential homes in the area as well. Mrs. Kadle noted that neighbors must drive to services at the moment and this will provide businesses for individuals to walk and bike to. Mr. Kadle noted that they are at a connector spot to Swanzey as well.

Mr. Kadle stated that the business was there prior to the current owners of residential homes on either side of their building. Mr. Stevens stated that it is common protocol to add to the current zoning as opposed to having a multiple use zone which would allow anything. Mr. Stevens noted that Mixed Use would not have any limitations and the change will stay with the land. Mrs. Kadle noted that businesses were referenced in the petition. Mr. Stevens noted that these requests need to be specified.

Mr. Curran noted that the Central Business Limited Zone is in close proximity. Mr. Kadle stated that anyone driving through the area would say that it is Commercial. He continued, stating that there is also heavy industry in the area.

Chair Zerba opened the public hearing.

James Fredrickson of 675 Main Street approached the Board and stated that he is opposed to the application. He stated that having a Mixed Use exacerbate the current problem with traffic and parking. Mr. Fredrickson stated that industrial businesses are not visible from the road and does not affect the traffic. He continued, stating that he would not be opposed to a garden nursery but a restaurant will increase traffic adding it would be difficult to comment on the unknown.

Eddie Fitz-Simon 678 Main Street of Keene approached the Board. He stated that allowing a Mixed Use would increase the traffic and noted that a traffic study should be conducted. Mr. Fitz-Simon noted that there has been an offer on the property. He continued, stating that the use should not change

Gerry Fredrickson of 675 Main Street approached the Board. Mrs. Fredrickson noted that it is a very active neighborhood. Mrs. Fredrickson is opposed to adding another business to the area. She noted that a specific usage needs to be determined so the neighborhood is not at risk.

Mr. Kadle and Mrs. Kadle approached the Board. Mr. Kadle noted that traffic usually turns right from the parking lot and cars do not back out into the street. Mr. Kadle stated that the businesses down the road have more of an impact on traffic than his business. Mrs. Kadle mentioned the Master Plan also has methods for traffic calming including rotaries and noted that the speed limit is already very low on Main Street. Mr. Kadle noted that the building is available for sale or lease.

Mr. Hoppock noted that it is very hard to determine how the parking and traffic will change with such a broad proposal. He noted that it needs to be very specific to determine what changes will occur. Mrs. Kadle noted that information was obtained from the City Manager in reference to the wording of the application. She stated that the wording was derived from the Marlborough Street application. Mr. Stout stated that he will not allow carte blanche on a single property.

Mr. Hoppock stated that the applicants should be allowed to come back before the Board with a specific application. Mr. Stout requested that Chair Zerba close the public hearing due to disruptions from the applicant.

Chair Zerba closed the public hearing. The Board discussed the benefits of withdrawing the application or denying it.

The Petitioner questioned the benefits and disadvantages of withdrawing the petition or receiving a denial. The Petitioner chose to withdraw ZBA 16-20.

Mr. Hoppock made the motion to withdraw without prejudice. Mr. Stevens seconded the motion.

By unanimous vote the Zoning Board of Adjustment approved the withdrawal of without prejudice.

**ZBA 16-21:**/ Petitioner, Rosemarie Bernardi of 51 Cottage Street, Keene requests a Variance for property located at 1-9 Main Street, Keene, owned by Paul and Suzanne Cooper, which is in the Central Business District. The Petitioner requests a Variance to install a temporary art mural on paper that will be 6 feet x 24 feet, that is considered to be an off premise sign to be installed that is prohibited in every zoning district per Section 102-1292 (13) of the Zoning Ordinance.

Mr. Schneider referred the Board to page 82-83 of the packet for pictures of the temporary art mural. He noted that the art will include the Community Kitchen name and will technically be an off-premise sign.

Rosemarie Bernardi of 51 Cottage Street of Keene approached the Board. Ms. Bernardi noted that she has been working with a class at Keene State College to develop art murals for the City of Keene. She noted that there is a lack of public art in Keene and she is interested in increasing public art with temporary murals. Ms. Bernardi stated that she appeared before the Historic District Commission and the temporary murals were approved. Ms. Bernardi gave the Board an

illustration of what the temporary mural would look like. She noted that three other murals will be put up around Keene as well.

Mr. Hoppock asked how it comes off. Ms. Bernardi stated that it could evaporate over time but it would be washed off after a certain time. She noted that there is a contract with the building owner in reference to the timeframe and in case vandalizing occurs.

Jessica Boushie of Keene State College approached the Board. Ms. Boushie noted that she is in favor of the mural and will welcome individuals in the town and bring people together.

Mr. Hoppock made the motion to approve ZBA 16-21. Mr. Stout seconded the motion.

Chair Zerba went over 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.

By unanimous vote the Zoning Board of Adjustment approved ZBA 16-21.

**V. New Business**

**VI. Communications and Miscellaneous**

**VII. Non Public Session (if required)**

**VIII. Adjournment**

Chair Zerba adjourned the meeting at 9:38 PM.

Respectfully submitted by:  
Lana Bluege, Minute-Taker  
May 2, 2016