

City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Monday, November 5, 2018

6:30 PM

Council Chambers

Members Present:

Nathaniel Stout, Chair
Joshua Gorman, Vice Chair
Michael Welsh
Jane Taylor
Joshua Greenwald

Staff Present:

Gary Schneider, Plans Examiner
John Rogers, Zoning Administrator

Members Not Present:

Louise Zerba, Alternate

I. Introduction of Board Members

Chair Stout called the meeting to order at 6:32 PM introduced members of the Board and welcomed everyone to the meeting.

II. Minutes of the Previous Meeting-September 4, 2018 & October 1, 2018

Ms. Taylor noted the following corrections to the minutes of September 4, 2018:

Page 9, third sentence, the word “plan” changed to “plain”.

Page 9, first paragraph, first sentence, the word “if” be changed to “whether”.

Page 11, last paragraph, second line, the word “imply” should be change to “apply”.

Page 12, bottom of page, “copies of the previous minutes” corrected to “copies of the prior applications and approvals”. Chair Stout asked for the recording of the meeting to be reviewed in order to confirm.

Mr. Welsh noted the following corrections:

Page 15, third paragraph, the word “less nonconforming” corrected to “less conforming”. Chair Stout asked for the recording to be reviewed.

Page 18, first paragraph, the words “a front” corrected to “an affront”.

Mr. Welsh made a motion to accept the minutes of September 4, 2018 as amended. The motion was seconded by Vice Chair Gorman, which carried unanimously.

The Board then moved to make a motion for the October 1, 2018 minutes.

Mr. Welsh made a motion to accept the minutes from October 1, 2018. The motion was seconded by Vice Chair Gorman, which carried unanimously.

Ms. Taylor noted the following corrections:

Page 36, the second to last paragraph, the words “on what is appropriate of a nonconforming use” corrected to “on what is appropriate for an expansion of a nonconforming use”.

Page 38, second paragraph, the word “appeasing” should be changed to “appealing”.

Page 39, last line, she stated that she was not sure if she stated basketball hoop or basketball court. She requested the audio be reviewed.

Page 41, fifth paragraph, “However, enlargement or expansion may not be substantial and may not render premises or property proportionally less adequate the case law may not be substantial less adequate”. She requested the audio be reviewed.

Page 41, sixth paragraph, the word “endearment” corrected to “enlargement”.

Page 44, second paragraph, she requested audio be reviewed to correct this paragraph.

Ms. Taylor referred to the Findings of Fact. She requested clarification on the order votes. She stated that historically affirmative votes are first and negative votes second. Chair Stout asked for review of the motion and voting. He noted the motion should read “On a vote of 0-5 the Zoning Board of Adjustment voted against the motion to approve ZBA 18-19.

Mr. Welsh made a motion withdraw his motion to accept the minutes from October 1, 2018. The motion was seconded by Vice Chair Gorman, which carried unanimously.

The amended minutes of October 1, 2018 will be voted on at the next ZBA meeting that will be held on December 3, 2018.

III. Hearings

Chair Stout announced that the two requests for a rehearing will be heard first.

Chair Stout read the action by the Board for the rehearing. *“The Board shall either grant or deny the motion for rehearing or suspend the order or decision complained of pending further consideration within 30 days of the filing of the motion for rehearing. The Board need not state any reasons for its decision and it need not hold a public hearing on the motion for rehearing. The decision of the Board however, must be entered upon the records of the Board and shall be communicated to the person requesting the rehearing as well as the petitioner and applicant. No testimony or additional evidence other than that contained in the motion for rehearing shall be allowed to be introduced for the Board’s consideration.”*

Chair Stout stated the first motion for rehearing is on behalf of Hope Chapel. He stated that Hope Chapel is appealing a decision of a 5-0 vote of the Board to deny a motion of an expansion of a nonconforming use on October 1, 2018.

Chair Stout asked for comment from the Board relative to the rehearing for this matter. Vice Chair Gorman stated that at this point he has a conflict with the legal counsel that is representing Hope Chapel. He stated that he will need to recuse himself from the rehearing.

Ms. Taylor stated that having read the motion to rehear, she did not see anything that was factually brought into question or proposed any new information. She stated that her inclination is to deny the request.

Mr. Welsh stated the motion caused him to re-read the minutes and to then read the items and motion more closely. He noted that some items were more compelling than others but generally speaking he is inclined in a negative direction on the rehearing.

Mr. Greenwald stated that his vote would remain the same. He noted that he re-read the minutes for this hearing and that it made him reconsider certain aspects. However, his main opinion still remains in the negative.

Chair Stout stated that he was also disinclined to change his vote.

With no further comment, Chair Stout asked for a motion.

Mr. Welsh made a motion to approve the motion for rehearing for ZBA 18-19. The motion was seconded by Mr. Greenwald, which carried unanimously.

Mr. Welsh then made a motion to deny the motion for rehearing for ZBA 18-19. The motion was seconded by Mr. Greenwald, which failed unanimously.

Vice Chair Gorman returned to the hearing.

The next motion for a rehearing is on behalf of Hundred Nights. Chair Stout stated that Hundred Nights is appealing the Board's decision to deny application, ZBA18-18, to change the definition of the Variance that was requested. Mr. Rogers explained the motion was an Appeal of an Administrative Decision on the determination that Hundred Nights was a lodging house.

Ms. Taylor stated that she would be inclined not to grant the motion for rehearing on the basis that there were no factual or legal issues or there was new information in the request for a rehearing. Vice Chair Gorman stated this situation of overturning the general opinion of a city official with no enforcement action and no property existing is loaded with ambiguity. He stated that he did not see any cause to approve the request for a rehearing. In addition, he stated that he did not see anything that was written in the request for a rehearing that is compelling.

Mr. Welsh stated that in his thinking this is differentiating between a decision on the merits of the administrative appeal as opposed to a decision on the appropriateness of the request. He stated the argument is that there is not an active case attached to this and therefore it is not something that would be, other than an advisory opinion. Mr. Welsh stated on balance he did not see cause for opening the rehearing.

Mr. Greenwald added that he was not a part of the original decision of the Board due to his recusal. He stated that with there being no property attached, his inclination is that the Board is here to discuss uses of the property. Mr. Greenwald noted that there was no property to discuss therefore; he stated that he will deny the motion for a rehearing. Chair Stout stated that he would concur with the Board.

Vice Chair Gorman made a motion to approve the motion to rehear ZBA 18-18. The motion was seconded by Mr. Greenwald, which failed unanimously. The vote was 0-5.

Vice Chair Gorman made a motion to deny the motion to rehear ZBA 18-18. The motion was seconded by Mr. Greenwald, which carried unanimously. The vote was 5-0

Continued ZBA 18-17:/ Petitioner, The Prospect Woodward Home of 194-202 Court St., requests a Variance for property located at 95 Wyman Rd., Tax Map #221-019-000, owned by the Petitioner and is in the Rural District. The Petitioner requests a Variance to permit a free standing sign 29.32 square feet in an area where 20.00 square feet is the maximum area allowed per Section 102-1310.2B.

Mr. Rogers explained this application was continued from the last Board meeting in order for staff and the applicant to review the setback issues with the sign. He stated that what the applicant is proposing is for a sign size Variance and not a setback Variance. Mr. Rogers stated the way the applicant proposes this request is appropriate in the Rural District and is part of the new sign code.

Chair Stout recognized Jim Phippard, Brickstone Land Use Consultants, LLC, of 185 Winchester Street, Keene. Mr. Phippard stated that he was representing The Prospect Woodward Home.

Mr. Phippard stated that he and City staff were wrong about the setback. He noted that the setback is 10 feet. He stated that the request before the Board is for a Variance to allow a slightly larger sign than what the current code allows. The Prospect Woodward Home started this project a couple years ago and signs were not permitted in the Rural District. Mr. Phippard noted that the sign code ordinance was recently amended to allow signage on commercial properties in the Residential District. He noted that the sign requirements would have to comply with the sign requirements in the Office District.

Mr. Phippard explained that this is a unique project and that there is nothing like this in the City of Keene. He noted that this is the largest building that exists in the Rural District in the City. Mr. Phippard stated the sign mimics the shape of Mt. Monadnock and the green on the sign reflects the forestry on the site. Mr. Phippard noted that they looked at other signs at comparable

properties. In addition, he noted that the sign design was not proposed lightly and the designers were very serious in their attempts to design the proper sign. The sign proposed is six feet high and the sign panel itself is 4'X7' 4".

The building that the sign will go in front of is the Community Building. This building is 588 feet long and appears as a two story building with a steep pitched roof when looking at the building from Wyman Road. He then displayed an overall plan of the site. The long building with the wings is the independent living facility and is also the Community Building. He noted this building has all of the activity areas in the center such as an auditorium, a theatre, café, indoor pool, a gymnasium and over 100 residential units.

The vast majority of traffic going to and from the facility would be using the part of Wyman Road that is heading south toward Route 12. He noted that delivery and support services that serve this building are required to travel this leg of Wyman Road. Deliveries and support services are prohibited from entering through Old Walpole Road.

Mr. Phippard noted that signage is very important. For that reason they are proposing several signs for this property. He stated the idea is that as someone approaches the building informational signs are encountered. Mr. Phippard noted that informational signs do not require a permit but are limited in size to no more than four square feet. He stated the informational signs would be 2'X2'. The sign company they are using calls them wayfinding signs. He explained these signs will help inform delivery people where to go for deliveries.

Mr. Phippard then displayed an image of the proposed sign that is on the application before the Board. He stated that this is the main sign for the main building on the property. Most visitors coming to the property will come looking for this entry. He stated the need for this sign is to clearly identify the property. The functions for signage is not to just state the name of the property but are also used to guide members of the public. Mr. Phippard noted that signs are also needed to provide an important safety service.

Mr. Phippard stated they settled on this sign that is just over 29 square feet. The columns on the sign are steel posts that are coated with a cultured stone to match the appearance on the front of the main building. Mr. Phippard stated that they felt that the size of this sign should be larger than the size of the sign for the Health Center. He noted this would signal to people that this is the main sign and would help guide people to the main location.

Mr. Phippard reviewed the criteria for a Variance.

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

Mr. Phippard stated it is in the public interest to allow clear, well designed signage to identify an institutional use. In addition, he stated the sign will also provide for the best safety situation and clearly lead people to their destination.

Mr. Phippard stated that it is in the public interest to allow a larger sign on a property when there is no threat to public health, safety or welfare. He added that it is not an oversized sign and is

located 10 feet back from the right of way. Mr. Phippard described the sign as aluminum with external lights on both sides.

If the variance were granted, the spirit of the ordinance would be observed because:

Mr. Phippard stated that the spirit of the ordinance regarding signs is *"the effective use of signage to direct movement, to advertise, and to inform the public while protecting the safety and general welfare of the public, preserving neighborhood character, and minimizing visual clutter."* He stated in their case they are trying to provide maximized safety by giving the sign clear identification. Mr. Phippard noted the larger sign on the main building does fit with the design of the building.

Granting the variance would do substantial justice because:

Mr. Phippard stated that Hillside Village falls under the Institutional Use according to the definition in the Zoning Ordinance. He explained that when the Institutional Use category was created, signs for institutional uses were not addressed. In this case, Hillside Village is considered a legal, nonconforming commercial property and is required to meet the sign dimensional requirements for the Office District. He stated that buildings and lots in the Office District are very small and the sign dimensional restrictions reflect that. On a large 50-acre site with four and five story buildings, a 20 square foot freestanding sign is too small and out of proportion. He stated there would be no benefit to the public to deny the Variance request. In this case, granting the Variance to allow a sign which is sized to be in balance with the site would do substantial justice.

If the variance were granted, the values of the surrounding properties would not be diminished because:

Mr. Phippard stated the proposed signs are located at the main entries to the Community Building and the Health Center. They are not visible from any adjacent properties. The proposed signs are attractive and in balance with the existing buildings at the site. He stated that granting the Variance will not diminish the values of surrounding properties.

Unnecessary Hardship

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

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

Mr. Phippard stated that this 50-acre property is unique and contains three large four and five story buildings. He noted that this makes it unique in the Rural District. Mr. Phippard stated that this also creates a special condition for this property and distinguishes it from all other properties in this area.

He stated the Ordinance requires that signs for this use meet the size requirements for signs in the Office District. The existing lots and buildings in the Office District are very small, so it makes sense to require smaller signs which are in scale with the area. He stated that it is not fair or reasonable to limit freestanding signs to no more than 20 square feet when they will be placed in front of such large buildings. He noted the signs will look too small and out of balance. In addition, they will detract from the overall appearance of this area.

Mr. Phippard stated that if the Variance is granted there will be no threat to public health, safety or welfare. Denial of the Variance would not benefit the public and would result in an unnecessary hardship to the landowner.

ii. The proposed use is a reasonable one because:

The proposed signage has been designed to complement the building architecture at Hillside Village while clearly identifying the site. It is in balance with the scale of the buildings at this site. The signs will not be visible from the adjacent properties. The proposed use is reasonable as it will not pose a threat to public health, safety or welfare.

Chair Stout welcomed comment from the Board.

Ms. Taylor asked if the Health Center across the street is a part of the overall complex. Mr. Phippard responded in the affirmative. She asked if the Health Center will need its own sign. Mr. Phippard responded again in the affirmative. He then indicated the location of this sign will be directly across from the main sign. In addition, the sign will comply with the setbacks and the size limitation.

Chair Stout asked if the signs as a whole take on a similar appearance. Mr. Phippard replied that all of the signs have similar logos and colors. He noted that the signs will have different messages.

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

The Board reviewed the criteria for a Variance.

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

Mr. Welsh stated that he thinks the applicant has made the case well and this would not be contrary to public interest. Chair Stout concurred with Mr. Welsh, stating that the scale of the sign is appropriate given its place in the project.

If the variance were granted, the spirit of the ordinance would be observed because:

Vice Chair Gorman stated the ordinance is in place to mitigate overly large signs under the needy situation. He stated this is a half a million square foot development that required several

Variances in order to grant construction. Vice Chair Gorman noted that it would be fairly ironic to grant the construction and then to not allow sign. He stated the proposal is within the spirit of the ordinance due to the size and scope of project.

Granting the variance would do substantial justice because:

Chair Stout stated that he sees the sign as utilitarian in the sense that it is necessary in the development of the project. He noted that it certainly fits substantial justice. Ms. Taylor stated that as far as substantial justice people need to know where they are going in order to prevent hazardous driving.

If the variance were granted, the values of the surrounding properties would not be diminished because:

Vice Chair Gorman stated that he is not sure there are many surrounding properties due to the size of the project.

Unnecessary Hardship

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

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

ii. The proposed use is a reasonable one because:

Chair Stout stated the Board had already covered the necessity for good signage.

With no further comment, Chair Stout asked for a motion.

Vice Chair Gorman made a motion to approve ZBA 18-17. The motion was seconded by Mr. Welsh and carried unanimously.

The Board 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 –

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.

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

With a vote of 5-0, the Zoning Board of Adjustment approved ZBA 18-17.

ZBA 18-21:/ Petitioner, Naomi McWhirk of 260 Land Road, Richmond, NH, requests a Variance for property located at 28 Park Ave., Tax Map #564-034-000, owned by 28 Park Ave. Plaza, LLC of 28 Park Ave., Suite 103 and is in the High Density District. The Petitioner requests a Variance to permit a hair salon for services and sales in an existing non-conforming mixed use building where mixed uses, services and sales uses are not listed as permitted uses in the district per Section 102-422, Permitted Uses in the High Density of the Zoning Ordinance.

Mr. Rogers stated the location of the property is on Park Avenue. The property is located behind Park Ave Deli and across the street from Jack's True Value Hardware. He presented a map to the Board and indicated that #28 is a mixed use building with a storage building on the back side of the lot. Mr. Rogers stated that this part of town was originally in the Business Zone. In the early 1970's, the City rezoned this as the High Density District which then made the buildings in this area nonconforming. He noted the uses of these buildings were mostly commercial type uses.

Mr. Rogers stated this property was previously the location for of Clesson's Color Center and a bartending school. In 2011, the Board granted a Variance for this building for a commercial bakery, known as The Bread Shed. The Bread Shed has now moved to a location in the Industrial Zone. Mr. Rogers stated that the Variance for The Bread Shed has now been abandoned since 2013. He explained that the applicant is before the Board for a Variance to permit a hair salon retail service.

Chair Stout asked that since the Variance has been abandoned if the Variance is void regardless of what will be decided at the meeting. Mr. Rogers replied that the original Variance for The Bread Shed is null and void. He explained that if a use were to go into this building it would have to be a conforming use unless a Variance is granted. Chair Stout asked if there were any remnant Variances or Board approval's that need to be considered. Mr. Rogers replied in the negative. Ms. Taylor asked if the Variance is abandoned because the use has been discontinued for more than a year. Mr. Rogers replied in the affirmative. Ms. Taylor asked if the proposed use that is before the Board is considered a commercial use. Mr. Rogers replied that this would be a retail service.

Vice Chair Gorman stated that it seems the use in this particular unit in the building is already completely nonconforming. However, he stated that it is legally nonconforming as a mixed use building. He asked if this statement was correct. Mr. Rogers replied in the affirmative. Vice Chair Gorman stated that this specific unit has been legally nonconforming since the 1970's. Mr. Rogers replied an addition was built on this building as an expansion of the color center. Vice Chair Gorman asked if the Board is strictly weighing in on whether or not this particular nonconforming use fits the mold in keeping with already legal nonconforming use. Mr. Rogers stated that he would leave this to the Board to decide. He explained that this is a request for a Variance since the nonconforming use went away when a Variance was granted for this space to be a bakery. Vice Chair Gorman asked if these uses do carry specifically to a unit and not to a property. Mr. Rogers replied that is the reason why the Petitioner is not before the Board looking for a mixed use Variance.

Chair Stout asked what the surrounding zones are in the area. Mr. Rogers replied that most of this area is the High Density Zone all the way to West Street. Chair Stout asked if that surrounding area encompasses a number of different uses. Mr. Rogers replied that he would let the applicant make the argument.

Mr. Greenwald referred to the map and asked if property #38 was Karl Robert's. Mr. Rogers replied that Karl Robert's is #32 and #38 is a multifamily.

Chair Stout then recognized James McWhirk of 260 Lang Road, Richmond.

Mr. McWhirk began by speaking about the property. He stated the property is located behind Park Ave Deli and that it used to be the color center. Mr. McWhirk stated that Clesson's Color Center obtained permission from the Board in the 1970's to expand to a nonconforming use. He noted that this property has been nonconforming since that time. Mr. McWhirk stated there are already varying uses on the property ranging from residential, office, warehousing and retail. He stated they are asking to introduce a hair service with a retail use.

Mr. McWhirk stated there are approximately 30 parking spaces and there are cross easements that exist between Karl Roberts and the Park Ave Deli. He noted there is shared parking between three properties in the area that surround the Park Ave Deli. In addition, he noted there are deeded rights between these properties.

Mr. McWhirk stated the site has a clear line of sight in both directions to and from Park Avenue. He stated there is a nonconforming trend in the neighborhood. He continued that Park Ave Deli is not a permitted use in the High Density Zone. However, he stated the apartments above the deli are permitted. Mr. McWhirk noted that Karl Robert's is in a similar situation, where the apartments above the salon are also a permitted use. In addition, he noted that Jack's True Value that is located across the street to the north is also not a permitted use, but the apartments above are permitted.

Mr. McWhirk reviewed the criteria for a Variance.

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

Mr. McWhirk stated the building that exists now is nonconforming with retail, warehouse, office, and residential uses. In this area are other mixed uses and nonconforming buildings such as a convenience store, deli, a salon, and a hardware store, all with apartments above.

If the variance were granted, the spirit of the ordinance would be observed because:

The spirit of the ordinance would be observed because this use would be compatible with the other uses in the neighborhood. He stated that it also protected the values to the adjacent properties.

Granting the variance would do substantial justice because:

Mr. McWhirk stated that this property became nonconforming due to the City wide rezoning in the 1970's. He stated that substantial justice is met by allowing this use which is so well established in the City and consistently down Park Avenue itself.

If the variance were granted, the values of the surrounding properties would not be diminished because:

Mr. McWhirk stated that the general appearance of the building would not change. He said the nature of this building is not residential. He stated the proposal will allow a private salon, similar to the mixed use of one of the abutting properties, which will be low intensity without excessive noise or traffic. He noted that this property has been nonconforming with mixed uses for a long time.

Unnecessary Hardship

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

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

Mr. McWhirk stated that what exists at this site today does not exemplify the zoning of the area itself. He said it is accommodating to the many nonconforming uses. He stated this property is in an area with both mixed and nonconforming uses.

ii. The proposed use is a reasonable one because:

Mr. McWhirk stated that the proposal is for a small business with low intensity use and the site has adequate parking and clear access to Park Avenue. He stated it fits with the character of the neighborhood that is already established.

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.

Mr. McWhirk stated that approvals were given by the Board in the past and the plan is parallel to the mixed uses in the area. He stated the Variance is necessary to enable a reasonable use.

Chair Stout asked Mr. McWhirk to speak more about the nature of the salon. Mr. McWhirk replied they hope to have four chairs, with four people servicing hair. He said at any one time those four people can only be servicing one person at a time. Mr. McWhirk noted that there will not be more four clients at one time.

Chair Stout asked if it will be a male, female or walk-in salon. Mr. McWhirk responded that there will be no walk-ins and will be by appointment only. In addition, it will be a male and female clientele.

Vice Chair Gorman asked Mr. McWhirk to speak more to the retail element of the business. He asked if the retail activity will primarily be linked to the clients or more marketed as a retail operation. Mr. McWhirk replied that it would be restricted to clientele.

Ms. Taylor stated that even though the stylists may be self-employed, there may be four employees with the potential to have four customers at a time. She noted there may be a possibility to have more customers than that at one time and possible to have between 8 and 12 at a time. Mr. McWhirk replied that it is possible. He noted that hairdressers do not always have the same hours and some may be working evenings. However, he did not expect that all employees will be there at the same time. Ms. Taylor asked if it is possible the employees could be there at the same time. Mr. McWhirk replied that it is possible.

Ms. Taylor explained that the reason for her questioning is that she knows this parking lot. She stated that circulation can get problematic at busy times. Ms. Taylor asked if Mr. McWhirk discussed the required number of parking spaces with City staff. Mr. McWhirk replied that he was unaware. He stated that he did not know if Ms. Taylor was aware that there are many more parking spaces that belong to the property. These spaces are located on the backside of the building where the warehouse is located. He noted there are more parking spaces than what meets the eye.

Mr. Rogers added that City staff has not spoken with applicant in regards to parking. He stated that the site does have quite a bit of parking. He noted that if the Variance was granted and the change of use was to occur that review would happen at that point. Chair Stout asked what would happen if City staff found there are an inadequate number of parking spaces. Mr. Rogers replied that if that was determined, the applicant would have to come back before Board.

Ms. Taylor asked, so she is clear, there are parking spaces between the building and the storage building outback. Mr. McWhirk stated there is a warehouse section of the building on the western side of the property. He stated there is a significant section along the pavement part that is all parking spaces. He noted there are more than 10 parking spaces but less than 20 spaces. Ms. Taylor stated that her concern is that parking, being one of the considerations before the Board is to determine this as reasonable.

Vice Chair Gorman reiterated that parking is not before the Board tonight and will be before the Board should this be an issue in the event of granting the Variance. Mr. Rogers added that with retail space it is one space per 100 square feet. Vice Chair Gorman asked Mr. McWhirk what the square footage of the retail space. Mr. McWhirk responded that he was unaware.

Ms. Taylor stated that according to the plan the retail space is 1,448 square feet.

With no further questions from the Board, Chair Stout welcomed public comment.

Jim Phippard, 185 Winchester Street, Keene stated this is a property that he has worked on many times. In 1977, he lived not too far from this property on Arch Street. He stated that this was a property that he would frequent several times and has site plans for this property. Mr. Phippard wished the applicants would have come to him because he would have provided them with these plans. He added that he will give the plans to the applicant so they can be used when they see the Planning Board.

Mr. Phippard stated that he has never experienced parking problems on this property. He noted there is adequate parking on this property and that there are parking spaces behind the building. He referred to previous testimony that there have been many different uses in this building. Mr. Phippard explained that it has always been commercial in nature since the 1970's. He has handled a couple Variances for this property such as The Bread Shed.

Mr. Phippard reported that he belongs to a group of citizens that are participating with City staff in considering changes to the Zoning Ordinance. He stated these neighborhood commercial areas are the type of POD development that is being considered. In addition, these types of neighborhoods want to be encouraged. Mr. Phippard said that it is easy to recognize the limits of the area and what should be permitted for sizes, parking and access. He added that this space is a good example of what has developed on its own and succeeded on its own. Mr. Phippard noted one business in particular is The Bread Shed. He stated that this business started in this location and has moved on to be a bigger business. Mr. Phippard stated this is a good location and that a salon is a good fit.

In conclusion, Mr. Phippard stated that he hopes the Board will approve the request.

With no further comment from those in favor of the application, Chair Stout welcomed those to speak against the application.

Karl Karter, 32 Park Avenue, Keene stated that he is the owner of Karl Robert's. He stated that his biggest concern is the parking issue. Mr. Karter has been in this location for 34 years and parking has always been a bit of a battle with the businesses around the property. He referred to the comments about there being a deeded right of way. The deeded right of way is through the property and the parking spots along his building are not part of the shared property. He noted that the statements about his parking being available for shared parking are incorrect.

Mr. Karter stated that he always tries to be a good neighbor with the deli and patient about people parking in his area. His concern is in regards to his staff and clients and wants to ensure they will be able to park comfortably.

In addition, Mr. Karter stated he is concerned about there being four chairs at the proposed salon. He stated if there are four stylists, there will be four chairs and a customer in each chair. This will be a total 8 cars. He explained that if it is a beauty shop and with chemical services the duration of time clients will increase. Clients will not just be at the salon for 25 or 30 minutes. Mr. Karter also noted that during this time stylists would be bringing in other clients. He stated that there is strong potential of a lot of cars in the shop at one time.

Mr. Karter noted that there would be no guarantee that all stylists will not be there all the time.

In conclusion, Mr. Karter stated that his biggest concern is the parking situation and with a salon of that nature there could run more of a problem with parking.

Chair Stout asked if there was anything that could appease Mr. Karter in the sense of delineating parking spaces. Mr. Karter replied that it would be helpful if the parking spaces could be designated around the building. Chair Stout asked if signage would be sufficient. Mr. Karter replied that signage would be the best option.

With no further comment, Chair Stout asked if the petitioner wished to offer a rebuttal. Mr. McWhirk replied in the negative.

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

The Board reviewed the criteria for a Variance.

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

Chair Stout stated that this could be a situation that could enhance other establishments in this place and work out for everyone.

If the variance were granted, the spirit of the ordinance would be observed because:

Chair Stout stated that the Board has the option to put conditions on a Variance. He stated that it seems the spirit of the ordinance would be establishing a parking plan that would suit not just the applicant but with those surrounding businesses. He suggested the Board consider this as a

possibility. Vice Chair Gorman stated that he disagrees slightly and feels that it is a separate property owner. He stated that Mr. Karter is completely entitled to delineate his own parking spots with his own signs. He does not see it in the Board's purview to mandate parking on the property in question or to mitigate parking to adhere if it is not on the Variance application. Ms. Taylor stated that she would disagree with Vice Chair Gorman. She stated that one of the concerns is parking. Ms. Taylor added that it is part of the burden of the applicant to prove what they do with the property is reasonable in order to obtain a Variance. She stated that she feels the Board is missing a large piece of information. Ms. Taylor stated if there are potentially four chairs with a minimum of four clients that goes up to eight parking spaces. She sees moving this application along with the condition that there is adequate parking.

Ms. Taylor stated that it is not just adequate parking for this particular space but has to be adequate parking as part of the cumulative parking for the entire building. She stated that the Board has no information and that just by stating there is adequate parking does not meet the burden of proof of the applicant. Chair Stout stated that the Board also has the option to postpone the hearing in order to ask for more information.

Mr. Greenwald stated that there is 1,500 square feet in Unit #101, which requires seven spaces and that is approaching the worst case scenario. He noted this application will come back to the Board if it is found there is inadequate parking for this business. Mr. Greenwald asked City staff to confirm if this was correct. Mr. Rogers replied in the affirmative.

Mr. Greenwald stated that in regards to placing a condition on parking assignments there would have to be assigned parking for the Park Ave Deli. He noted that it seems the parking at Park Ave Deli has been functioning for quite some time. Mr. Greenwald stated that he was not in support of this condition unless it comes back to the Board that there is an issue with parking.

Mr. Welsh asked City staff to describe the means by which a parking assessment would happen. Mr. Rogers replied that in this case it would most likely take the path of a change of use and would have to go to the planning side of the Community Development Department. He said a lot of times with a change of use it would then require a parking calculation for the whole project. He explained this is done at a time when Planners from Community Development are involved with the project. Mr. Rogers stated the applicant can request from zoning the determination on how many spaces would be needed.

Mr. Welsh asked if City staff discovers that the parking is not adequate, would the Petitioner come back before the Board. Mr. Rogers replied they would have to do something with the parking and go before the Planning Board if it had to go to that level.

Ms. Taylor asked if aside from the warehouse, if there are several other commercial spaces available and if they are occupied. Mr. Rogers replied that he is not sure how the whole building is occupied. He stated that Elegant Settings is in that building and would constitute some office space. In addition, they also have warehouse space in that building.

ADOPTED

Ms. Taylor stated that she was concerned if this application was a good candidate for a Variance. She stated that she wants to know more about the whole picture. Ms. Taylor added that she hates voting against this without giving the applicant the option to continue the matter, until the next Board meeting. This will give the applicant additional time to provide more information about parking on this site. Chair Stout stated that if this hearing is postponed until December meeting the Board can delay deliberating on the rest of the criteria. Chair Stout stated that he was inclined to want to hear more about a few factors and that a delay of a month would be appropriate. Chair Stout asked the Board for comment.

Ms. Taylor stated that she does not feel she can go through the criteria without the additional information. She stated looking at the map it appears that both the deli and Karl Robert's are on separate parcels. She stated that what she would be interested in knowing the existing uses in the building and the proposed use. Ms. Taylor asked what the parking arrangements are on that property. She stated that in theory, they should all be able to park on the subject property and not on the adjacent property. Chair Stout stated that he would agree with Ms. Taylor. He stated in addition to the parking request, the Board could use more information about the business. He noted that this information is not well documented in the application.

Vice Chair Gorman stated that he does not agree that the Board should continue this application. He stated that the Board has the information needed to determine if this use meets the five criteria for a Variance. He said if the Board is presented with the parking issues later, the Board will have the opportunity to deliberate. However, he stated if it's strictly parking related he thinks plenty of clarity has been granted to the Board through the planning process and the site plan review. In addition, he stated that adequate parking will be determined, accommodated or brought back before the Board. He stated that he thinks this is a City staff issue to deliberate upon and if they cannot come to accommodate a resolution then Board will hear it.

Mr. Greenwald stated that he agrees with Vice Chair Gorman. He added that he feels if there is an issue with parking the Board will be informed. He stated there is enough information to make the determination if this space is going to work in this area. Mr. Greenwald noted that it would be a disservice to hold up the progress on this salon for a month with information that has already been provided to the Board.

Mr. Welsh stated that he would be looking for reasons for continuing beyond the parking issue. In addition, he stated the scale of the parking issue is one that is well manageable within various means such as a sign or agreement for employees to park around back if there is a beginning of a problem with parking. He stated that he is sure the applicant and existing businesses can work out the details to get that done right.

Ms. Taylor stated that she wanted to point out that parking is very much part of the Variance consideration. She stated that the Board needs to look at this on a holistic basis. She stated that she hopes the applicant and staff would have looked into whether or not the application would meet all of the requirements.

Chair Stout stated that he does not recall being told the Board could reconsider a Variance that has already passed on whether or not parking works. He stated that this is not a model he has

seen before. He is uncomfortable not knowing more about the parking and that it is beholden on the Board to know what is happening with parking when voting on a Variance. He stated that once the Variance is granted and it is found that parking is not adequate there would be a problem. Secondly, Chair Stout stated the other option would be to provisionally grant the Variance. He noted that he does not recall ever having done that before. He stated that he is compelled to vote against the application without further information on the parking. Vice Chair Gorman noted that the Board has heard parking Variances in the past.

Ms. Taylor stated she would vote against the Variance based on not having adequate information. She would like to give the applicant the opportunity to provide more information not just on the parking but also the business itself.

Ms. Taylor made a motion to continue the application to next Board meeting on December 3, 2018. The motion was seconded by Chair Stout.

Vice Chair Gorman stated that he considers this as a disservice to the applicant, the Board and the property owner. He stated that he sees no reason to continue something that is not under the purview of the Board at this point. Chair Stout stated that he disagrees whether parking is under the purview of the Board.

Mr. Welsh commented that he is inclined to really like mixed votes and complicated outcomes to the Board's deliberation. He explained this is because it calls attention to the transcript and record and calls attention to what the Board considers to be an issue worthy of discussion. He stated in the aftermath of a mixed vote and its complicated discussion, there will be greater attention paid to the parking issue by staff, the applicant and the surrounding property owners. Mr. Welsh stated that while his vote is not to continue the hearing he values the votes of those who would disagree because it approves the outcome and process.

With the motion in front of the Board and with a vote of 2-3, the motion fails. Vice Chair Gorman, Mr. Greenwald and Mr. Welsh voted in opposition.

The Board reviewed the criteria for a Variance.

Granting the variance would do substantial justice because:

Vice Chair Gorman stated the activity in that area of town is very welcoming to the use. He noted that many businesses have succeeded there. Vice Chair Gorman stated the proposal is good for the neighborhood and is in the spirit of the master plan. He stated that it is a great use for a difficult location. Vice Chair Gorman noted that it does not have great street visibility and the property is challenged in that sense. He added that he cannot think of a conforming use that abuts the property. Across the street is an eleven unit apartment building, a hardware store and multifamily buildings adjacent to this property that are nonconforming.

Mr. Greenwald stated that clearly a hair salon works in that area. He noted that it has for a while and that the proposed salon would complement the other salon. Mr. Greenwald stated that it is a

good use but was not a prominent location for all types of business. However, in his opinion this proposed use would work in this location.

Mr. Welsh stated that he looked into the High Density Zone uses and the intent of the High Density Zone. He noted that one of the things he discovered was the intent for residential properties. If there are nonresidential uses in the area that it be directed toward the service of the people who are residents. Mr. Welsh stated this is that kind of business where people who live in that area can use this service.

Ms. Taylor stated that she does not know with any certainty if it will do substantial justice. She stated that she certainly does not have any objections to the nature of the proposed use. Ms. Taylor referred to the sentence, “*The abutting parking lot is capable of accommodating above average traffic with a wide clear line of sight in both directions in accessing Park Avenue*”. She noted that she does not know this to be true and that there has been no evidence to support this. She stated that she is afraid that she cannot favor the criteria.

Chair Stout stated that he does not feel he has an adequate amount of information in order to move forward with a vote. However, he adamantly stresses that he is not stating that he is opposed to the application. He added that whether he is doing a disservice to anyone it is a disservice to him to allow someone to allege so. Chair Stout stated that he suspects that the granting of the Variance would do substantial justice.

If the variance were granted, the values of the surrounding properties would not be diminished because:

Vice Chair Gorman stated this space is currently unoccupied and a use that occupies it will generate activity amongst the surrounding business. In addition, this would benefit economic activity and does not see anything but a positive effect to the surrounding property values. Ms. Taylor stated that she would agree.

Unnecessary Hardship

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

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

Ms. Taylor noted that there seems to be an implication that it is an economic hardship. An economic impact is not necessarily determinative of hardship to the owner.

iii. The proposed use is a reasonable one because:

Chair Stout stated it has been established that a business of this type is appropriate for this location. He noted that the master plan does state multiuse in various places within the City.

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.

Chair Stout stated that the Board has established the hardship.

With no further comment, Chair Stout asked for a motion.

Mr. Welsh made a motion to approve ZBA 18-21. The motion was seconded by Mr. Greenwald seconded.

The Board reviewed the Findings of Fact.

Granting the Variance would not be contrary to the public interest because: Granted 3-2 Chair Stout and Ms. Taylor voted in opposition

If the variance were granted, the spirit of the ordinance would be observed. Granted 3-2, Chair Stout and Ms. Taylor voted in opposition

Granting the Variance would do substantial justice. Granted 4-1 Ms. Taylor voted in opposition

If the Variance were granted, the values of the surrounding properties would not be diminished. Granted 4-1 Chair Stout voted in opposition

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.

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

With a vote of 3-2, the Zoning Board of Adjustment approved ZBA 18-21. Chair Stout and Ms. Taylor voted in opposition.

ZBA 18-22:/ Petitioner, House of Hope of Swanzey, NH, represented by Brickstone Land Use Consultants, LLC of 185 Winchester Street request a Change of a Non-Conforming Use for property located at 31 Wyman Road, Tax Map #221-029-000, owned by Jeanna C. Hamblet Revocable Trust of 31 Wyman Road, and is in the Corporate Park District. The

Petitioner requests a Change of a Non-Conforming Use to permit a non-conforming use to be changed to another non-conforming use.

Mr. Rogers referred to the map indicating the location of the property, noting that this was a sizeable lot. The property is located along Route 12 on Wyman Road. He stated this area was the Rural Zone but was rezoned to Corporate Park in 1991 and was a single family home. He noted this was a nonconforming use in the Corporate Park.

Mr. Rogers stated that the applicant is looking to change this to a group home in the Corporate Park District, which would be a nonconforming use.

Chair Stout recognized Jim Phippard, Brickstone Land Use Consultants, LLC of 185 Winchester Street, Keene.

Mr. Phippard stated that he was present on behalf House of Hope. He began by introducing Brian Stewart, who is on the Board of Directors for the House of Hope. Mr. Phippard stated that Mr. Stewart would begin by giving a background of the House of Hope.

Brian Stewart, 126 Talbot Hill Road, Swanzey stated that he also represented the House of Hope. He explained that House of Hope is a recovery program for woman undergoing addiction recovery. It is based on a program out of Manchester, NH called New Life Home for Women and Children. He noted that New Life Home has a 40 year history and almost a 90% success rate. He stated that he has letters from Mayor Ted Gatsas and other letters in support to present to the Board. Chair Stout explained that the Board has difficulty accepting material on the evening of the meeting. He stated that if Mr. Stewart feels compelled to present the letters to the Board, the Board would need to approve. Mr. Stewart stated that he understood.

Mr. Stewart stated that the House of Hope is unique in that they take single women, women that are pregnant and women in recovery. He noted that they do not charge women anything for their stay. However, the only thing they ask for is a \$500 retainer. The retainer is then held so the resident can purchase a bus ticket if they elect to quite the program. Mr. Stewart stated this becomes an incentive to not cash in the ticket and quit the rigorous program. He stated that it is a longer term program that is 18-24 months long. The longer programs tend to be more successful. Mr. Stewart stated that the average 30, 60 or 90 day program has a less than 20% success rate. He stated that the longer term programs are usually more expensive. He noted House for Hope runs on a shoestring budget with a lot of volunteers. In return, they are able to offer this program to women with low income in order to have access to a high quality program.

Mr. Stewart noted that this would not be a detox home and that woman must be drug free upon entry. In addition, they must produce a letter from a doctor stating they are free of transition drugs and all psychotropic drugs.

Mr. Stewart stated they work with a woman's independence scholarship program and aid women who have been in abusive relationships so they can get a college education. He stated that they

will also partner with other non-profit organizations in the area and work with the drug and family courts.

Mr. Stewart stated their primary mission is taking women into recovery and helping them get back into the workforce free of all dependencies. Mr. Stewart reported they will produce food products such as vegetables to sell at the local farmer's market.

Mr. Greenwald asked what securities will be at the home in terms of protection. He noted that there is a possibility certain issues may occur. Mr. Stewart replied that they are not comfortable with the public having the address of this facility. He noted that there will be no signs and no outward appearance. Mr. Stewart stated there will be security protocols put into place but did not want to get into those at this meeting. He stated that the most important aspect was to offer a safe stable environment.

Mr. Greenwald stated that he understood why Mr. Stewart could not go into details but asked if they were considering personnel for security. Mr. Stewart replied that was a possibility.

Ms. Taylor asked how many residents would there be at full capacity. Mr. Stewart replied that the maximum capacity would be at 12. He continued that the State of New Hampshire regulations state that a group home could be no more than 16. He noted they will work with Code Enforcement (Community Development) and that the number may be slightly smaller. Ms. Taylor asked if that number would include children. Mr. Stewart replied in the affirmative.

Ms. Taylor asked how many employees would be onsite. Mr. Stewart replied two, the executive director and her husband will live at the home. He noted that the women are chaperoned at all times and they do not leave the property without someone being with them. He said that overnight there will be at least one staff member present. Mr. Stewart noted that this number would also depend on how many women will begin the program. He reported they have been advised to start with 4-6 women in order to get the program running and introduce other women as they see fit.

Ms. Taylor noted that the property is isolated and that has pros and cons. She stated that in making an assumption that residents will not have own transportation, she asked how transportation will be provided without taking someone from onsite. Mr. Stewart stated they have a group of volunteers from local church support and other volunteers. He noted that no staff will leave to transport the residents.

Chair Stout asked if they are affiliated with a local church. Mr. Stewart replied that they are affiliated with a number of churches. He noted that a majority of the Board comes from the Christian Life Fellowship in Swanzey, NH. Mr. Stewart noted that women of all faiths come into the program though that it is not a requirement. He added that it is their Christian mission to help women with their recovery.

Chair Stout asked if none of the residents are allowed to have cars on premises. Mr. Stewart replied in the affirmative. Chair Stout asked if Mr. Stewart felt there is adequate parking. Mr. Stewart relied there is parking for at least a dozen cars.

Mr. Phippard stated that this is a well-known iconic property. He provided an aerial Google Earth image of the property that can be seen along Route 12. He described the property as a large house with a red barn. The property is historic and is the 14th oldest home in Keene. He noted the property was built in 1777.

The building is currently owned by the Jeanna C. Hamblet Revocable Trust. The property consists of approximately 5.5 acres and is located on Wyman Road. Mr. Phippard stated that all of this land around the field is zoned Corporate Park. He stated that back at that time there was a lot of interest in bringing corporate entities to the City of Keene. The City made a huge investment in this area to encourage industry.

Mr. Phippard stated this property is so visible and so prime that it was of interest to corporate entities. Back in the 1990's they took two separate corporate entities into this house and they looked at the property to see if this could be converted to office space. He stated that no one was interested in seeing this through. He stated that everyone came to the conclusion that tearing the house down was what needed to be done. The building has sat there ever since as a single family home.

Mr. Phippard stated that when the House of Hope first came to him about this property his immediate reaction was that a group home would not happen in the Corporate Park. He encouraged them to look for another site. The group then came back to Mr. Phippard and told him they felt this was the appropriate site for this home. It was then that he started working with Mr. Stewart.

Mr. Phippard stated that he would now agree that this is the best location for this group home. He noted there is a lot of interest now in recovery and group homes. Mr. Phippard referred to other group homes that have been presented to the City of Keene. He stated that people are afraid to have recovery homes in their neighborhood because they do not want people with drugs or addiction in their neighborhood. Mr. Phippard noted that there is one single family home that is beside this property and the owners of the property have submitted letters in support.

He stated that he became more comfortable with the idea of this project because there is not a neighbor next door that has to listen to their kids play or acting out. The activities going on at the property would generally be on the inside of the house.

He displayed a picture of the main house and the big red barn. The area around the house is a wooded area with partially open fields. Mr. Phippard stated the property itself is very accommodating to what the petitioner is trying to do. The house is very large with over 9,000 square feet of floor area. He noted this square footage does include the unfinished basement and attic space. The actual useable space is five bedrooms and four bathrooms which would become

the residential space. He noted that this is all existing space and nothing has to be changed or altered.

The building can be left intact and Mr. Phippard noted that this was important. He stated that is a use that can go into the existing building and can help preserve that existing building. The building will then be preserved as a historic building on a gateway property in the City of Keene.

There will be no sign on the property because they do not want the home to be identified in a known location. The existing driveway has a paved space that can accommodate parking for seven cars. There is additional space along the driveway if they had to accommodate more cars. He noted that he does not believe they will need to accommodate more parking because the residents will not have cars. The founders of the home may have two cars; staff will have two cars and two parking spots for visitors during the day to bring residents to and from appointments. He noted that this adds up to six spaces.

This property is serviced by City sewer and the sewer line comes down as the sewer main passes through the Corporate Park. He stated this was installed for the District and there will be plenty of capacity. The water main passes across the frontage of the property so if a sprinkler system is required for building code requirements that can be accommodated.

He stated that the more he visited the property he became much more comfortable to state that this use is the right fit for this property.

Mr. Phippard reviewed the criteria.

The changed use will be more in the spirit and intent of the Zoning Ordinance.

Mr. Phippard stated the change in use to a group home for women and children will be more in the spirit of the Corporate Park Ordinance than the previous use as a single family home. He stated this use is in a corporate park and is more conforming because it has the aspects of the current zone. They are producing a product, raising crops and honey on the property. He stated that all of that is positive and more in keeping with a business type use. He noted that it is more conforming than a single family home. In a general sense, the spirit and intent of zoning is to protect the health, safety and welfare of the public. This is accomplished in two ways with this proposal. First, by helping women overcome addiction to become self-supporting, independent and productive citizens, these women become contributing members of society, better parents, and reliable workers.

Second, he stated that this proposal will save the existing historic house and barns. He noted that this is an iconic site at the northern gateway to the City of Keene. The home has been beautifully restored and provides an important statement as a gateway property. Mr. Phippard stated that the House of Hope will preserve the home and barns as they exist today. They will have no signs, no large parking lot and have no plans to alter the appearance of the house or barns. A traditional Corporate Park use would more than likely lead to the removal of the house and barns to provide

a pad site for a new building. The preservation of a historic building on a gateway property is a benefit to the public.

The changed use will not be more injurious, obnoxious or offensive to the neighborhood.

Mr. Phippard stated that because they are not changing anything on the exterior, there is no visible effect to the neighborhood. He added that there will be no effect on surrounding property values.

Mr. Phippard stated that when the people move into the proposed House of Hope home most people will not even know they will be there. All of their programs will take place inside the building and outside activities will consist of gardening and beekeeping.

Mr. Phippard stated that if children are brought to live there they will have to be brought to and from school.

Bill and Phyllis Phelps, the founders of the House of Hope program will live at the facility and will be there 24 hours a day 7 days a week. The only other traffic generated will be from volunteers working with the residents or transporting residents to appointments. Residents are not allowed to have cars. This small amount of traffic will not affect the safety or capacity of Wyman Road. Mr. Phippard reported that a typical single family home generates ten vehicle trips a day. He noted this number was a national number from the Institute of Transportation of Engineers.

There will be no drugs or medications dispensed at this facility. As a residential facility, there will be no programs or activities late at night. The site is served by city sewer and city water and is adequate for the proposed use. The proposed use as a group home for women and children will not be more injurious, obnoxious or offensive to the neighborhood than its current use as a single-family dwelling.

Vice Chair Gorman stated that the program sounds amazing and a lot of the attributes described definitely fits the location. He stated that by allowing a lodging house this would by no means dictate that it would run this way forever and be specific to this group. The use would go with the property. Vice Chair Gorman then stated if someone else took this over and ran this as a lodging house completely different, there could be signs and parking needs that would to be addressed. In addition, there could be other forms of impact related to that use. Mr. Phippard stated that he thought about that as well. He thought about what could happen five years from now if the program fails and they sell property with this Variance in place. Mr. Phippard explained that the use is a nonconforming use and if someone wants to add more bedrooms or facilities they would have to come back before the Board. He noted that this was due to enlarging a nonconforming use. In addition, Mr. Phippard stated that if they are adding parking or changing drainage they would also have to come back before the Board.

Ms. Taylor stated that this is a Change in Non-Conforming Use and not a Variance. She stated that she is a little confused because she thought this came under the classification of group home.

Mr. Phippard replied that he met with Mr. Rogers and discussed the use in detail and it is a group home and not a lodging house.

Ms. Taylor stated there are five bedrooms and the executive director and their spouse will live on site. She asked if they are taking up one of those bedrooms. Mr. Stewart replied there is a separate master bedroom suite that is separate from the four bedrooms. He added that there will be adult bunkbeds in the bedrooms with built in storage.

Mr. Greenwald stated that it was mentioned they would probably start with 4-6 residents but it could go up to 12 or 16. Mr. Stewart stated that he would not expect it go any more than 12 residents. He noted this would be difficult do to the number of bedrooms. Mr. Stewart stated they are not dependent on the volume of women and are more focused on recovery.

With no further questions from the Board, Chair Stout welcomed public comment.

With no comment, Chair Stout closed the public hearing.

The Board reviewed the criteria.

The changed use will be more in the spirit and intent of the Zoning Ordinance.

Mr. Welsh stated he has heard Mr. Phippard in his history of presenting to the Planning Board and the Zoning Board as a skillful advocate for hundreds of applicants. He stated that he has never heard Mr. Phippard add passion to a presentation. Mr. Welsh stated that this was a well-argued case. He noted that this was ironic due to the movement toward conformance and to go from a fairly low impact to more of a commercial flow. He stated that this adds to conformance with the zone that the Board is looking at and applies in this case.

Chair Stout stated that he would agree there is an intuitive sense this is going to be more conforming to a single family use. He stated this is an iconic property and with this change in nonconforming use he believes it shows a preservation of a valuable property in what he considers one of the premier jewels in the City.

The changed use will not be more injurious, obnoxious or offensive to the neighborhood.

Chair Stout stated that what is described is relative to the comings and goings of the occupants, there is no way anyone can perceive this as offensive.

Ms. Taylor commented that it meets this criteria and only time will tell if other issues may result in providing more of emergency services. She stated given the nature of the neighborhood there is only one abutter, which is apparently in support.

Chair Stout reopened the hearing to have the letters in support from the abutters entered into the record.

The first letter in support was dated October 30, 2018 and was from Jeanna C. Hamblet, 31 Wyman Road, Keene. The second letter in support was dated October 28, 2018 and was from Caitlin Whitehead, 238 Warren Road, Keene.

Vice Chair Gorman made a motion to approve ZBA 18-22 for a nonconforming use of a group home. The motion was seconded by Mr. Welsh.

The Board reviewed the Findings of Fact.

The changed use will be more in the spirit and intent of the Zoning Ordinance. 5-0

The changed use will not be more injurious, obnoxious or offensive to the neighborhood. 5-0
On a vote of 5-0, the Zoning Board of Adjustment approved ZBA 18-22 for a nonconforming use of a group home.

IV. New Business

No new business was presented.

V. Communications:

Building Better Together update from Tara Kessler, Senior Planner, Community Development Department

Chair Stout introduced Tara Kessler, Senior Planner, Community Development Department.

Ms. Kessler began her presentation by giving an update on the Building Better Together project. She explained that the role of the Board is related to how land use development is in regards to what can and cannot occur in the City. She explained that Building Better Together is an effort to update the City's land use regulations to make them more simple, efficient and thoughtful. The goal is to have these regulations easier to understand for the average person. In addition, for developers this means a more navigable process for redevelopment and new construction. For City staff and elected officials this means a simpler, streamlined system that will make the review and approval process clearer and easier to administer. All of these updates will allow the City to better serve those in the community and allocate time to other important areas of focus.

Ms. Kessler reported that Keene's land use regulations were last updated 50 years ago. She stated that the City is working with a land use planning and design consultant to develop a set of revised land use regulations. The draft of regulations will be available for adoption in the summer of 2019. The City may choose to delay the effective start date of the revised regulations until six months after adoption. This six-month period would provide time for the community to become familiar with and try out the new regulations.

Ms. Kessler reported that the Community Development Department spent most of the summer doing a significant amount of outreach working with developers, various community groups and

business owners. She stated that they spent a lot of time working with the City departments to understand the different sets of regulations that impact different departments. They have been working primarily with another joint committee which is a division of the Planning Board and the Planning, Licenses and Development Committee, to break down the core concepts and issues that have been identified. The issues identified are parking requirements, use tables, category uses that are allowed, landscaping, storm water management and flood plan regulations.

Ms. Kessler reported that meetings, events and presentations are available for people to participate in as well as keep informed of the project's process.

Chair asked the Board for comment or questions.

Ms. Taylor noted that she has noticed the inadequacy of the definitions within in the Zoning Ordinance.

Chair Stout asked how the Board will know when changes occur. Ms. Kessler replied that she has sent out emails, and that community forums have taken place over the course of the summer. In addition, she stated that she will leave the Board with a packet of information. Ms. Kessler stated that she is also happy to come back after the adoption process.

The Board asked what involvement the Board would have with this process. Ms. Kessler replied this would be in the same capacity as any other community member or Board member could participate. This would be through the public hearing process or by attending the joint committee meetings.

Mr. Schneider handed out the updated sign code for the Board members to replace in the Zoning Ordinance handbook.

VII. Adjournment

Mr. Welsh made a motion to adjourn the meeting, which was seconded by Vice Chair Gorman and carried unanimously. Hearing no further business, Chair Stout adjourned the meeting at 9:33 PM.

Respectfully submitted by,
Jennifer Clark, Minute Taker